Superior Court of California
County of Solano

Rule 4 – Administration of Civil Litigation

4.1 SCOPE AND POLICY

a. **SCOPE OF RULE 4**

Rule 4 is intended to implement the Trial Court Delay Reduction Act (Government Code Section 68600 et seq.) and shall apply to all civil actions filed on or after July 1, 1992, and all civil actions filed before July 1, 1992, in which an at-issue memorandum is filed, or in which the court orders that the action is at issue.

Except as may be provided elsewhere in these rules, the term "civil actions" as used in Rule 4 does not include matters filed under the California Family Code, small claims cases, unlawful detainer cases, matters filed under the Probate Code, mental health cases, adoption cases, juvenile cases, and extraordinary writs.
(Subd (a) amended effective January 1, 2010; adopted effective January 1, 1998; previously amended effective July 1, 2005.)

b. **POLICY AND CASE DISPOSITION STANDARDS**

It is the policy of this court that all civil cases shall be resolved as expeditiously as possible, consistent with the obligation of the courts to give full and careful consideration to the issues presented, and consistent with the right of the parties to adequately prepare and present their cases to the court. Furthermore, it is the policy of the court that all actions subject to these rules shall be actively managed, supervised and controlled by the court from the time of filing of the first document invoking the court's jurisdiction through final disposition. The case disposition standards are as follows:

(1) The case disposition time standards for unlimited actions are as follows: 75% of all cases shall be concluded within one year of the filing of the initial pleading, 85% of all cases shall be concluded within eighteen (18) months of the filing of the initial pleading, and 100% within twenty-four (24) months.

(2) The case disposition time standards for limited actions are as follows: 90% of all cases shall be concluded within one year of the filing of the initial pleading, 98% of all cases shall be concluded within eighteen (18) months of the filing of the initial pleading, and 100% within twenty-four (24) months.

(Subd (b) amended effective January 1, 2010; adopted effective January 1, 1998; previously amended effective July 1, 2005.)

c. APPLICABILITY OF RULE 4 TO OTHER RULES

Notwithstanding Rule 4.1, subsection (a), any rule within Rule 4 may be made expressly applicable to other proceedings through the enactment of or amendment to a local rule governing that proceeding.

(Subd (c) amended effective January 1, 2010; adopted effective January 1, 2009.)

(Rule 4.1 amended effective January 1, 2010; adopted effective January 1, 1998; previously amended effective July 1, 2005, and January 1, 2009.)

4.2 CASE DESIGNATION

a. **DEFAULT DESIGNATION OF CASE; TIMING OF DESIGNATION**

All civil cases subject to these rules shall be classified as TRACK A cases unless, on good cause shown, the court designates the case as a TRACK B case or TRACK C (complex) litigation. The determination as to whether a case is designated as a TRACK B or TRACK C case under these rules shall be at the sole discretion of the court. The designation may be made by the court at any case management conference, trial management conference, mandatory settlement conference, or any hearing noticed by the court or counsel.

(Subd (a) amended and lettered effective January 1, 2010; adopted as unlettered portion of Rule 4.2 effective January 1, 1998; previously amended effective July 1, 2005.)

b. **TRACK A CASES**

TRACK A cases are cases that are to be resolved within twelve (12) months of the date that the complaint was filed.

(Subd (b) amended and lettered effective January 1, 2010; adopted as unlettered portion of Rule 4.2 effective January 1, 1998; previously amended effective July 1, 2005.)

c. **TRACK B AND TRACK C CASES**

TRACK B and TRACK C cases are those which generally involve multiple parties, complex issues, difficult legal questions, unusual proof problems, or other circumstances which result in a case not being adequately prepared for trial within twelve (12) months of its filing even with due diligence being exercised by all parties. It is the policy of the court to conclude all TRACK B cases within eighteen (18) months and TRACK C cases within twenty-four (24) months of the filing of the initial pleading.

(Subd (c) amended and lettered effective January 1, 2010; adopted as unlettered portion of Rule 4.2 effective January 1, 1998; previously amended effective July 1, 2005.)

d. **REDESIGNATION OF CASE**
Following the designation by the court of the case as TRACK A, TRACK B, or TRACK C, the court, on its own motion or on the motion of any party, may order the case redesignated.
(Subd (d) amended and lettered effective January 1, 2010; adopted as unlettered portion of Rule 4.2 effective January 1, 1998; previously amended effective July 1, 2005.)

(Rule 4.2 amended effective January 1, 2010; adopted effective January 1, 1998; previously amended effective July 1, 2005.)

4.3 TIME REQUIREMENTS FOR COMPLAINT

a. **SERVICE OF COMPLAINT**
Within sixty (60) calendar days of filing, the complaint must be served and a proof of service as to each named defendant filed with the court unless a Request for Extension of Time is filed with the court stating facts establishing good cause as to why service has not or should not be made upon all parties within the time provided in this rule. If the complaint is amended to add a defendant, the added defendant must be served and proof of service must be filed within thirty (30) days after the filing of the amended complaint unless a Request for Extension of Time is filed with the court stating facts establishing good cause as to why service has not or should not be made upon all parties within the time provided in this rule. The 60 day service requirement shall not apply to limited jurisdiction collection actions, as set forth in California Rules of Court, rule 3.740. As to those cases, the proof of service must be filed with the court, or order of publication obtained, within 180 days of the filing of the complaint.
(Subd (a) amended effective January 1, 2009; adopted effective January 1, 1998; previously amended effective October 1, 2002.)

b. **REQUEST FOR EXTENSION OF TIME**
Upon filing the Request for Extension of Time, the court may:

(1) Grant an extension of time to a specified date;

(2) Deny the request; or,

(3) Conduct a hearing to determine the setting of the date for compliance with these rules.
(Subd (b) amended effective January 1, 2009; adopted effective January 1, 1998; previously amended effective October 1, 2002.)

c. **SANCTIONS**

Upon failure to serve the complaint and file proof of service or dismissal as to each named defendant, or to file a Request for Extension as required by these rules, the court may impose sanctions at Case Management Conference One or Case Management Conference Two after notice and an opportunity to be heard has been provided to the party or attorney subject to sanctions.
(Subd (c) amended effective January 1, 2009; adopted effective January 1, 1998; previously amended effective October 1, 2002.)

(Rule 4.3 amended effective January 1, 2009; adopted effective January 1, 1998; previously amended effective October 1, 2002.)

4.4 TIME REQUIREMENTS FOR RESPONSIVE PLEADINGS

a. **SERVICE OF RESPONSE**

Within the time required by law, each party served shall file and serve a responsive pleading unless a Request for Extension of Time to Respond is filed stating facts establishing good cause as to why a responsive pleading has not or cannot, with due diligence, be filed.
(Subd (a) amended effective January 1, 2009; adopted effective January 1, 1998; previously amended effective October 1, 2002.)

b. **REQUEST FOR EXTENSION OF TIME TO RESPOND**

Upon filing of the Request for Extension of Time to Respond, the court may:

(1) Grant an extension of time for the filing of a response to a specified date;

(2) Deny the request; or,

(3) Set and conduct a hearing to set a date for compliance with this rule.

A party may not extend the time for filing responsive pleadings, including responses to amended pleadings, by stipulation with any other party except to the extent authorized by Government Code section 68616.

In the event the court denies the Request for Extension of Time to Respond the court will set a date for the filing of a response. No default shall be entered by the clerk prior to the day following the date set for filing a response.
(Subd (b) amended effective January 1, 2010; adopted effective January 1, 1998; previously amended effective October 1, 2002, and January 1, 2009.)

c. **SANCTIONS**

Upon failure to file and serve a responsive pleading by each served defendant or cross-defendant, or to file a Request for Extension of Time to Respond as required by these rules, the court may impose sanctions at Case Management Conference One or Case Management Conference Two after notice and an opportunity to be heard has been provided to the party or attorney subject to sanctions.
(Subd (c) amended effective January 1, 2010; adopted effective January 1, 1998; previously amended effective October 1, 2002, and January 1, 2009.)

d. **ENTRY OF DEFAULT**

If a served party fails to file a responsive pleading, the serving party shall file a request for entry of default within ten (10) days after the last day for filing the responsive pleading. The serving party shall obtain a default judgment within forty-five (45) days after the entry of default. These requirements shall not apply to limited jurisdiction collection actions, as set forth in California Rules of Court, rule 3.740. As to those cases, default judgment must be obtained within 360 days of the filing of the complaint.
(Subd (d) amended effective January 1, 2009; adopted effective January 1, 1998; previously amended effective October 1, 2002.)

e. **DEMURRER OR MOTION AS A RESPONSE**

If the responsive pleading is a demurrer, motion to strike, motion to quash service of process, motion for a change of venue, or a motion to stay or dismiss the case on *forum non conveniens* grounds, and the demurrer is overruled or the motion denied, the court shall fix the time by which a further responsive pleading shall be filed. This time will normally not be more than ten (10) days following the date of the ruling on the demurrer or motion.

If a demurrer is sustained with leave to amend, the court shall fix the time, normally not more than ten (10) days following the ruling, for filing an amended complaint and shall fix a time for the filing of pleadings responsive to such amended complaint or cross-complaint.
(Subd (e) amended effective January 1, 2009; adopted effective January 1, 1998; previously amended effective October 1, 2002.)

(Rule 4.4 amended effective January 1, 2010; adopted effective January 1, 1998; previously amended effective October 1, 2002, and January 1, 2009.)

4.5 TIME REQUIREMENTS FOR CROSS-COMPLAINTS

a. **FILING OF CROSS-COMPLAINT**
A party shall file a cross-complaint against any of the parties who filed the complaint or cross-complaint against that party at the time the answer to the complaint or cross-complaint is filed and must be accompanied by a proof of service. If the cross-complaint adds new parties, the cross-complaint must be served on all parties and proof of service must be filed within thirty (30) days of filing unless a Request for Extension of Time is filed with the court stating facts establishing good cause as to why service has not or should not be made upon all parties within the time provided in this rule.
(Subd (a) amended effective October 1, 2002; adopted effective January 1, 1998.)

b. **THIRD PARTY CROSS-COMPLAINTS**
A party shall file a cross-complaint against any third party at the time the answer to the complaint or cross-complaint is filed. A party shall obtain leave of court to file any cross-complaint after the party files an answer to either a complaint or cross-complaint.
(Subd (b) amended effective October 1, 2002; adopted effective January 1, 1998.)

c. **RESPONDING TO CROSS-COMPLAINTS**
The time for the filing of responsive pleadings to the cross-complaint shall be in accordance with Rule 4.4 of these rules.
(Subd (c) relettered effective January 1, 2010; adopted as portion of Subd (b) effective January 1, 1998.)

(Rule 4.5 amended effective January 1, 2010; adopted effective January 1, 1998; previously amended effective October 1, 2002.)

4.6 CASE MANAGEMENT CONFERENCES

a. **SCHEDULING OF CASE MANAGEMENT CONFERENCE ONE**
In all cases, except those designated as "uninsured motorist" and those limited jurisdiction cases designated as "collections," the Clerk of the Court will schedule the first Case Management Conference approximately 120 days from the date of filing of the complaint. At the time of filing of the complaint, the Clerk of the Court shall provide the plaintiff with a Notice of Case Management Conference One, which shall indicate the date, time, and place that counsel, and any party not represented by counsel, shall appear for Case Management Conference One, and shall state the obligations of counsel, or any parties not represented by counsel, in regard to Case Management Conference One and Case Management Conference

Two. Plaintiff is responsible for notifying all defendants of the initial or any continued Case Management Conference dates.
(Subd (a) amended and relettered effective January 1, 2010; adopted as unlettered portion of Rule 4.6 effective January 1, 1998; previously amended effective October 1, 2002, July 1, 2005, and January 1, 2009.)

b. **CASE MANAGEMENT CONFERENCES IN "UNINSURED MOTORIST" CASES**
The plaintiff may designate a case as an "uninsured motorist case" by filing and serving a declaration without demonstrating that the designation is appropriate. If the declaration is filed with the complaint, the Clerk of the Court will schedule the first Case Management Conference approximately 180 days from the date of filing of the complaint. If the plaintiff files the declaration at a later time, the provisions of Rule 4.14(f) apply.
(Subd (b) relettered effective January 1, 2010; adopted as Subd (a) of Rule 4.6 effective January 1, 1998; previously amended effective October 1, 2002, July 1, 2005, and January 1, 2009.)

c. **CASE MANAGEMENT CONFERENCES IN LIMITED JURISDICTION "COLLECTION" CASES**
The plaintiff may designate a limited jurisdiction case as a "collection" case by filing a Civil Case Cover Sheet describing the case as a "collections" matter. No case management conference will be scheduled unless and until a responsive pleading has been filed.
(Subd (c) relettered effective January 1, 2010; adopted as Subd (b) of Rule 4.6 effective January 1, 1998; previously amended effective October 1, 2002, July 1, 2005, and January 1, 2009.)

d. **SERVICE OF NOTICE OF CASE MANAGEMENT CONFERENCE**

(1) **Service of Notice with Complaint**
The plaintiff shall serve the Notice of Case Management Conference on all defendants with the complaint.
(Subd (1) renumbered effective January 1, 2010; previously adopted as portion of Subd (f) effective January 1, 1998.)

(2) **Service of Notice with Cross-Complaint**
Any plaintiff and any defendant serving a cross-complaint shall serve a copy of the Notice of Case Management Conference One provided by the Clerk, which sets the date and place for Case Management One, on each cross-defendant with the cross-complaint. In the event that any cross-complaint is served after Case Management Conference One has been

held, the cross-complainant, at the time of service of the cross-complaint, shall serve each cross-defendant with Notice of Case Management Conference Two, which shall contain the date, time and place of Case Management Conference Two and explain the obligations of the parties in regard to case management conferences under these rules.
(Subd (2) renumbered effective January 1, 2010; previously adopted as portion of Subd (f) effective January 1, 1998.)

(Subd (d) amended and relettered effective January 1, 2010; adopted as Subd (f) of Rule 4.6 effective January 1, 1998; previously amended effective October 1, 2002, July 1, 2005, and January 1, 2009; former Subd (d) repealed effective January 1, 2010.)

e. **TELEPHONIC APPEARANCE AT CASE MANAGEMENT CONFERENCES**
Litigants wishing to appear at a case management conference by telephone per California Rules of Court, rule 3.670, shall do so through CourtCall LLC, a private telephonic appearance provider with whom the court has contracted, or any other telephonic appearance provider as designated by the court. The telephone number of CourtCall is (888) 88-COURT or (310) 342-0888. Counsel wishing to avail themselves of this service shall note and follow the rules and schedule of the individual department concerning the use of CourtCall, and shall be solely responsible for all fees and costs charged by CourtCall for this service.
(Subd (e) amended effective January 1, 2010; adopted effective January 1, 1998; previously amended effective October 1, 2002, July 1, 2005, and January 1, 2009.)

f. **CASE MANAGEMENT CONFERENCE SETTING**

(1) Case Management Conference One shall be set during the calendar week that is 120 calendar days after the filing of the complaint, on the day of week and at the time designated by the judge to whom the case is assigned for all purposes.
(Subd (1) adopted effective January 1, 1998.)

(2) At Case Management Conference One, the court shall refer the matter to arbitration or mediation, if deemed appropriate by the court, continue the matter for further Case Management Conference One or set the matter for a Case Management Conference Two.
(Subd (2) adopted effective January 1, 1998.)

(3) The court may, in its discretion, require additional case management conferences and additional Case Management Statements.
(Subd (3) adopted effective January 1, 2010; previously adopted as portion of Subd (h).)

(Subd (f) amended and relettered effective January 1, 2010; adopted as Subd (g) effective January 1, 1998; previously amended effective October 1, 2002, July 1, 2005, and January 1, 2009.)

g. **CASE MANAGEMENT STATEMENTS**
An updated Case Management Statement shall be filed by each counsel by the fifteenth (15th) calendar day before each continued Case Management Conference or any review set by the court.
(Subd (g) amended and relettered effective January 1, 2010; adopted as Subd (h) effective January 1, 1998; previously amended effective October 1, 2002, July 1, 2005, and January 1, 2009.)

h. **SANCTIONS**
Pursuant to Code of Civil Procedure section 575.2, the court may impose sanctions in the event that any of the following occur:

(1) A Case Management Statement is not timely filed and/or served;

(2) A Case Management Statement is not fully completed;

(3) The attorney who appears at a case management conference is not completely aware of all procedural, factual, and legal aspects of the case and does not have full authority to discuss and resolve any issues that arise at the conference, including the settlement of the case. This rule applies equally to counsel of record and special appearance counsel;

(4) Counsel and self-represented parties fail to meet and confer as required per California Rules of Court, rule 3.724 prior to the Case Management Conference concerning all issues before the court.
(Subd (h) amended and relettered effective January 1, 2010; adopted as Subd (i) effective January 1, 1998; previously amended effective October 1, 2002, July 1, 2005, and January 1, 2009.)

(Rule 4.6 amended effective January 1, 2010; adopted effective January 1, 1998; previously amended effective October 1, 2002, July 1, 2005, and January 1, 2009.)

4.7 DIVERSION TO ARBITRATION

a. **ORDER TO NONBINDING ARBITRATION**

All cases may be ordered to nonbinding arbitration where the court determines from the facts as set forth in a Case Management Statement or as stated by counsel at any Case Management Conference, Trial Management Conference, or Mandatory Settlement Conference that:

(1) The parties stipulate to arbitration;

(2) The plaintiff requests arbitration;

(3) The amount in controversy does not exceed $50,000 as to any plaintiff; or,

(4) Arbitration might reasonably lead to the resolution of the case.

As to those cases ordered to arbitration, judicial arbitration will proceed in accordance with the Judicial Arbitration Rules for civil cases (Rule 3.810 et seq. of the California Rules of Court), except as otherwise stated in these rules.
(Subd (a) amended effective January 1, 2010; adopted effective January 1, 1998; previously amended effective October 1, 2002.)

b. **TIME LIMITS AND SELECTION OF ARBITRATOR**

Upon ordering the matter to nonbinding arbitration, the court will direct that the arbitration be concluded within ninety (90) days, unless the court determines in its discretion that a longer timeframe is appropriate. Counsel will be directed to notify the Civil Division Court Services Program Manager in writing within ten (10) days of the name, address and telephone number of the arbitrator agreed upon, and if agreement is not possible, then within ten (10) days each counsel shall submit two (2) names each, from the court's list of arbitrators, to the court to the attention of the Civil Division Court Services Program Manager, from which the court shall promptly select an arbitrator and the court shall notify the parties of the name, address, and telephone number of the arbitrator selected by the court.
(Subd (b) amended effective January 1, 2010; adopted effective January 1, 1998; previously amended effective October 1, 2002.)

c. **REQUEST FOR TRIAL DE NOVO**

The case shall not be recalendared for further hearing unless a request for trial de novo is timely filed, except upon order of the court. If a request for trial de novo is not timely filed, the clerk shall, upon the expiration of the time for filing, forthwith enter the award as a judgment.

(Subd (c) amended effective October 1, 2002; adopted effective January 1, 1998.)

d. **FEES FOR ARBITRATION**
The parties to the action shall pay to the arbitrator their proportionate share of the fee set by the arbitrator, within thirty (30) days after the filing of the arbitrator's award. In the event that the parties settle the case after the arbitrator has expended any time on the case, the parties shall notify the arbitrator that the case has settled and shall pay their proportionate share of the arbitrator's fees within thirty (30) days after the notice to the arbitrator of the settlement.
(Subd (d) amended effective October 1, 2002; adopted effective January 1, 1998.)

(Rule 4.7 amended effective January 1, 2010; adopted effective January 1, 1998; previously amended effective October 1, 2002.)

4.8 MEDIATION

a. **TIME LIMITS AND SELECTION OF MEDIATOR**
Within twenty (20) days of the referral to mediation, the parties shall provide the assigned court with written notification of their mutual choice of mediator, or their individual nominees. If the parties are unable to agree upon a mediator within the 20 days, they shall promptly notify the court, and a mediator will thereupon be appointed by the court.
(Subd (a) amended effective July 1, 2005; adopted effective July 1, 1998.)

b. **APPEARANCE AT MEDIATION SESSIONS**
Each party shall personally appear at the first mediation session and at any subsequent session unless excused by the mediator. When the party is other than a natural person, it shall appear by a representative, other than its attorney, with full authority to resolve the dispute or, in the case of a governmental entity that requires an agreement to be approved by an elected official or legislative body, by a representative with authority to recommend such agreement. Each party is entitled to have counsel present at all mediation sessions that concern it, and such counsel and an insurance representative of a covered party also shall be present or available at such sessions, unless excused by the mediator.
(Subd (b) amended effective July 1, 2005; adopted effective July 1, 1998.)

c. **FILING OF STATEMENT BY MEDIATOR**
Within ten (10) days of the conclusion of the mediation, the mediator shall file a statement on Judicial Council Form ADR-100, advising the court whether the mediation ended in full agreement or non-agreement as to the entire case or as to particular parties in the case.

(Subd (c) amended effective July 1, 2005; adopted effective July 1, 1998.)

d. **FEES FOR MEDIATION**

The parties to the action shall pay to the mediator their proportionate share of the fee set by the mediator, within thirty (30) days after the last mediation session. In the event that the parties settle the case after the mediation, the parties shall notify the mediator that the case has settled and shall pay their proportionate share of the mediator's fees within thirty (30) days after the notice to the mediator of the settlement.

(Subd (d) amended effective July 1, 2005; adopted effective July 1, 1998.)

e. **MEDIATION COMPLAINT PROCEDURE**

Per California Rules of Court, rule 3.868, the court adopts the following mediator complaint procedure:

(1) Complaints are only accepted from a party to the action or the party's attorney.

(2) The complainant must register his or her complaint in writing with the Mediation Administrator. The written complaint must include the following information:

(a) The names of the parties in the case and their attorneys;

(b) The case number;

(c) The most recent court date;

(d) The name(s) of any mediation personnel (i.e. mediators or mediation clerks) with whom the complainant had contact; and,

(e) A statement explaining the reasons for the complaint.

(3) Upon receiving the complaint, the Mediation Administrator will notify the complainant in writing that the court has received the complaint.

(4) The Mediation Administrator shall review the complaint and determine whether the complaint can be informally resolved or closed, or whether the complaint warrants investigation. If the complaint warrants an investigation, the Mediation Administrator shall take the following steps:

(a) The Mediation Administrator shall give notice of the complaint to the mediator and provide a reasonable opportunity to respond.

(b) The complaint shall be investigated and a recommendation made concerning court action. The investigation shall be conducted by an investigator designated by the Mediation Administrator or the Presiding Judge. The investigator shall provide his or her recommendation to the Presiding Judge or his or her designee.

(c) The final decision shall be made by the Presiding Judge or his or her designee. Notice of the final action taken shall be sent by the court to the complainant and, if the complaint was not resolved during the preliminary review by the Mediation Administrator, to the mediator.

(Subd (e) adopted effective January 1, 2010.)

(Rule 4.8 amended effective January 1, 2010; adopted effective January 1, 1998; previously amended effective July 1, 2005.)

4.9 MANDATORY SETTLEMENT CONFERENCES

a. **REQUIRED PARTICIPANTS**

The lead trial counsel, parties, and persons with full settlement authority shall personally attend the Mandatory Settlement Conference unless excused by the court for good cause. In the case of an insured principal, the authorized representative of the insured's insurance company must be present in lieu of the client, and must have full settlement authority. For purposes of these rules, "full settlement authority" means persons physically present in the courthouse who are empowered to make settlement decisions without telephone consultation with others. In no event will an independent adjuster satisfy the above requirement. In any professional negligence case in which the defendant retains the right to refuse settlement, participation of that defendant in the settlement conference is mandatory.

(Subd (a) amended and relettered effective January 1, 2010; adopted as unlettered portion of Rule 4.11 effective January 1, 1998; previously amended effective July 1, 2005.)

b. **MEET AND CONFER REQUIREMENTS**

No later than ten (10) calendar days before the date set for the mandatory settlement conference, trial counsel and all persons with ultimate authority to

settle the case shall meet in person or, if all parties agree, by telephone to discuss settlement of the case.
(Subd (b) amended and relettered effective January 1, 2010; adopted as unlettered portion of Rule 4.11 effective January 1, 1998; previously amended effective July 1, 2005.)

c. **MANDATORY SETTLEMENT CONFERENCE STATEMENTS**
No later than five (5) calendar days before the date set for the settlement conference, each party shall file and serve on all other parties a settlement conference statement. Said statement shall comply in all respects with California Rules of Court, rule 3.1380, subdivision (c), and shall also contain the following additional information:

(1) A statement of the factual and legal contentions in dispute;

(2) A list of all special damages claimed;

(3) Copies of pertinent medical reports;

(4) Other reports by experts;

(5) Pictorial or documentary evidence anticipated to be presented at trial;

(6) An estimate of the lowest and highest possible award by a trier of fact;

(7) The highest previous offer and the lowest previous demand;

(8) The date when the last face to face or telephonic settlement discussion was held between all parties;

(9) A statement as to any special problems relating to settlement, such as lack of or disputed insurance coverage; and,

(10) A statement regarding the party's position regarding settlement of the case.

(Subd (c) amended and relettered effective January 1, 2010; adopted as unlettered portion of Rule 4.11 effective January 1, 1998; previously amended effective July 1, 2005.)

d. **SANCTIONS**

Failure of any attorney, adjustor, and/or party to prepare for, appear at, or meaningfully participate in a settlement conference, unless good cause is shown for any such failure, is an unlawful interference with the proceedings of the court, and the court may impose sanctions, including but not limited to, any or all of the following: monetary sanctions to be paid to the court; monetary sanctions to be paid to other parties which may include, among other things, costs, actual expenses, and counsel fees; and the court may order an appropriate change in the calendar status of the action.

(Subd (d) amended and relettered effective January 1, 2010; adopted as unlettered portion of Rule 4.11 effective January 1, 1998; previously amended effective July 1, 2005.)

(Rule 4.9 amended and renumbered effective January 1, 2010; adopted as Rule 4.11 effective January 1, 1998; previously amended effective July 1, 2005; former Rule 4.9, which concerned other settings of cases, repealed effective January 1, 2010.)

4.9 OTHER SETTINGS [REPEALED]

(Former Rule 4.9 repealed effective January 1, 2010; adopted effective January 1, 1998.)

4.10 TRIAL MANAGEMENT CONFERENCES

a. **REQUIRED PARTICIPANTS**

The lead trial counsel shall, unless excused by the court, appear at the Trial Management Conference prepared to respond to any questions the court may pose about the case.

(Subd (a) relettered effective January 1, 2010; adopted as unlettered portion of Rule 4.12 effective January 1, 1998; previously amended effective July 1, 2005.)

b. **TRIAL MANAGEMENT CONFERENCE STATEMENTS**

On a form to be provided by the court, each counsel shall complete, file and serve on all parties a completed Trial Management Conference Report by the seventh (7th) calendar day before the date set for the Trial Management Conference. The form provided by the court may be modified as deemed appropriate by the court. At a minimum, the report shall include the following:

(1) A statement of the nature of the case, with a summary of each party's allegations and supporting facts. Include an agreed-upon statement of the case to be read to the jury panel, if a jury has been requested by any party;

(2) If there have been developments since the trial setting affecting the estimated length of trial, an explanation as to what those developments are and how the estimated length of trial should be changed as a result;

(3) The names of any non-expert witnesses who may be called at trial, except for impeachment or rebuttal. State concisely the anticipated testimony of each non-expert witness and the time estimate for testimony, including direct and cross-examination;

(4) The names and expertise of any expert witnesses who may be called at trial, except for impeachment or rebuttal. State concisely the anticipated testimony of each expert witness and the time estimate for testimony, including direct and cross-examination. In addition, attach any narrative reports provided by the expert witness;

(5) A list of all witnesses who are unavailable and whose testimony will be presented by deposition, along with the facts supporting that unavailability;

(6) A list of all documents, exhibits, blowups, and/or photographs that the party expects to offer at trial, except for impeachment or rebuttal. Documents shall be identified by page number or Bates-stamp number as applicable (e.g. "Jane Doe's Medical Records, pages 1 through 326"). Photos shall be separately identified;

(7) A specific list in <u>column</u> <u>form</u> of all portions of depositions, answers to interrogatories and responses to request for admissions that the party expects to offer at trial, except for impeachment or rebuttal. All portions of depositions shall be identified by page and line number(s), while responses to written discovery must be identified by the manner of discovery request and the response number (e.g. "Response to Plaintiff's Special Interrogatories, Set One, Interrogatory Number 4"; "Amended Response to Defendant's Request for Admissions, Set Three, Request Number 7");

(8) A specific list of all anticipated evidentiary disputes with citation to authority;

(9) A specific list of all anticipated non-evidentiary disputes with citation to authority;

(10) All requested jury instructions and verdict forms in compliance with the California Rules of Court. Each instruction shall be typed in full and numbered consecutively, with the submitting attorney having filled in all blanks and having made a decision as to all alternatives in the BAJI instructions. Two copies of the requested jury instructions shall be submitted to the court. One copy shall have citations to authority and boxes for the court's use regarding whether the instruction is given, refused, or withdrawn, and one copy shall be presented without citations to authority and boxes regarding given, refused, or withdrawn.

(11) Copies of all in limine motions that the party expects to submit at trial. Each in limine motion provided shall be numbered consecutively by the party. (Note that any in limine motions not included will not be considered by the court, unless good cause is presented to the trial court).

(12) All stipulations requested or proposed at trial; and,

(13) A statement as to whether there are any witnesses that need an interpreter. State the name of the interpreter and the language that must be interpreted. (If an interpreter is needed, it is the obligation of the party calling the witness to make arrangements for an interpreter.)

(Subd (b) amended and relettered effective January 1, 2010; adopted as unlettered portion of Rule 4.12 effective January 1, 1998; previously amended effective July 1, 2005.)

c. **EXCLUSION OF EVIDENCE AND TESTIMONY AT TRIAL**

The testimony of witnesses who are not listed in the Trial Management Conference Report, or documents, or other exhibits, portions of depositions, answers to interrogatories or responses to requests for admissions, which are not listed in the Trial Management Conference Report, shall not be admitted at the trial. However, the trial judge, in his or her sole discretion and upon a showing a good cause, may permit the testimony of witnesses who are not listed in the Trial Management Conference Report and may allow the admission of exhibits or portions of discovery which are not listed in the Trial Management Conference Report.

(Subd (c) amended and relettered effective January 1, 2010; adopted as unlettered portion of Rule 4.12 effective January 1, 1998; previously amended effective July 1, 2005.)

(Rule 4.10 amended and renumbered effective January 1, 2010; adopted as Rule 4.12 effective January 1, 1998; previously amended effective July 1, 2005; former Rule 4.10, which concerned setting short causes for trial, repealed effective January 1, 2010.)

4.10 SETTING SHORT CAUSES FOR TRIAL [REPEALED]

(Former Rule 4.10 repealed effective January 1, 2010; adopted effective January 1, 1998.)

4.11 DISMISSAL OF ACTION OR ENTRY OF JUDGMENT FOLLOWING SETTLEMENT

Following settlement of the action, the court will, by order, set a date by which the action shall be dismissed or judgment entered. In the event the parties do not comply with the court's order in this regard, the court, on its own motion, may dismiss the action or enter judgment effective as of the date set for dismissal or entry of judgment by the court.

(Rule 4.11 renumbered effective January 1, 2010; adopted as Rule 4.13 effective January 1, 1998.)

4.11 [RENUMBERED]

(Former Rule 4.11 renumbered as Rule 4.9 effective January 1, 2010.)

4.12 MISCELLANEOUS

a. **REQUEST FOR EXTENSION OF TIME**
Any request for extension of time under these rules shall be filed with due diligence and, in addition to being signed by counsel shall be endorsed by the party acknowledging that the extension of time being requested by counsel is concurred in by the party. The request shall be made on the form provided by the court.
(Subd (a) amended effective January 1, 2009; adopted effective January 1, 1998.)

b. **KNOWLEDGE OF CASE**
Counsel and parties attending any hearing or conference set pursuant to these rules shall have sufficient knowledge of the case to inform the court as to all matters that are pertinent and relevant to the issues to be heard and have authority to enter into binding stipulations regarding any matters before the court. This rule shall apply equally to attorneys of record and specially appearing counsel.
(Subd (b) amended effective January 1, 2010; adopted effective January 1, 1998; previously amended effective January 1, 2009.)

c. **REFERENCE TO "ATTORNEY" OR "COUNSEL"**
Any reference in these rules to "attorney" or "counsel" shall apply equally to any person representing himself or herself in a case subject to these rules.
(Subd (c) amended effective January 1, 2009; adopted effective January 1, 1998.)

d. **REMOVAL FROM CIVIL ACTIVE LIST**
A case shall not be removed from the civil active list except by order of the court.
(Subd (d) amended effective January 1, 2009; adopted effective January 1, 1998.)

e. **EXCUSE FROM RULE REQUIREMENT**
Any requirement of these rules may be excused by the court upon a showing of good cause.
(Subd (e) amended effective January 1, 2009; adopted effective January 1, 1998.)

f. **UNINSURED MOTORIST CASE**
An action for personal injury or property damage against an uninsured defendant may be designated by "uninsured motorist case" upon application of the plaintiff filed within thirty (30) days of the commencement of the action. Upon the filing of such an application, the court will set a hearing date six (6) months from the date of the designation. At the hearing, the action will be dismissed, without prejudice, unless the court, for good cause, extends the time for resolution of the case.
(Subd (f) amended effective January 1, 2009; adopted effective January 1, 1998.)

g. **REMOVAL TO FEDERAL COURT**
An action removed to Federal Court will be set for hearing six months from the notice of removal at which time the action will be dismissed, without prejudice, unless the court, for good cause, extends the time.
(Subd (g) amended effective January 1, 2009; adopted effective January 1, 1998.)

h. **TELEPHONIC APPEARANCES**
Litigants wishing to appear by telephone per California Rules of Court, rule 3.670, shall do so through CourtCall LLC, a private telephonic appearance provider with whom the court has contracted, unless the court has designated a different provider. The telephone number of CourtCall is (888) 88-COURT or (310) 342-0888. Counsel wishing to avail themselves of this service shall note and follow the rules and schedule of the individual department concerning the use of CourtCall, and shall be solely responsible for all fees and costs charged by CourtCall for this service.
(Subd (h) amended effective January 1, 2010; adopted effective January 1, 2009.)

(Rule 4.12 amended and renumbered effective January 1, 2010; adopted as Rule 4.14 effective January 1, 1998; previously amended effective January 1, 2009.)

4.12 [RENUMBERED]

(Former Rule 4.12 renumbered as Rule 4.10 effective January 1, 2010.)

4.13 SANCTIONS

a. **SANCTIONS GENERALLY**

Upon the motion of a party or on the court's own motion, the court may impose sanctions for non-compliance with these rules. Sanctions will not be imposed without prior notice to, and an opportunity to be heard by, the party or attorney against whom the sanction or penalty is sought to be imposed. Available sanctions include, but are not limited to,:

(1) Monetary sanctions;

(2) Evidentiary sanctions prohibiting the introduction of designated matters into evidence;

(3) Striking out all or any part of any pleading;

(4) Dismissal of an action, proceeding, or any part thereof;

(5) Entering judgment by default against a party; and,

(6) Contempt sanctions.

(Subd (a) amended and relettered effective January 1, 2010; adopted as unlettered part of Rule 4.15 effective January 1, 1998.)

b. **ATTORNEY FEES AND COSTS**

In addition to any sanction, the court may order a party or his or her counsel to pay to a party moving for compliance with these rules the reasonable expenses in making the motion, including reasonable attorney fees.

(Subd (b) amended and relettered effective January 1, 2010; adopted as unlettered part of Rule 4.15 effective January 1, 1998.)

c. **SANCTIONS RELATED TO REQUESTS TO EXTEND TIME FOR FILING**
Monetary sanctions and, in the court's discretion, more severe sanctions, will be imposed upon counsel or his or her party who in bad faith or without good cause request an extension of time for the filing of any pleading or document as required by these rules.
(Subd (c) relettered effective January 1, 2010; adopted as unlettered part of Rule 4.15 effective January 1, 1998.)

d. **SANCTIONS AGAINST ATTORNEYS**
If the court determines that the failure to comply with the rules is the responsibility of a party's attorney or counsel, the penalty shall be imposed on the attorney or counsel personally and shall not adversely affect the party's cause of action or defense thereto.
(Subd (d) adopted effective January 1, 2010.)

(Rule 4.13 amended and renumbered effective January 1, 2010; adopted as Rule 4.15 effective January 1, 1998.)

4.13 [RENUMBERED]

(Former Rule 4.13 renumbered as Rule 4.11 effective January 1, 2010.)

4.14 ELECTRONIC FILING AND SERVICE OF PLEADINGS AND DOCUMENTS

The court does not permit electronic filing as defined in California Rules of Court, rule 2.250. However, nothing in this rule shall be construed as prohibiting or otherwise limiting service of documents electronically as provided elsewhere in the California Rules of Court.

(*Rule 4.14 adopted effective July 1, 2010; previous Rule 4.14 renumbered as Rule 4.12 effective January 1, 2010*.)

4.15 [RENUMBERED]

(Rule 4.15 renumbered as Rule 4.13 effective January 1, 2010.)

Superior Court of California
County of Solano

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