SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

CHAPTER THREE

CIVIL DIVISION RULES

3.1 APPLICABILITY

This chapter applies to all civil limited and unlimited cases within the Civil Division of the court. As used in this chapter, the term "counsel" includes self-represented litigants. (Local Rule 1.1).

(Rule 3.1 new and effective July 1, 2011)

GENERAL PROVISIONS

3.2 ASSIGNMENT OF CASES

The supervising judge, or the supervising judge's designee, shall decide whether the civil limited and unlimited cases in a particular district will be assigned for all purposes, to a master calendar, or to a Specialized Civil Court.

(Rule 3.2 [*7/1/2011, 5/17/2013, 7/1/2020, 7/1/2022*] amended and effective July 1, 2026)

3.3 ASSIGNMENT OF CASES FOR ALL PURPOSES

(a) Proportionate Assignment. A *pro rata* share of all cases filed in or transferred to any district shall be assigned for all purposes to each judge assigned to hear cases for all purposes in that district.

(b) Regulation of Case Assignment. The clerk must take all reasonably appropriate steps, including a system of random use of case numbers, to ensure that neither any party nor any counsel will be able to anticipate a case assignment. The name of the judge to whom the case is assigned will be designated by the clerk on the summons and the complaint.

(c) Notice of Case Assignment. At the time that a civil case is filed, the clerk must provide a Notice of Case Assignment, which must indicate the name of the judge to whom the case has been assigned. Each plaintiff (and cross-complainant) must serve a copy of the notice, with the complaint (and cross-complaint), and give notice of any date set for a case management or status conference.

(d) Improper Refiling. A party must not dismiss and then refile a case for the purpose of obtaining a different judge. Whenever a case is dismissed by a party or by the court prior to judgment and a new action is later filed containing the same or essentially the same claims and the same or essentially the same parties, the new action will be assigned, unless the supervising judge for good cause orders otherwise, to the judge to whom the first case had been assigned. When multiple cases involving the same or essentially the same claims, and the same or essentially the same parties, are filed on the same date, the cases shall be assigned to the judge to whom the low numbered case (or first filed case) has been assigned, whether or not that case has been dismissed.

(e) Duty of Counsel. Every counsel in the second action referred to in subdivision (d) above must immediately bring the fact of the dismissal and refiling to the attention of the court. Counsel for plaintiff or cross-complainant (if the earlier action is renewed in a cross-complaint) must do so at the time that pleading is filed. Counsel for all other parties must do so upon their first appearance, or as soon thereafter as they discover the facts. The notice must be given in a "Notice of Related Case" as provided in California Rules of Court, rule 3.300.

(f) Related Cases. (Cal. Rules of Court, rule 3.300.)

(1) Where one of the cases listed in a Notice of Related Cases has been assigned to a Complex Litigation department, the judge in the Complex Litigation department shall determine whether the cases will be ordered related and assigned to the Complex Litigation department;

(2) Where the cases listed in a Notice of Related Cases contains a probate or family law case, Department 1 shall determine whether the cases shall be ordered related and, if so, to which department they shall be assigned if the cases are all pending in the Central District or pending in two different districts. If the cases are all pending in one district that is other than the Central District, the supervising judge of that district shall determine whether the cases shall be ordered related and, if so, to which department they shall be assigned. In addition to filing the Notice of Related Cases in the departments of all pending cases, a copy of the Notice of Related Cases must be filed in Department 1 for matters to be determined in Department 1, and in the courtroom of the supervising judge of a district if the matter is to be determined by the supervising judge of that district;

(3) In the event that the judge designated under California Rules of Court, rule 3.300(h)(1)(A)(B)(C) to make the decision, does not order related any of the cases set forth in the Notice of Related Cases, any party may file a motion to have the cases related. Department 1 shall hear the motion, if the cases are all pending in the Central District or are pending in two or more different districts. If the cases are all pending in one district that is other than the Central District, the motion shall be heard by the supervising judge of that district. The motion must be served on each party in every case listed in the Notice of Related Cases, with proof of service attached; and

(4) Complex cases. Under California Rules of Court, rule 3.300(h)(3), the provisions in (3) of this subdivision do not apply in cases that have been designated as complex by the parties or determined to be complex by the court.

(g) Consolidation of Cases.

(1) Cases may not be consolidated unless they are in the same department. A motion to consolidate two or more cases may be noticed and heard after the cases, initially filed in different departments, have been related into a single department, or if the cases were already assigned to that department.

(2) Upon consolidation of cases, the first filed case will be the lead case, unless otherwise ordered by the court. After consolidation, all future papers to be filed in the consolidated case must be filed only in the case designated as the lead case.

(3) Before consolidation of a limited case with an unlimited case, the limited case must be reclassified as an unlimited case and the reclassification fee paid.

(h) Coordination of Non-Complex Cases. A civil case which is not complex as defined by Standard 3.10 of the Standards of Judicial Administration may be transferred to the court from a superior court in another county, if it involves a common question of fact or law within the meaning of Code of Civil Procedure section 403. The coordination motion shall be made in compliance with the procedures established by California Rules of Court, rule 3.500. Coordination motions seeking to transfer a case or cases to the Central District shall be filed and heard in Department 1. Coordination motions seeking to transfer a case or cases to a district other than the Central District shall be heard by the supervising judge in that district.

(i) Assignment for All Purposes. Cases are assigned for all purposes, including trial. Except as the Presiding Judge may otherwise direct, each judge shall schedule, hear and decide all matters for each case assigned.

(j) Effect of Judge Unavailability. Whenever a judge is unavailable to perform that judge's duties, the cases previously assigned to that judge shall be reassigned to another judge as the supervising judge determines.

(k) Complex Litigation.

(1) The Complex Litigation Program of the Superior Court of Los Angeles County will consist of the departments designated by order of the Presiding Judge. Complex cases must be filed in the districts designated according to Local Rule 2.3. Complex cases must be designated or counter-designated in the civil cover sheet as provided by California Rules of Court, rules 3.401-3.402.

(2) Except as provided in subsection (8) below concerning class actions, the Assistant Supervising Judge, Civil/Complex, (or the Assistant Supervising Judge's designee) (collectively, "Assistant Supervising Judge Civil/Complex") will review all cases in which a plaintiff/petitioner or a defendant/respondent has designated or counter-designated the case as complex and all cases that are designated on the civil cover sheet as "provisionally" complex (*see* California Rules of Court, rule 3.400(c)). This review will be conducted as soon as feasible after the case is filed, but before the case is assigned to a judge. The Assistant Supervising Judge, Civil/Complex will determine (with or without a hearing) whether to designate the case as complex pursuant to California Rules of Court, rule 3.403. If the matter is designated as complex and if any party has not yet paid the complex case fee required by Government Code section 70616(a), the court shall order payment of that fee. If the case is designated complex, the Assistant Supervising Judge, Civil/Complex will assign the case to a judge in the Complex Litigation Program. If the case is not designated complex, the Supervising Judge, Civil will assign the case.

(3) The judge who manages the complex case should do so with due consideration of Standard 3.10 of the Judicial Administration Standards and the case management concepts set forth in the Deskbook on Complex Civil Litigation published by the Judicial Council of California.

(4) If a party wishes to seek a designation that a case is a complex case, the party may seek to transfer the case to the Complex Litigation Program in the following manner. The party must complete the Complex Civil Case Questionnaire designated by the Assistant Supervising Judge, Civil/Complex. The Questionnaire must be filed in the court in which the case is pending. A courtesy copy of the Questionnaire must be provided to the Assistant Supervising Judge, Civil/Complex, who shall determine, with or without a hearing, but with notice to the assigned judge, whether the case should be assigned to the Complex Litigation Program in light of the caseload of the Program, the relative complexity of the case compared with cases then assigned to the Program, and the length of time the case has been pending.

(5) Nothing in this rule will be construed to alter the continuing power of a judge assigned to a case to decide at a later date that the case is complex or that a case previously declared to be complex is not. (*See* Cal. Rules of Court, rule 3.403(b).)

(6) If the judge to whom a case is assigned determines that a case is a complex case, the judge may seek to transfer the case to the Complex Litigation Program in the following manner. The judge or the party, on order of the court, shall complete the Complex Civil Case Questionnaire designated by the Assistant Supervising Judge, Civil/Complex. The Questionnaire must be filed in the court in which the case is pending. A courtesy copy of the Questionnaire must be provided to the Assistant Supervising Judge, Civil/Complex, who shall determine, with or without a hearing, but with notice to the assigned judge, whether the case should be assigned to the Complex Litigation Program in light of the caseload of the Program, the relative complexity of the case compared with cases then assigned to the Program, and the length of time the case has been pending.

(7) A decision by the assigned judge to deem the case complex does not cause the case to transfer into the Complex Litigation Program. Only the Assistant Supervising Judge, Civil/Complex decides if a case will transfer into the Complex Litigation Program.

(8) Recognizing that class actions are defined as provisionally complex pursuant to California Rules of Court, rule 3.400(c), considering the factors which make a case complex enumerated in California Rules of Court, rule 3.400(b), and consistent with the policy to determine as soon as reasonably practicable whether a case is complex under California Rules of Court, rule 3.403, all class actions are presumed to be complex and at filing are assigned to the Complex Litigation Program of the court. Pursuant to Government Code Section 70616(a), the complex case fee and first appearance fee must be paid at the time of the filing of the first paper in a class action proceeding. If class action claims are added to the case after the original filing of the complaint, and a party wants the case transferred to the Complex Litigation Program, the party must follow the procedure provided in subsection (4).

(Rule 3.3 [*7/1/2011*, *1/1/2012*, *7/1/2012*, *1/1/2013*, *5/17/2013, 1/1/2015, 1/1/2020, 7/1/2020, 7/1/2022, 1/1/2026*] amended and effective July 1, 2026)

3.4 ELECTRONIC FILING

Pursuant to Government Code section 68150, trial court records may be created, maintained, and preserved in electronic format. Any document the court receives electronically must be clerically processed and must satisfy all legal filing requirements to effectively be filed as an official court record. (Cal. Rules of Court, rules 2.100 *et seq*., 2.253(b)(6).)

(a) Mandatory Electronic Filing. The Superior Court of Los Angeles County mandates electronic filing of all documents in all civil case types by litigants represented by attorneys unless the court exempts parties from doing so. The electronic filing of documents must be effected using an approved electronic service provider. Instructions on electronic filing are available on the court's website at www.LACourt.ca.gov. The following definitions apply:

(1) Bookmark. A bookmark is a PDF document navigational tool that allows the reader to quickly locate and navigate to a designated point of interest within a document.

(2) Electronic Envelope. An electronic envelope is a transaction through an electronic filing service provider for submission of documents to the court for processing which may contain one or more PDF documents attached (and Proposed Orders in Word).

(3) Electronic Filing. Electronic Filing (e-filing) is the electronic transmission to a court of a document in electronic form. (Cal. Rules of Court, rule 2.250(b)(7).)

(4) Electronic Filing Service Provider. An electronic filing service provider is a person or entity that receives an electronic filing from a party or other person for retransmission to the court. In the submission of filings, the electronic filing service provider does so on behalf of the electronic filer and not as an agent of the court. (Cal. Rules of Court, rule 2.250(b)(8).)

(5) Electronic Signature. For purposes of these Local Rules and in conformity with Code of Civil Procedure sections 17(b)(3), 34, and 1010.6(b)(1), Government Code section 68150, subdivision (g), and California Rules of Court, rule 2.257(a), the term "Electronic Signature" is defined as an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the document.

(6) Hyperlink. A hyperlink is an electronic link providing direct access from one distinctively marked place in a hypertext or hypermedia document to another in the same or different document.

(7) Portable Document Format (PDF). PDF is a digital document format that preserves all fonts, formatting, colors, and graphics of the original source document, regardless of the application platform used.

(b) Documents Exempt from Electronic Filing. The following documents shall not be submitted electronically:

(1) Peremptory challenges or challenges for cause of a judicial officer pursuant to Code of Civil Procedure sections 170.6 or 170.3;

(2) Bonds/undertaking documents;

(3) Trial and evidentiary hearing exhibits;

(4) Any *ex parte* application that is filed concurrently with a new complaint, including those that will be handled by a Writs and Receivers department in the Stanley Mosk Courthouse; and

(5) Documents submitted conditionally under seal. The actual motion or application shall be electronically submitted. A courtesy copy of the electronically filed motion or application to submit documents conditionally under seal must be provided with the documents submitted conditionally under seal.

(c) Litigants Exempt from Mandatory Electronic Filing. Self-represented litigants are exempt from mandatory electronic filing requirements. Although not required, self-represented litigants are encouraged to participate in electronic filing and service. In addition, represented parties may apply for exemption from electronic filing requirements and be permitted to file documents by conventional means if the party shows undue hardship or significant prejudice.

(d) Electronic Filing System Working Procedures. Electronic filing service providers must obtain and manage registration information for persons and entities electronically filing with the court. Such providers shall ensure that electronic filing service is accessible to individuals with disabilities and clearly state on their website that an individual with a disability may request accommodation.

(e) Confirmation of Receipt. The court shall promptly send confirmation of receipt of the document indicating the date and time of receipt. If a document received by the court complies with the filing requirements and all required fees have been paid, the court shall promptly notify the party or person who submitted the document. The electronic filing service provider shall ensure any notification from the court regarding the status of an electronic submission is forwarded to the party or person on whose behalf the electronic filing service provider electronically submitted the document to the court.

(f) Technical Requirements.

(1) Documents must be electronically submitted in PDF text searchable format when technologically feasible without impairment of the document's image. Proposed Orders must be in both PDF and Word versions. The Word version must be submitted as a separate document in the same electronic envelope/transaction. (Cal. Rules of Court, rule 3.1312.)

(2) The table of contents for any document submitted must be bookmarked.

(3) Electronic documents, including but not limited to declarations, proofs of service, and exhibits or attachments, must be bookmarked within the document pursuant to California Rules of Court, rule 3.1110(f)(4). Electronic bookmarks must include links to the first page of each bookmarked item (e.g., exhibits, declarations, deposition excerpts) and with bookmark titles that identify the bookmark item and briefly describe the item.

(4) Exhibits or attachments to primary documents must be bookmarked. Examples include, but are not limited to, the following:

(A) Depositions;

(B) Declarations;

(C) Exhibits (including exhibits to declarations);
(D) Transcripts (including excerpts within transcripts);
(E) Points and Authorities;
(F) Citations; and
(G) Supporting Briefs.

(5) Use of hyperlinks within documents (including exhibits and attachments) is strongly encouraged.

(6) Accompanying documents must be electronically submitted as a separate digital document in PDF format.

(7) Multiple documents relating to one case can be uploaded and submitted in one electronic envelope.

(8) Writs and abstracts must be submitted in a separate electronic envelope.

(9) Sealed Documents. If a judicial officer orders documents to be filed under seal, those documents must be filed electronically (unless exempted under subdivision b); the burden of accurately designating the documents as sealed at the time of electronic submission is the submitting party's responsibility.

(10) Redaction. Pursuant to California Rules of Court, rule 1.201, it is the submitting party's responsibility to redact confidential information (such as using initials for names of minors, using the last four digits of a social security number, and using the year for date of birth) so that the information shall not be publicly displayed.

(g) Timing for Electronic Filing. Any document received electronically before midnight on a court day shall be deemed to have been effectively filed on that court day if accepted for filing. Any document received on a non-court day is deemed to have been effectively filed on the next court day if accepted for filing. (Cal. Rules of Court, rule 2.253(b)(6); Code Civ. Proc., § 1010.6(b)(3).) This Rule does not affect the timing requirements for any documents that must be filed by a designated time on the due date.

Notwithstanding any other provision of this Local Rule, if a digital document is not filed in due course because of (1) an interruption in service; (2) a transmission error that is not the fault of the transmitter; or (3) a processing failure that occurs after receipt, the court may order, either on its own motion or by noticed motion submitted with a declaration for court consideration, that the document be deemed filed and/or that the document's filing date conform to the attempted transmission date.

(h) Timing for Exempted Filing. All filings exempt from mandatory filing requirements under subdivisions (b) and (c) must be filed at the clerk's filing window no later than 4:30 p.m. The clerk's office will open to the public at 8:30 a.m. for filing documents and other official public services, and close at 4:30 p.m. each court day. Except as directed by the court, the clerk may not allow the public to enter the offices for the purpose of filing papers or obtaining other official services after 4:30 p.m. Persons in the clerk's office at 4:30 p.m. may complete their filing.

(i) Lodged Materials. All separate exhibits (*i.e.*, deposition transcripts, bulky items, *etc.*) not attached to filed papers and presented for motions and trials must be lodged with the court in time for the hearing, or at such other time as the court orders. All lodged exhibits will be returned to counsel for preservation after the hearing unless ordered by the court. A party must either submit a self-addressed stamped envelope with lodged material or submit an attorney-service pick-up slip where the attorney service has been instructed by counsel to pick up the lodged material without reminder from the clerk. The actual "Notice of Lodgment" document shall be electronically filed.

(j) Waiver of Fees and Costs for Electronically Filed Documents. Requests to waive court fees and costs pursuant to Code of Civil Procedure section 1010.6 (b)(6) and California Rules of Court, rule

2.252(f), may be electronically submitted in any authorized action or proceeding. Fees and costs associated with electronic filing must be waived for any litigant who has received a granted fee waiver. (Cal. Rules of Court, rules 2.253(b), 2.258(b); Code Civ. Proc., § 1010.6(d)(2).)

(k) Electronic Signatures. An electronic signature shall have the same legal effect as an original signature. All electronic filings must comply with California Rules of Court, rule 2.257, and Code of Civil Procedure section 1010.6(b)(1).

When a document requires the signature under penalty of perjury of any person, the document shall be deemed to have been signed by that person if filed electronically (a) if the person has signed a printed form of the document before, or on the same day as, the date of filing or (b) if the person has signed the document using a computer or other technology.

(l) Time for Filing of *Ex Parte* Applications. *Ex parte* applications subject to mandatory electronic filing, including all documents in support thereof, must be electronically filed no later than 10:00 a.m. on the date before the *ex parte* hearing. Any written opposition to an *ex parte* application must be electronically filed by 8:30 a.m. on the day of the *ex parte* hearing. A printed courtesy copy of any opposition to an *ex parte* application must be provided to the court on the day of the *ex parte* hearing. In the Central District, if a party is exempt from electronic filing, *ex parte* application papers for all civil matters, including unlawful detainer matters, must be filed at the first-floor filing window at the Stanley Mosk Courthouse, and fees paid, by 11:00 a.m.

(Rule 3.4 [*7/1/2011, 7/1/2019, 1/1/2020, 1/1/2025*] amended and effective January 1, 2026)

3.5 TIME FOR HEARINGS

Time of Hearing. In the Central District, except as stated below, unlimited civil law and motion matters, including *ex parte* applications, will be heard by the all-purpose assignment court, Specialized Civil Court, and master calendar court judges in their respective departments at 8:30 a.m. each day.

(a) Writs and Receivers Departments. Noticed motions and other noticed proceedings are heard in Departments 82, 85, and 86 ("writs and receivers departments") on the following calendar days and times: (a) Department 82 (Tuesday 9:30 a.m. and Thursday 1:30 p.m.), (b) Department 85 (Tuesday 1:30 p.m. and Thursday 9:30 a.m.) and (c) Department 86 (Wednesday 9:30 a.m. and Friday 1:30 p.m.) *Ex parte* applications are heard daily in the writs and receivers departments at 8:30 a.m.

(b) Limited Unlawful Detainers and Limited Civil. *Ex parte* applications are heard at 1:30 p.m.

(c) Supplemental and Miscellaneous Proceedings in the Central District. To determine the days, times, and places for supplemental and miscellaneous proceedings in the Central District, counsel should check the court's website at www.LACourt.ca.gov.

(d) Districts Other Than Central District. To determine the days, times, and places for matters heard in districts other than the Central District, counsel should consult with the office of the supervising judge of the district.

(Rule 3.5 [*7/1/2011*, *5/17/2013, 7/1/2014, 1/1/2018, 1/1/2019, 7/1/2019, 1/1/2024, 1/1/2026*] amended and effective July 1, 2026)

3.6 **RESERVED**

(Rule 3.6 [*7/1/2011, 1/1/2014, 1/1/2017*] **REPEALED** and effective January 1, 2023)

3.7 EVIDENCE AT HEARING

Oral testimony is not allowed without court permission. A party seeking permission to introduce oral evidence must file the statement required by California Rules of Court, rule 3.1306, and must include in the statement the reason why the evidence cannot be presented by declaration.

(Rule 3.7 new and effective July 1, 2011)

3.8 JUDICIAL NOTICE

A party requesting judicial notice of material must comply with California Rules of Court, rule 3.1306.

(a) Court Files. If the matter to be judicially noticed is contained in a file of the district in which the motion is to be heard, the party must notify the clerk that the file is requested at least five days prior to the hearing. The request must be made by separate document containing the case name and number and be filed directly in the department in which the matter is noticed. The file must be received by the department in which the matter is to be heard at least two court days before the hearing so that it is available to the judge when the judge is preparing for the hearing. Counsel must also provide the court with a copy of the material to be noticed.

(b) Files from Other Courts. If the matter to be judicially noticed is contained in a file of any other court or of a district other than the one in which the matter is to be heard, counsel must either obtain the file for the date of the hearing, or file with the moving papers a certified copy of the portion of the record for which judicial notice is requested.

(Rule 3.8 [*7/1/2011*] amended and effective July 1, 2022)

3.9 JUDICIAL REFERENCE (Code Civ. Proc., § 638 *et seq.*; Cal. Rules of Court, rules 3.900, 3.920; Local Rule 2.24.)

(a) Availability of Referee. Prior to entry of an order of reference, counsel must discuss the availability of a proposed referee and the referee's charges and required terms of payment.

(b) Form for Approval. For pretrial matters, the referee must include in the report a place for the judge to enter an order if the judge accepts the report. If the referee's report is rejected, the judge will prepare a new order or direct a party to prepare it.

(c) Judgment. If by stipulation the referee will hear the entire case, the prevailing party must file a noticed motion requesting the court issue judgment consistent with the report of the referee. (Code Civ. Proc., § 644.)

(Rule 3.9 [*7/1/2011*] amended and effective July 1, 2022)

3.10 SANCTIONS

The court may impose appropriate sanctions for the failure or refusal to comply with the rules in this chapter, including the time standards and/or deadlines, and any court order made pursuant to the rules. Counsel are directed to Code of Civil Procedure sections 128, 128.7, 177.5, 575.2, 583.150, 583.430, 2016.010-2036.050, Government Code section 68608, and California Rules of Court, rule 2.30. The sanctions may be imposed on a party and, if appropriate, on counsel for that party.

(Rule 3.10 [*7/1/2011*] amended and effective January 1, 2012)

3.11 CONTEMPT

A direct contempt committed in the immediate view and presence of the judge in court or in chambers will be handled by the judge before whom the contempt occurs. Indirect contempts may be heard in the department to which the case is assigned or, if the department cannot hear the contempt and transfer is required by law, that court may transfer the contempt proceeding to (1) the appropriate writs and receivers department, if it is a Central District case, or (2) the supervising judge of the district, if it is a case filed in another district.

(a) Order to Show Cause. Although Code of Civil Procedure section 1212 permits a warrant of attachment against the person charged with contempt, the standard procedure is section 1212's alternative method of issuance of an order to show cause ("OSC") re: contempt. An OSC will issue if the affidavit is sufficient, and the OSC must then be personally served on the accused person. The OSC may issue upon *ex parte* application, but only if the requesting party has complied with the notification requirements of California Rules of Court, rule 3.1204. If the accused person is served with the OSC and fails to appear, the court may issue a body attachment.

(b) Trial. The hearing on the OSC re: contempt is in the nature of a quasi-criminal trial. The accused person has the right to appointed counsel, to remain silent, to confront and cross-examine witnesses, and to be proven guilty beyond a reasonable doubt. The only major difference between contempt and a criminal trial is that the accused person has no right to a jury. The moving party must appear for the trial with witnesses prepared to testify unless the accused person stipulates in writing that the moving party's declarations will constitute the case-in-chief against the accused person. If there is no stipulation, the parties should stipulate that the moving parties' declarations will constitute the direct testimony of each declarant, with the declarant then subject to cross-examination.

(c) Punishment. If the court finds the accused person guilty, the court may impose a fine of up to $1,000, imprison the person for up to five days, or both, for each act of contempt. (Code Civ. Proc., § 1218.) When the contempt consists of the omission to perform an act which is yet in the power of the person to perform, the court may order that the person be imprisoned until the act is performed. (Code Civ. Proc., § 1219.)

(Rule 3.11 [*7/1/2011, 5/17/2013*] amended and effective July 1, 2022)

3.12 **RESERVED**
3.13 **RESERVED**
3.14 **RESERVED**
3.15 **RESERVED**
3.16 **RESERVED**
3.17 **RESERVED**
3.18 **RESERVED**
3.19 **RESERVED**
3.20 **RESERVED**
3.21 **RESERVED**

CASE MANAGEMENT AND DISPOSITION

3.22 CASE REMOVED TO FEDERAL COURT

If a case is removed to federal court, the court will order a date, not earlier than 90 days from the date of removal, by which counsel must file a Notice of Status of Removed Case. If the case has not remanded to the trial court by that time, it will be recorded as completed without the need to conduct a further status conference.

(Rule 3.22 new and effective July 1, 2011)

3.23 EXEMPTION FROM CASE MANAGEMENT RULES – LIMITED CIVIL AND SPECIFIED PERSONAL INJURY ACTIONS

Pursuant to California Rules of Court, rule 3.720(b), all limited civil cases and all Personal Injury Actions (as defined in Rule 2.3(a)(1)(A)) heard in the Central District personal injury hub courts are exempted from the case management rules of Title 3, Division 7, Chapter 3 of the California Rules of Court. The Standing Order re Procedures in the Personal Injury Hub Courts available on the court's website specifies which Personal Injury actions will be heard in the Central District personal injury hub courts. For those cases, the court will set trial dates and make other case management orders, including orders concerning compliance with Code of Civil Procedure sections 1141.10 *et seq.* and 1775 *et seq.* (concerning mandatory judicial arbitration and mediation in unlimited civil cases in which the amount in controversy does not exceed $50,000), by issuing orders in individual cases subject to this exemption.

(Rule 3.23 [as TRIAL DELAY REDUCTION *7/1/2011*, **REPEALED** *7/1/2013*, *5/17/2013, 7/1/2014, 1/1/2016*] amended and effective January 1, 2023)

3.24 CASE MANAGEMENT

(a) Purpose. The court adopts the following rules concerning case management for all civil cases pursuant to California Rules of Court, rule 3.711, and to advance the goals of Government Code section 68603 and Standard 2.1 of the Standards of Judicial Administration.

(b) Cases Exempted. The following civil matters are not subject to case management conference or review: (1) limited civil cases and Personal Injury Actions heard in the Central District personal injury hub courts (see Local Rule 3.23); (2) small claims matters; (3) matters assigned for all purposes based on subject matter (*e.g.*, mandamus, name change petitions, civil harassment petitions); (4) cases stayed because of a bankruptcy, an installment settlement, or having been removed to federal court; (5) uninsured motorist cases for 180 days after filing; (6) "collections cases" (defined as an action for the recovery of not more than $25,000 of money owed in a sum stated to be certain arising from a credit transaction) where there has been no responsive pleading filed under California Rules of Court, rule 3.712(d); and (7) cases coordinated by a petition for coordination under California Rules of Court, rule 3.501 *et seq.* (Cal. Rules of Court, rule 3.721; Gov. Code, § 68608(a).)

An "Uninsured Motorist Case" is a civil action for damages filed against a defendant who is an uninsured motorist where the plaintiff's claim is subject to an arbitration provision as defined by Government Code section 68609.5 and Insurance Code section 11580.2. Plaintiff must identify the case as "Uninsured Motorist" by so stating on the face of the complaint or by filing a subsequent "Notice of Uninsured Motorist Designation" as soon as that fact becomes known. The case management rules shall apply to Uninsured Motorist Cases 180 days after filing. (Cal. Rules of Court, rule 3.712.)

(c) Differentiation of Cases to Achieve Goals (Cal. Rules of Court, rule 3.714).

(1) Evaluation and Assignment. At the first status conference or at an earlier time deemed appropriate by the court, the court shall evaluate the case as provided in subdivision (d) below. After evaluation, the court shall assign the case to one of the three case-management plans in subdivision (c)(2) or exempt the case under subdivision (c)(3) from the case-disposition time goals provided in California Rules of Court, rule 3.714(b), and Standard 2.2 of the Judicial Administration Standards. The court may modify the assigned case-management plan at any time for good cause shown.

(2) Case-management plans. The plans for disposition of civil cases from the date of filing are as follows:

(a) Plan 1, disposition within 12 months;
(b) Plan 2, disposition within 18 months; and
(c) Plan 3, disposition within 24 months.

(3) Exceptional cases. The court may, in the interest of justice, exempt a civil case from the case-disposition time goals if it finds the case involves exceptional circumstances that will prevent the court and the parties from meeting the goals and deadlines imposed by the program. In making the determination, the court shall be guided by subdivision (d) below. If the court exempts the case from the case-disposition time goals, the court shall establish a case-progression plan and monitor the case to ensure timely disposition consistent with the exceptional circumstances, with a goal for disposition within three years.

(d) Case Evaluation Factors (Cal. Rules of Court, rule 3.715). In setting or exempting a case from a case disposition time goal, the court shall estimate the maximum time that will reasonably be required to dispose of the case in a just and effective manner. The court shall consider the following factors and any other information the court deems relevant, understanding that no one factor or set of factors controls and that cases may have unique characteristics incapable of precise definition:

(1) Type and subject matter of the action;
(2) Number of causes of action or affirmative defenses alleged;
(3) Number of parties with separate interests;
(4) Number of cross-complaints and the subject matter;
(5) Complexity of issues, including issues of first impression;
(6) Difficulty in identifying, locating, and serving parties;
(7) Nature and extent of discovery anticipated;
(8) Number and location of percipient and expert witnesses;
(9) Estimated length of trial;
(10) Whether some or all issues can be arbitrated;
(11) Statutory priority for the issues;
(12) Likelihood of review by writ or appeal;
(13) Amount in controversy and the type of remedy sought, including measure of damages;
(14) Pendency of other actions or proceedings which may affect the case;
(15) Nature and extent of law and motion proceedings anticipated;
(16) Nature and extent of the injuries and damages;
(17) Pendency of under-insured claims; and
(18) Any other factor that would affect the time for disposition of the case.

(Rule 3.24 [*7/1/2011*, *5/17/2013, 7/1/2014*] amended and effective January 1, 2023)

3.25 CASE MANAGEMENT CONFERENCE

(a) Case Management Conference/Review.

(1) Except for cases exempt under Rule 3.24(b), in all unlimited civil cases, the case management conference shall be held not later than 180 days after the complaint is filed. At the case management conference, counsel must appear and be fully prepared to discuss, and the court may make orders concerning, the matters set forth in California Rules of Court, rule 3.727.

(2) After the case management conference or review, the court must enter a case management order in accordance with California Rules of Court, rule 3.728.

(b) Conduct of Case Management Conference.

(1) Unless the court orders another time period, no later than 30 calendar days before the date set for the case management conference, counsel must meet and confer, in person or by telephone, to consider each of the issues identified in California Rules of Court, rules 3.724 and 3.727.

(2) No later than 15 calendar days before the date set for the case management conference, each party must file a case management statement using Judicial Council Form CM-110, and serve it on all parties in the case. (Cal. Rules of Court, rule 3.725.)

(c) Setting the Trial Date. In setting a trial date, the court shall be guided by the case disposition time goals set forth in Local Rule 3.23 and California Rules of Court, rule 3.714, and shall apply the relevant facts and circumstances set forth in California Rules of Court, rule 3.729. There will be no delay in setting a case for trial because counsel have delayed conducting discovery or otherwise delayed processing the case.

(d) Settlement Conference. The court may set a settlement conference on its own motion or at the request of any party.

(1) Attendance. Unless expressly excused for good cause by the judge, all persons whose consent is required to effect a binding settlement must be personally present at a scheduled settlement conference, including the following: (1) the parties (unless consent of a party is not required for settlement); (2) an authorized representative of any insurance company which has coverage, or has coverage at issue, in the case; and (3) an authorized representative of a corporation or other business or government entity which is a party. These persons must have full authority to negotiate and make decisions on settlement of the case.

(2) Excuse From Attendance. A request to be excused from attending the settlement conference made by a person who is required to personally attend must be made by written stipulation of the parties or an *ex parte* application made in compliance with Local Rule 3.5. A person excused by the court must be available for telephone communication with counsel and the court at the time set for the settlement conference.

(3) Familiarity with Case. Counsel must attend the settlement conference and be familiar with the pertinent available evidence involving both liability and damages. Counsel must be prepared to discuss the case in depth and, except for good cause shown, must be the person who will try the case.

(4) Liens. Plaintiff's counsel must ascertain whether there are liens which bear on a potential settlement and, if so, request the claimants or their representatives to attend the settlement conference or be available for telephone communication during the conference.

(e) Written Statements for Settlement Conferences. Each party must submit to the court and serve all other parties a written statement no later than five court days before the conference.

The written statement must contain a concise statement of the material facts of the case and the factual and legal contentions in dispute. The statement must identify all parties and their capacities in the action and contain citations of authorities which support legal propositions important to resolution of the case. The written statement of a party claiming damages must list all special damages claimed, including all expenses incurred up to the time of the settlement conference, state any amounts claimed as general and punitive damages, and provide a total amount of damages claimed. The written statement must also include the general status of the case, including settlement offers.

The written statement must be submitted directly to the courtroom in which the settlement conference is calendared and not sent to the clerk's office. The written statements will not be filed; they are only used at the settlement conference and will be returned to counsel or destroyed at the conclusion of the conference.

(f) Final Trial Preparation. Counsel must attend a final status conference, which the court will set not more than ten days prior to the trial date. In a case assigned for all purposes, the judge assigned for all purposes will hold the final status conference. The final status conference in a master calendar assigned case will be held in a department designated by the master calendar court.

(1) At least five days prior to the final status conference, counsel must serve and file lists of pre-marked exhibits to be used at trial (Local Rules 3.151, 3.53, and 3.149), jury instruction requests, trial witness lists, and a proposed short statement of the case to be read to the jury panel explaining the case. Failure to exchange and file these items may result in not being able to call witnesses, present exhibits at trial, or have a jury trial. If trial does not commence within 30 days of the set trial date, a party has the right to request a modification of any final status conference order or any previously submitted required exchange list.

(2) In a case assigned for all purposes, the parties must file and serve any trial preparation motions and dispositive motions, other than summary judgment motions, including motions *in limine* or bifurcation motion, with timely statutory notice so as to be heard on the day of the final status conference. Unless the court orders otherwise, lead trial counsel must attend the final status conference. At this conference, the court will also consider, *inter alia*, major evidentiary issues and special verdict issues.

(3) In a master calendar assigned case, the parties must file and serve trial preparation motions and dispositive motions at least five days before the final status conference, which shall be heard on the first day of trial.

(4) At the final status conference, the court will consider severing for trial all unserved or recently served fictitiously named parties.

(g) Discretionary Final Status Conference Preparation Orders. Nothing in this rule precludes the court, in its discretion and pursuant to the case differentiation principles of case management (Cal. Rules of Court, rule 3.710 *et seq.*), from ordering different trial preparation procedures, including the following:

(1) A final status conference held more than ten days before the trial date;

(2) An "in person" meeting of counsel before the final status conference concerning the submission to the court of joint trial documents;

(3) The submission of trial documents to the court more than five days before the final status conference;

(4) A joint statement to be read to the jury;

(5) A joint witness list;

(6) A joint exhibit list;

(7) A set of agreed jury instructions (and, if necessary, a separate set of instructions to which there is disagreement), in the proper format with all changes and modifications applicable to the case in accordance with California Rules of Court, rule 2.1055, (*i.e.*, correct references to the parties, no blanks, brackets, empty spaces or inapplicable options); and

(8) An agreed special verdict form with interrogatories.

(h) Reasonable Trial Time Estimate. Counsel must provide the court with reasonable and accurate time estimates for trial. If the time estimate of either party is exceeded, the court may, in its discretion, deem one or both parties to have rested, deem the matter submitted, continue the trial to a new trial date, or declare a mistrial.

(Rule 3.25 [*7/1/2011, 5/17/2013, 1/1/2018*] amended and effective July 1, 2026)

3.26 LITIGATION CONDUCT

The guidelines adopted by the Los Angeles County Bar Association are adopted as civility in litigation recommendations to members of the bar, and are contained in Appendix 3.A.

(Rule 3.26 new and effective July 1, 2011)

3.27 LIMITED JURISDICTION UNLAWFUL DETAINER CASE MANAGEMENT

In order to ensure the prompt resolution of limited jurisdiction unlawful detainer cases, which are entitled to precedence and to be quickly heard and determined (Code of Civil Procedure § 1179a), the plaintiff must file a Request for Trial Setting within 120 days after the complaint is filed. Unless otherwise ordered by the court, at the time of filing of the complaint, the clerk will set for hearing no earlier than 180 days after the filing of the complaint an order to show cause as to why a case should not be dismissed for failure to comply with this rule. At the hearing, the court may dismiss the case in its entirety or as to certain defendants, or make other orders in the interest of justice and to effectuate the policy articulated in Code of Civil Procedure Section 1179a.

(Rule 3.27 new and effective January 1, 2015)

3.28 **RESERVED**
3.29 **RESERVED**
3.30 **RESERVED**
3.31 **RESERVED**
3.32 **RESERVED**
3.33 **RESERVED**
3.34 **RESERVED**
3.35 **RESERVED**
3.36 **RESERVED**

CIVIL TRIAL PROCEDURE

3.37 ENFORCEMENT AND SANCTIONS

The following rules concerning the conduct of trial (Local Rules 3.37 through 3.193) apply to all-purpose assignments and master calendar assigned civil cases. In the discretion of the trial judge, the civil trial rules may be applied differently in a particular case or not at all. The rules are not intended to infringe on the discretion of the trial judge in the conduct of trial proceedings.

Counsel must be thoroughly familiar with these civil trial rules. The court may impose appropriate sanctions for a failure by a party or counsel to comply with these rules, including dismissal, striking of pleadings, vacation of trial date, and monetary sanctions in the amount of costs and actual expenses, including reasonable attorneys' fees incurred by other parties. Monetary sanctions payable to the court also may be imposed against a party, the party's attorney, or a witness.

(Rule 3.37 [*7/1/2011*] amended and effective July 1, 2026)

3.38 **RESERVED**
3.39 **RESERVED**
3.40 **RESERVED**
3.41 **RESERVED**

GENERAL COURTROOM DECORUM

3.42 **RESERVED**

(Rule 3.42 [as INAPPROPRIATE CONDUCT *7/1/2011*, *1/1/2022*]
REPEALED and effective July 1, 2025
Moved to Rule 2.27)

3.43 **RESERVED**

(Rule 3.43 [as INAPPROPRIATE DRESS *7/1/2011*, *1/1/2022*]
REPEALED and effective July 1, 2025
Moved to Rule 2.28)

3.44 **RESERVED**
3.45 **RESERVED**
3.46 **RESERVED**

3.47 MULTIPLE COUNSEL – MOTIONS

In the absence of permission by the court, only one attorney for a party may present oral argument on a motion, application, or issue. Upon the request of a party, the court may, in its discretion, allow more than one attorney per party to argue. In making the request, counsel may present the issue of providing an opportunity for a less experienced attorney.

(Rule 3.47 new and effective January 1, 2022)

PRETRIAL PREPARATION AND RULINGS

3.48 TRIAL CONFERENCE

Before a panel of prospective jurors is summoned, the trial judge will determine if a jury trial has been properly demanded, with fees timely posted, and if a jury will be waived. If trial is by jury, the trial judge may determine the following items:

(a) Voir Dire Examination. The areas of proposed voir dire interrogation to be directed to prospective jurors and whether there is any contention that the case is one of "unusual circumstances" or contains "unique or complex elements, legal or factual" within the meaning of Standards of Judicial Administration, Standard 3.25, such that usually improper voir dire questions may be asked or limited preinstruction concerning the law may be appropriate.

The trial judge will normally follow the voir dire procedures and utilize the questions, or those substantially similar set forth in Standards of Judicial Administration, Standard 3.25;

(b) Statement of Case Read to Jury Panel. The text of a brief statement of the case suitable to be read by the trial judge to the panel of prospective jurors (*see* Local Rule 3.25(f));

(c) Fewer Than Twelve Jurors. Whether a stipulation may be reached to the effect that fewer than 12 jurors may sit in the case;

(d) Number of Alternate Jurors. The number of alternate jurors, if any, to be selected;

(e) Stipulation to Excuse Jurors. Whether a stipulation may be reached to excuse jurors who express a desire not to sit because of potential length of the trial; and

(f) Determination of Sides and Allocation of Peremptory Challenges. In multiple party cases, whether there are issues as to the number of "sides" and allocation of peremptory challenges within the meaning of Code of Civil Procedure section 231 and, if so, whether a stipulation may be reached on that issue.

(Rule 3.48 [*7/1/2011*] amended and effective July 1, 2014)

3.49 STIPULATIONS

(a) Request For Stipulation. At the pretrial conference the trial judge may request counsel to stipulate in writing that:

(1) unless called to the attention of the court, all jurors will be deemed to be in the jury box and in their proper places upon court reconvening after each recess or adjournment;

(2) after having given the admonition required by Code of Civil Procedure section 611, the court at each subsequent recess or adjournment need not repeat or remind the jury of the admonition theretofore given;

(3) in the absence of any counsel the court may:

(A) upon the request of the jury, read to the jury any or all instructions previously given;

(B) have read to the jury, at its request, any portions of the evidence given in the trial and may supply the jury, on its request, with any of the exhibits received in evidence;

(C) call the jury into the courtroom to ascertain whether or not a verdict is probable, to receive the verdict of the jury and poll the jury; and

(D) in the event of the failure of the jury to reach a verdict, permit the jurors to separate and resume their deliberations on the morning of the next court day or such other time as may be fixed by the court.

(b) Other Judge Acting after Submission. In the absence of the trial judge after the original submission of the case to the jury, any judge of this court may act in place of the absent trial judge to and including the time of discharge of the jury; and

(c) Stay of Execution. In the event of a judgment in favor of the plaintiff, a stay of execution may be issued to be effective for a period of ten days after determination of a motion for a new trial or until ten days after expiration of the time to file notice of intention to move for a new trial.

(Rule 3.49 new and effective July 1, 2011)

3.50 REQUESTS FOR JUDGE TO ASK SPECIFIC QUESTIONS

A party requesting the trial judge to voir dire the prospective jurors with questions that are not set forth in Standards of Judicial Administration, Standard 3.25(c), must prepare and submit to the court those proposed questions in writing and serve a copy on the other parties.

(Rule 3.50 new and effective July 1, 2011)

3.51 PERSONS WITH DISABILITIES

In addition to complying with all applicable laws relating to accessibility, the court may confer with counsel concerning how courtroom facilities and procedures may further reasonably accommodate disabled trial participants.

(Rule 3.51 new and effective July 1, 2011)

3.52 MARKING OF EXHIBITS

All exhibits must be exchanged and pre-numbered, except for those anticipated in good faith to be used for impeachment. All exhibits must be pre-numbered before any reference thereto by counsel or a witness.

(Rule 3.52 new and effective July 1, 2011)

3.53 UNIFORM METHOD OF MARKING EXHIBITS

The most efficient method of marking exhibits is the use of arabic numerals in which each party is allocated a block of numbers to be used sequentially. For instance, plaintiff may be allocated numbers 1 to 200, the first defendant numbers 201 to 400, and the second defendant numbers 401 to 600.

Documentary exhibits consisting of more than one page must be internally paginated in sequential numerical order to facilitate reference to the document during interrogation of witnesses.

(Rule 3.53 new and effective July 1, 2011)

3.54 DOCUMENTS PRODUCED THROUGH A NONPARTY

If a party proposes to obtain documents in the custody of a nonparty, as by a subpoena duces tecum, and those documents may be produced by certification or otherwise in lieu of personal appearance by a witness custodian, the request for those documents must specify that they be delivered not later than the first day for which the trial is calendared.

(Rule 3.54 new and effective July 1, 2011)

3.55 LIST OF CHANGES IN DEPOSITION

If any changes are made in a deposition by the deponent after the taking of the deposition, counsel for a party deponent or in the case of a non-party deponent, the counsel who requested the taking of the deposition, must prepare and submit to all other counsel in the case a list of such changes, including the page and line numbers thereof.

(Rule 3.55 new and effective July 1, 2011)

3.56 SIGNING, CERTIFICATION AND LODGING OF DEPOSITIONS

Unless the signing of a deposition is waived, or certification by the deposition officer is obtained pursuant to Code of Civil Procedure section 2025.540, all depositions must be signed and lodged with the clerk of the trial court before the commencement of trial.

(Rule 3.56 new and effective July 1, 2011)

3.57 MOTIONS *IN LIMINE*

(a) Required Declaration. Motions made for the purpose of precluding the mention or display of inadmissible and prejudicial matter in the presence of the jury must be accompanied by a declaration that includes the following:

(1) Specific identification of the matter alleged to be inadmissible and prejudicial;

(2) A representation to the court that the subject of the motion has been discussed with opposing counsel, and that opposing counsel has either indicated that such matter will be mentioned or displayed in the presence of the jury before it is admitted in evidence or that counsel has refused to stipulate that such matter will not be mentioned or displayed in the presence of the jury unless and until it is admitted in evidence;

(3) A statement of the specific prejudice that will be suffered by the moving party if the motion is not granted; and

(4) If the motion seeks to make binding an answer given in response to discovery, the declaration must set forth the question and the answer and state why the use of the answer for impeachment will not adequately protect the moving party against prejudice in the event that evidence inconsistent with the answer is offered.

(b) Summary Adjudication Improper. A motion *in limine* may not be used for the purpose of seeking summary judgment or the summary adjudication of an issue or issues. Those motions may only be made in compliance with Code of Civil Procedure section 437c and applicable court rules.

(c) Bifurcation of Issues Improper. A motion *in limine* may not be used for the purpose of seeking an order to try an issue before the trial of another issue or issues. That motion may only be made in compliance with Code of Civil Procedure section 598.

(d) Timing of Ruling. The court may defer ruling upon a motion *in limine*, and may order that no mention or display of the matter that is the subject of the motion be made in the presence of the jury unless and until the court orders otherwise.

(e) Compliance with Order Granting Motion *in Limine*. If the motion *in limine* is granted, it is the duty of counsel to instruct associates, clients, witnesses, and other persons under their control that no mention or display be made in the presence of the jury of the matter that is the subject of the motion. Without prior leave of court, counsel must not ask a question that: (1) suggest or reveals evidence that was excluded, or (2) reasonably may be anticipated to elicit testimony that was excluded.

(Rule 3.57 [*7/1/2011*] amended and effective July 1, 2014)

3.58 MOTIONS FOR A VIEW TO BE TAKEN

A motion for a view to be taken must be made at the earliest possible time.

(Rule 3.58 new and effective July 1, 2011)

3.59 **RESERVED**
3.60 **RESERVED**
3.61 **RESERVED**
3.62 **RESERVED**
3.63 **RESERVED**
3.64 **RESERVED**
3.65 **RESERVED**
3.66 **RESERVED**
3.67 **RESERVED**
3.68 **RESERVED**
3.69 **RESERVED**

JURY SELECTION

3.70 NUMBER OF JURORS AND ALTERNATES

In the absence of a stipulation that a verdict may be returned by 11 or fewer jurors, the trial judge will usually direct the selection of alternate jurors as follows:

(1) If the trial time estimate is over three trial days, but less than seven trial days, two alternates;

(2) If the trial time estimate is over six trial days, but less than 21 trial days, three alternates;

(3) If the trial time estimate is over 20 trial days, four alternates.

If a stipulation is reached that a verdict may be returned by 11 or fewer jurors, the trial judge will usually direct the selection of one less alternate for each juror less than 12 required for a verdict.

(Rule 3.70 new and effective July 1, 2011)

3.71 FILLING THE JURY BOX

There is no uniform method of seating prospective jurors. Counsel may inquire of the clerk before the commencement of jury selection as to the particular seating method used in that courtroom.

(Rule 3.71 new and effective July 1, 2011)

3.72 QUESTIONING JURY PANEL ON HARDSHIP

The trial judge will ascertain from the entire panel in the courtroom or through the Jury Commissioner whether it would be difficult or impossible for anyone to serve. This should be done as early in jury selection as possible.

(Rule 3.72 new and effective July 1, 2011)

3.73 STATEMENT OF THE CASE TO PROSPECTIVE JURORS

The trial judge may read to the prospective jurors a brief statement of the case or, consistent with Code of Civil Procedure section 222.5, permit or direct the parties to deliver mini-opening statements.

(Rule 3.73 [*7/1/2011*] amended and effective January 1, 2017)

3.74 CHALLENGES FOR CAUSE (Code Civ. Proc., § 227)

Upon completion of voir dire examination of all prospective jurors in the jury box, or of a prospective juror individually, counsel must state whether the party passes for cause. A challenge for cause must be made outside the hearing of the jury panel.

(Rule 3.74 new and effective July 1, 2011)

3.75 PEREMPTORY CHALLENGES

If there are more than two sides, the trial judge may require the side with the greater number of challenges to exercise every second challenge, *i.e.*, alternate with each of the other sides rather than rotate the challenges from one side to a second side to a third side.

(Rule 3.75 new and effective July 1, 2011)

3.76 EXCUSING PROSPECTIVE JURORS

When counsel exercises a peremptory challenge, the request to thank and excuse a particular juror must be made to the court, and not directly to the prospective juror.

When a prospective juror is excused upon exercise of a challenge or by stipulation, the juror must return to the jury assembly room.

(Rule 3.76 new and effective July 1, 2011)

3.77 VOIR DIRE OF REPLACEMENTS

When a prospective juror seated in the jury box or in an alternate seat is excused, the replacement juror may be asked by the trial judge (a) whether the questions asked and answers given previously have been heard and understood, and (b) whether, other than with regard to personal matters such as prior jury service, area of residence, employment and family, the juror's answers would be different from the previous answers in any substantial respect. If the replacement answers in the affirmative, the trial judge should inquire further about those differing answers.

Upon completion of the trial judge's voir dire examination of the replacement, the trial judge shall inquire whether counsel wish to conduct a supplemental examination and, if so, permit it in accordance with Code of Civil Procedure section 222.5 and California Rules of Court, rule 3.1540.

(Rule 3.77 [*7/1/2011*] amended and effective July 1, 2022)

3.78 SELECTING ALTERNATE JURORS

Unless counsel stipulate otherwise, after the jury is selected and sworn, the trial judge may direct the clerk to draw the appropriate number of names to fill the seats for any alternates, and the voir dire examination may proceed in the same manner as provided above.

(Rule 3.78 new and effective July 1, 2011)

3.79 ADMONITIONS TO JURORS

After the jury is sworn by the clerk to try the cause but before inviting opening statements, the trial judge may admonish the jurors, including alternates, generally, as follows:

(1) That they are to refrain from communicating in writing or by other means about the case; use the jury room rather than remaining in the courtroom or hallway; and avoid approaching, or conversing with counsel, litigants, and witnesses;

(2) That it is improper for jurors to conduct any independent investigation of the facts or the law, visit the scene, conduct experiments (scientific or otherwise), or consult reference works (books, texts, periodicals, *etc.*) for additional information;

(3) That if a juror has a question or communication for the trial judge (*e.g.*, regarding time scheduling), it should be transmitted through the bailiff, court attendant, or clerk;

(4) That each juror is to wear their juror badge throughout the day;

(5) That the bailiff, court attendant, or clerk is in charge of the jury's physical facilities and supplies;

(6) That the jurors will be supplied with note pads and pencils with which they may take notes on the case only for their own personal use. The notes may not be removed from the courtroom, but the jurors may take the notes into the jury room once they commence deliberations on the case;

(7) The hours and days for sessions and recesses of the court and the need for punctuality. The jurors will be advised of the court department number and phone number;

(8) The substance of any preinstruction of law which the trial judge determines to be appropriate; and

(9) That, as with other statements of counsel, the opening statement is not evidence but only an outline of what counsel expect to prove.

(Rule 3.79 [*7/1/2011*] amended and effective July 1, 2019)

3.80 ADMONITION UPON SEPARATION OF JURORS

At the conclusion of each court day during the trial or jury deliberations and whenever the jury is permitted to separate overnight, unless waived by stipulation, the trial judge will admonish the jury in accordance with Code of Civil Procedure section 611. After the cause has been submitted to the jury, the trial judge may also admonish them that they should converse among themselves about the case only in the jury room and only after the entire jury has assembled therein.

(Rule 3.80 new and effective July 1, 2011)

3.81 EXCHANGE OF INFORMATION ABOUT FUTURE SCHEDULING

In order to facilitate efficient scheduling of future witnesses and court time, counsel must communicate with one another and exchange good faith estimates of the length of witness examination together with any other information pertinent to trial scheduling.

(Rule 3.81 new and effective July 1, 2011)

3.82 **RESERVED**
3.83 **RESERVED**
3.84 **RESERVED**
3.85 **RESERVED**
3.86 **RESERVED**
3.87 **RESERVED**
3.88 **RESERVED**
3.89 **RESERVED**
3.90 **RESERVED**
3.91 **RESERVED**

TRIAL DECORUM AND OPENING STATEMENTS

3.92 SEATING OF COUNSEL

Unless otherwise indicated by the court, plaintiff's counsel will be seated adjacent to the jury box.

(Rule 3.92 new and effective July 1, 2011)

3.93 MULTIPLE COUNSEL – TRIAL FUNCTIONS

In the absence of permission by the court, only one attorney for a party may perform any one of the following functions -- select a jury, deliver an opening statement, deliver a final argument, examine any particular witness, cross examine any particular witness, or argue an issue. Upon the request of a party, the court may, in its discretion, allow more than one attorney per party to perform one or more of those trial functions. In making the request, counsel may present the issue of providing an opportunity for a less experienced attorney to perform any of those functions.

(Rule 3.93 [*7/1/2011*] amended and effective January 1, 2022)

3.94 TRAVERSING "WELL"

Except with approval of the court, persons in the courtroom may not traverse the area between the bench and counsel table. Counsel must so instruct parties they represent, witnesses they call and persons accompanying them.

(Rule 3.94 new and effective July 1, 2011)

3.95 ADDRESSING THE JUDGE

When addressing the trial judge in court, “Your Honor” is proper. “Judge,” “Judge (Name),” “ma’am,” or “sir” is improper.

(Rule 3.95 new and effective July 1, 2011)

3.96 ADDRESSING OTHERS

During trial, counsel must not exhibit familiarity with witnesses, parties or other counsel, nor address them by use of first names (except children).

(Rule 3.96 new and effective July 1, 2011)

3.97 USE OF GRAPHIC DEVICES IN OPENING STATEMENTS

In opening statements to the jury by counsel, no display to the jury or reference should be made to any chart, graph, map, picture, model, video, or any other graphic device or presentation except (1) when marked as an exhibit and received in evidence, (2) by stipulation of counsel, or (3) with leave of court. With prior approval of the court, counsel may use the chalkboard or paper for illustrative purposes during opening statements.

(Rule 3.97 new and effective July 1, 2011)

3.98 JUROR REPLACEMENT

If the replacement of a regular juror is required, an alternate may be selected by lot if there are two or more alternates, unless counsel have stipulated to another procedure. (*See* Code Civ. Proc., §§ 233, 234.)

(Rule 3.98 new and effective July 1, 2011)

3.99 MOTIONS

Motions for judgment on the pleadings, directed verdict, and mistrial must be made and argued outside the hearing of the jurors, but if the ruling thereon affects the issues to be tried by the jury, the trial judge, after consulting with counsel, may advise the jurors thereon. Upon granting a motion to strike any evidence or argument to the jury, the trial judge will admonish the jury to disregard the matter stricken.

(Rule 3.99 new and effective July 1, 2011)

3.100 **RESERVED**
3.101 **RESERVED**
3.102 **RESERVED**
3.103 **RESERVED**
3.104 **RESERVED**

WITNESSES

3.105 **RESERVED**
(Rule 3.105 [as USE OF INTERPRETERS *7/1/2011*] **REPEALED** and effective January 1, 2016)

3.106 "ON-CALL" WITNESSES

Counsel with a witness "on call" bears the responsibility of having the witness present in court when needed.

(Rule 3.106 new and effective July 1, 2011)

3.107 ANTICIPATION OF SENSITIVE AREAS OF INQUIRY

Before inquiring into evidence which may reasonably be anticipated to be inflammatory or highly prejudicial and potentially excludable pursuant to Evidence Code section 352, counsel must bring the intended area of inquiry to the attention of the other party and the trial judge outside the hearing of the jurors.

(Rule 3.107 new and effective July 1, 2011)

3.108 ADMONITION TO WITNESSES

Before a witness takes the stand, the counsel calling the witness should admonish the witness to be responsive to the questions and to wait until a question is completed and a ruling made on any objection before answering.

Counsel should not admonish a witness while on the stand about the manner of answering questions, but may request the court to admonish the witness.

(Rule 3.108 [*7/1/2011*] amended and effective July 1, 2022)

3.109 EXAMINATION FROM COUNSEL TABLE

Ordinarily, counsel must remain at a lectern or behind the counsel table when examining a witness.

(Rule 3.109 new and effective July 1, 2011)

3.110 APPROACHING A WITNESS

Unless the court otherwise directs, counsel need not request permission from the court to approach a witness solely for the purpose of showing the witness a document or other object. Before approaching a witness for any other purpose, a party must request permission from the court.

(Rule 3.110 new and effective July 1, 2011)

3.111 QUESTIONS NOT BE INTERRUPTED

Counsel ordinarily should not interrupt an incomplete question to object unless the question is both patently objectionable and at least arguably prejudicial.

(Rule 3.111 new and effective July 1, 2011)

3.112 EFFECT OF ASKING ANOTHER QUESTION

Counsel must not repeat the witness' answer to the prior question before asking another question.

Counsel must wait until the witness has completed the answer before asking another question.

If counsel asks a new question before the witness answers the pending question or an objection thereto is ruled upon, counsel will be deemed to have withdrawn the earlier question.

(Rule 3.112 new and effective July 1, 2011)

3.113 COMPLETION OF WITNESS TESTIMONY

A witness testimony should be completed before other evidence is taken except by leave of court. When the testimony of a witness is concluded, the witness should be excused by the court, except upon good cause shown to the court, in which case the trial judge may excuse the witness subject to being recalled upon reasonable notice to be given the witness by the party desiring to recall the witness.

(Rule 3.113 new and effective July 1, 2011)

3.114 CONSULTATION WITH WITNESS ON THE STAND

No consultations between counsel and a witness while on the stand will be permitted without leave of court.

(Rule 3.114 new and effective July 1, 2011)

3.115 **RESERVED**
3.116 **RESERVED**
3.117 **RESERVED**
3.118 **RESERVED**
3.119 **RESERVED**

CONDUCT OF COUNSEL AND PARTIES

3.120 POLICY AGAINST INDICATION AS TO TESTIMONY

Persons in the courtroom, including the parties and counsel, must not indicate, by facial expression, shaking of the head, gesturing, shouts, or other conduct their disagreement with or approval of testimony or other evidence. Counsel must so instruct parties they represent, witnesses they call, and any persons accompanying them.

(Rule 3.120 new and effective July 1, 2011)

3.121 STAND TO OBJECT AND ARGUE

Counsel must stand when addressing the court, except when stating only the legal grounds for an objection to evidence without argument.

(Rule 3.121 new and effective July 1, 2011)

3.122 ARGUMENT ADDRESSED TO COURT

Argument, objections, and requests by counsel during trial must be directed to the court and not to adversaries.

(Rule 3.122 new and effective July 1, 2011)

3.123 ARGUMENTS TO BE OUT OF JURY'S HEARING

Although an evidentiary objection and a statement of the brief legal grounds ordinarily may be offered within the jurors' hearing, arguments must be held outside the hearing of the jurors at the side bench or, in cases of extended discussion, after the jury has been excused, or in chambers to the extent that the judge permits it.

Counsel wishing to argue any matter of law must ask the court for leave to argue outside the hearing of the jurors. Upon such a request first being granted in a trial, the trial judge may advise the jurors that matters of law are for the court rather than the jury and that discussions concerning the law outside the jurors' hearing are necessary and proper for counsel to request.

Such arguments by counsel, whether at the side bench, upon the excuse of the jury, or in chambers, should be reported and kept brief and few in number.

(Rule 3.123 new and effective July 1, 2011)

3.124 OFFERS OF PROOF TO BE OUT OF JURY'S HEARING

Offers of proof and arguments thereon shall be made outside the hearing of jurors. Counsel wishing to make an offer of proof must ask the court for leave before advancing the offer.

(Rule 3.124 new and effective July 1, 2011)

3.125 OFFERS TO STIPULATE TO BE OUT OF JURY'S HEARING

Offers to stipulate must be made outside the hearing of jurors. While the court is in session, counsel wishing to stipulate must first obtain leave of court and then confer with other counsel outside the hearing of the jurors.

(Rule 3.125 new and effective July 1, 2011)

3.126 REQUESTS TO ADVERSARIES TO BE OUT OF JURY'S HEARING

Requests by a party to an adversary for objects or information purportedly in the possession of the adversary must be made outside the hearing of jurors.

(Rule 3.126 new and effective July 1, 2011)

3.127 REQUESTS TO THE REPORTER ADDRESSED TO COURT

Any request for the court reporter or recorder to read or mark the record or to go "off-the-record" must be addressed to the court outside the presence of the jury, and not to the reporter or recorder.

(Rule 3.127 new and effective July 1, 2011)

3.128 COMMUNICATION TO COURT BY PARTIES AND WITNESSES

Ex parte communication with the court is prohibited. Counsel must instruct their clients and witnesses that they must not communicate with the court about any subject of the pending litigation except on the record with all counsel present. The court will promptly disclose any violation of the foregoing rule to all parties and it will be made a part of the record.

(Rule 3.128 new and effective July 1, 2011)

3.129 ADDRESS TO COURT BY REPRESENTED PARTY OR WITNESS

A party or witness represented by counsel seeking to address the court directly may be instructed by the court to confer with such counsel. Thereafter, the court will confer with counsel

outside the hearing of the jury concerning the subject matter of such communication and determine whether or not such party or witness will be permitted to address the court, and if so, the limits thereon.

(Rule 3.129 new and effective July 1, 2011)

3.130 COMMUNICATION TO JURORS BY PARTIES AND WITNESSES

Counsel must instruct their clients and witnesses that they must not communicate with any juror.

(Rule 3.130 new and effective July 1, 2011)

3.131 COUNSEL'S DEMONSTRATING OR DISPLAYING REPRESENTATIONS OF TESTIMONY TO THE JURY DURING PRESENTATION OF EVIDENCE

Without the consent of the trial judge, counsel may not, during presentation of evidence, summarize, diagram, calculate, or outline testimony or evidence in a manner displayed to the jury. This includes, but is not limited to, using a chalkboard, paper on a bulletin board, overhead projection device, computer or other word processing device to be projected onto a screen, or any other technology.

(Rule 3.131 [*7/1/2011*] title & text amended and effective January 1, 2014)

3.132 "OFF-THE-RECORD" CONFERENCES

Conferences touching upon any subject of the pending litigation should be held on the record if requested by any party. If substantive matters are touched upon in any off the record conference with the trial judge, a reported conference should be conducted forthwith at which the same parties are present and the substantive matters should be recited or summarized to give the parties the opportunity to complete the record.

(Rule 3.132 new and effective July 1, 2011)

3.133 EVIDENCE ADMITTED FOR A LIMITED PURPOSE

When evidence is received for a limited purpose or as against less than all parties, the trial judge may so instruct the jury at the time of the admission thereof.

(Rule 3.133 new and effective July 1, 2011)

3.134 QUESTIONING BY JUDGE

The trial judge ordinarily will not examine a witness until the parties have completed questioning the witness. If a witness is referring to graphic evidence (*e.g.*, pointing to "here" and "there" on a map), the trial judge may make such inquiries and give such direction that the record is complete and intelligible regarding the points of reference. When the judge completes such questions, all parties may have the opportunity to examine upon the matters touched upon by the judge.

(Rule 3.134 new and effective July 1, 2011)

3.135 EXCLUSION OF EVIDENCE ON COURT'S OWN MOTION

The court on its own motion may exclude irrelevant evidence or evidence excludable under Evidence Code section 352. Ordinarily, the court will not act on its own motion to exclude evidence which may be inadmissible for other reasons.

(Rule 3.135 [*7/1/2011*] amended and effective July 1, 2014)

3.136 ADVICE TO JURY ABOUT COURT-APPOINTED EXPERT

Upon appointment by the court of an expert to testify as a witness, the trial judge may advise the jury of the fact of the court appointment.

(Rule 3.136 new and effective July 1, 2011)

3.137 ADVICE BY COURT AS TO SELF-INCRIMINATION

Whenever there is a likelihood of self-incrimination by a witness not represented by counsel present in court, the trial judge may advise the witness, outside the hearing of jurors, of the privilege against self-incrimination.

(Rule 3.137 new and effective July 1, 2011)

3.138 **RESERVED**
3.139 **RESERVED**
3.140 **RESERVED**
3.141 **RESERVED**
3.142 **RESERVED**
3.143 **RESERVED**
3.144 **RESERVED**
3.145 **RESERVED**
3.146 **RESERVED**
3.147 **RESERVED**

EXHIBITS

3.148 LARGE, DANGEROUS AND BULKY EXHIBITS

Counsel should substitute by photograph, technical report or dummy object, those proposed exhibits which are (1) inherently dangerous (*e.g.*, products that are highly explosive, toxic, corrosive or flammable such as TNT, sulfuric acid, gasoline), or (2) large and cumbersome (*e.g.*, ladder, sewer pipe, automobile chassis).

If counsel believes that such an exhibit should be brought into the courtroom, a request to do so must be made to the trial judge outside the jury's hearing. At the end of the trial, the court may require large, dangerous, and bulky exhibits to be returned to the party offering the exhibit in evidence.

(Rule 3.148 new and effective July 1, 2011)

3.149 ORAL IDENTIFICATION OF EXHIBITS AT FIRST REFERENCE

Upon the first reference to an exhibit, counsel must briefly identify it, but not describe its contents.

(Rule 3.149 new and effective July 1, 2011)

3.150 EXHIBITS TO HAVE BEEN SHOWN TO ADVERSARIES BEFORE FIRST REFERENCE

Before the first reference to any exhibit, the proponent must show it to opposing counsel for review. (*See also*, Local Rule 3.25(f).)

(Rule 3.150 [*7/1/2011*] amended and effective July 1, 2014)

3.151 MARKING OF EXHIBITS FIRST DISCLOSED DURING TRIAL

Counsel must mark for identification an exhibit which has not been pre-marked and which is being used for impeachment before showing the exhibit to opposing counsel or referring to it. To avoid disruption and delay, the exhibit should be presented to the clerk for formal marking after the evidence regarding it is taken.

(Rule 3.151 new and effective July 1, 2011)

3.152 WHEN EXHIBITS OFFERED

Unless the trial judge otherwise directs, counsel must offer an exhibit into evidence as soon as the evidentiary foundation for its admission has been established and not accumulate exhibits to offer at the conclusion of the party's case.

(Rule 3.152 new and effective July 1, 2011)

3.153 MAPS, PLANS AND DIAGRAMS

Any map, plan, or diagram offered in evidence should clearly show whether or not it has been prepared to scale, and if so, what scale was used.

(Rule 3.153 new and effective July 1, 2011)

3.154 RETURN OF EXHIBITS

Immediately upon conclusion of the examination of a witness with an exhibit, counsel must return it to a place designated by the court.

(Rule 3.154 new and effective July 1, 2011)

3.155 WHEN EXHIBITS TO BE PUBLISHED TO JURORS

Exhibits admitted into evidence which are subject to cursory examination, such as photographs and some other demonstrative evidence, may be published to the jury only with leave of court. Where leave is granted and the jury will handle the exhibit, counsel must hand it to the bailiff or court attendant for publication to the jury. Counsel may not proceed with any examination while the jury is reviewing the exhibit.

Exhibits admitted into evidence which are not subject to cursory examination must not be handed to jurors until they retire to deliberate. In the event a party contends that an exhibit not subject to cursory examination is critical and should be handed to jurors during the course of the trial, leave must be requested from the trial judge. Such party should be prepared to furnish sufficient copies of the exhibit, if reasonably practicable, for all jurors and alternates to have their own copy. The jurors and alternates should return their copy of the exhibit to the bailiff or court attendant upon concluding their examination. Enlargements or projections of exhibits should be used in lieu of, and in preference to, furnishing such copies for the jurors.

(Rule 3.155 new and effective July 1, 2011)

3.156 EXHIBITS NOT TO BE PLACED IN JURORS' HANDS

In the court's discretion, exhibits admitted into evidence are sent to the jury room for deliberation. An exhibit will not go to the jury room, if:

(1) It is inherently dangerous, or creates a health or safety hazard;

(2) It cannot be readily understood by persons without expertise, *e.g.*, an X-ray;

(3) It is inflammatory or its prejudicial effect outweighs its probative value, *e.g.*, a bloody shirt; or

(4) It includes matter as an integral part which cannot be readily deleted and which is inadmissible or within subdivisions (1), (2) or (3).

(Rule 3.156 new and effective July 1, 2011)

3.157 EXHIBITS ADMITTED IN PART

If an exhibit admitted into evidence contains some inadmissible matter (*e.g.*, a reference to insurance, excluded hearsay, opinion or other evidence lacking foundation), the trial judge, outside the hearing of the jury, will specify the excluded matter and withhold delivery of such exhibit to the jurors unless and until the inadmissible matter is deleted.

The deletion may be accomplished by photocopying in a manner in which the inadmissible portions are redacted. The party offering the exhibit should prepare and furnish the copy.

If redaction by photocopying is not practical, the parties should seek to stipulate to an appropriate means of providing the exhibit to the jury. Otherwise, the admissible matter only may be read into evidence.

(Rule 3.157 new and effective July 1, 2011)

3.158 USE OF DEPOSITIONS, INTERROGATORIES AND REQUESTS FOR ADMISSION

Before reading into evidence any portion of any deposition, interrogatory or request for admission, or showing any video deposition, counsel must obtain leave of court and must then advise the court and opposing counsel which pages and lines of the deposition or the numbers of the interrogatories or requests for admission are to be read. Prior to such reading, opposing counsel must be given a reasonable opportunity to read the same and interpose any objections thereto.

If counsel intends to read multiple interrogatories into evidence, that counsel should make extracts of the pertinent portions of questions and answers and furnish sufficient copies for adversaries and the court before reading. Those extracts should be prepared in a form so that the question answered immediately precedes the answer and the date or other description of the particular set of interrogatories appear on the extract. The same procedure will apply to requests for admissions and responses thereto.

(Rule 3.158 new and effective July 1, 2011)

3.159 CUSTODY OF TRIAL EXHIBITS AFTER TRIAL

Trial exhibits, both those received into evidence and those marked during trial for identification, will be returned to counsel for use in connection with post-trial proceedings or any appeal. The court may consult with counsel concerning which counsel will take custody of the trial exhibits and what procedures will be followed in the event any trial exhibits are needed for a post-trial proceeding or appeal.

(Rule 3.159 new and effective July 1, 2011)

3.160 **RESERVED**
3.161 **RESERVED**
3.162 **RESERVED**
3.163 **RESERVED**
3.164 **RESERVED**
3.165 **RESERVED**
3.166 **RESERVED**
3.167 **RESERVED**
3.168 **RESERVED**

3.169 **RESERVED**

JURY INSTRUCTIONS

3.170 DUTY OF COUNSEL TO MODIFY CACI INSTRUCTIONS

Before delivery of proposed CACI or other instructions to the trial judge and opposing counsel, counsel must fill in all blanks, make all strike-outs, insertions and modifications therein which are appropriate to the case. Submission of a form which requires additions or modifications to constitute a complete and intelligible instruction will not be deemed a request for such instruction.

(Rule 3.170 new and effective July 1, 2011)

3.171 FORM OF PROPOSED JURY INSTRUCTIONS (Code Civ. Proc., §§ 607a, 609.)

All proposed jury instructions, except CACI instructions, must conform to the requirements of California Rules of Court, rule 2.1055, including citations of authorities for the instruction, indication of the party requesting the instruction, and how the instruction has been modified from a related CACI instruction. Any jury instructions requested after the conclusion of taking evidence must be in writing.

The court, in its discretion, may permit instructions to be sent into the jury room in "booklet format" in which the text of the instruction is printed continuously on the page and may result in several instructions to the page. The booklet instructions may be accompanied by a table of contents.

(Rule 3.171 new and effective July 1, 2011)

3.172 JURY INSTRUCTION CONFERENCE

The trial judge will hold a conference outside the presence of the jury before final argument and after submission to the trial judge of all proposed jury instructions, verdict and findings forms. Ordinarily, a reporter or recorder is not required for the commencement of such conference.

In the event the trial judge intends to give any instructions or use any form of verdict or findings on the court's own motion, such instructions, verdicts, or findings may be delivered to counsel.

The trial judge will then discuss with counsel:

(1) Whether any requested proposed instructions, verdicts, or findings are patently inappropriate and will be voluntarily withdrawn;

(2) Whether there are instructions, verdicts, or findings which are appropriate and may be given without objection; and

(3) Whether there is any other modification to which the parties will stipulate.

Counsel must meet prior to this conference to discuss each other's jury instructions and classify them into categories (1), (2) and (3) above.

The unreported conference will generally result in clarification of the matters, and creation of three categories of instructions, verdicts, or findings that will be withdrawn, given without objection, or given as modified by stipulation. Thereafter, the conference may be reported and the trial judge may confirm for the record the matters agreed upon. The trial judge may also specify those instructions, verdicts, and findings forms the court proposes to give, refuse, or modify. The court will hear any objections to the foregoing and rule thereon.

(Rule 3.172 new and effective July 1, 2011)

3.173 WHEN INSTRUCTIONS TO BE READ TO THE JURY

After making the final determination concerning the instructions to be given to the jury, the trial judge may give consideration to the following alternative procedures:

(1) The instructions may be read to the jury after the conclusion of final arguments;

(2) The instructions, except the concluding instructions, if any, may be read to the jury before final arguments; or

(3) The instructions in the categories of introductory instructions, those relating to terminology, and those relating to burden of proof, evaluation of evidence, depositions, interrogatories, admissions, stipulations, and expert testimony may be read at the outset of the trial before the introduction of evidence, with the remaining instructions given during appropriate times during the presentation of evidence, as the specific circumstances justify.

(Rule 3.173 new and effective July 1, 2011)

3.174 USE OF JURY INSTRUCTIONS IN JURY ROOM

The trial judge may determine whether the jury, upon retiring to deliberate, will take a copy of the written jury instructions into the jury room. If this procedure is used, counsel must take care to remove the title, citation of authority, and identity of the party requesting the instruction. Care must also be taken to assure that stricken portions are totally obliterated and any handwritten additions are completely legible. It is the responsibility of counsel to supply the court with instructions that comply with the "sanitizing" process.

(Rule 3.174 new and effective July 1, 2011)

3.175 **RESERVED**
3.176 **RESERVED**
3.177 **RESERVED**
3.178 **RESERVED**
3.179 **RESERVED**

FINAL ARGUMENT

3.180 GRAPHIC DEVICES USED IN ARGUMENT

A graphic device (*e.g.*, chart, summary, or model) which is not in evidence and is to be used for illustration only in argument must be shown to opposing counsel before commencement of the argument. Upon request by opposing counsel, it must remain available for reference and be marked for identification.

(Rule 3.180 new and effective July 1, 2011)

3.181 CLOSING ARGUMENTS

Counsel must not misstate the evidence or the law and must be as concise as the cause permits during closing argument. Counsel may use a chalkboard or paper to summarize testimony, diagram, calculate, or outline unless the court for good cause limits such use. Any graphic device or presentation received in evidence may also be used during closing argument. The length of argument may be limited by the trial judge. All final arguments will be reported in the absence of a stipulation by all counsel that reporting argument is waived.

(Rule 3.181 new and effective July 1, 2011)

3.182 FAMILIARITY WITH JURORS TO BE AVOIDED

Counsel must not address or refer to jurors individually or by name or occupation and must not address a juror by the first name in voir dire examination, during closing argument, or any other time during trial.

(Rule 3.182 new and effective July 1, 2011)

3.183 OBJECTIONS TO CLOSING ARGUMENT

Any objection to a closing argument should be argued outside the jurors' hearing at the side bench. If the trial judge is uncertain about whether there has been a misstatement of the evidence in final argument, the jurors may be advised to consult their own memories and notes.

(Rule 3.183 new and effective July 1, 2011)

3.184 **RESERVED**
3.185 **RESERVED**
3.186 **RESERVED**
3.187 **RESERVED**
3.188 **RESERVED**
3.189 **RESERVED**

JURY DELIBERATION

3.190 QUESTIONS BY JURORS

If the jury has a question regarding the case, the trial judge should instruct the presiding juror to write the question and submit it to the court through the bailiff, court attendant, or clerk. Upon receipt of the question, the trial judge should review it with counsel outside the presence of the jury, and discuss with them an appropriate answer to be given the jury. Such conference should be reported on the record. The answer to the question should be stated to the jury in open court or written on the question form and returned to the jury. The written question must be made part of the record in the absence of a stipulation to the contrary.

(Rule 3.190 new and effective July 1, 2011)

3.191 WHEN JURY UNABLE TO AGREE

If the jury is unable to reach a verdict after deliberating for a substantial time, the trial judge may, in order to ascertain whether continued deliberation should be ordered, inquire of the presiding juror in open court whether in the presiding juror's opinion further deliberations might reasonably be expected to result in a verdict. If the answer is in the negative, the trial judge may make the same inquiry of the other jurors. The trial judge also may inquire of the presiding juror as to the jury's numerical division, but not which side the numerical division favors.

(Rule 3.191 new and effective July 1, 2011)

3.192 RECEIVING VERDICTS AND POLLING JURY

Upon advice from the presiding juror that a verdict has been reached, the trial judge should direct the presiding juror to hand all verdict forms (signed and unsigned) to the bailiff or court attendant for delivery to the judge, who should thereupon examine them. If the verdict or verdicts appear correct and complete to the trial judge, they should be handed to the clerk to be read into the record. If the verdict or verdicts are incorrect or incomplete, the trial judge should call counsel to the side bench to review the form or forms with counsel and to discuss with them any inquiries to be directed to the presiding juror and the possible return of the verdict form or forms to the presiding juror with instructions concerning clarification, completion, or revision. If the form or forms are returned to the

presiding juror, the jury ordinarily should be sent back to the jury room to complete, clarify or revise them.

Upon the return of a general or special verdict or special findings, the court should poll the jury upon the request of any party. Polling may be conducted by the clerk at trial judge's direction, or by the trial judge. In the event of a general verdict without special findings, each juror separately may be asked: "Is the verdict as read your personal verdict?"

In the event of a general verdict with special findings, or in the event of a special verdict, each juror separately may be asked whether each response contained therein: "Is the response to that question (or issue) your personal response?"

(Rule 3.192 new and effective July 1, 2011)

3.193 DISCHARGE OF JURY

In discharging the jury, the trial judge may:

(1) thank the jury for their service;

(2) abstain from commenting as to the judge's view of the propriety of any verdict or findings or failure to reach same;

(3) advise the jurors that they may, but need not, speak with anyone about the case; and

(4) specify where and when any jurors are to return for further service.

(Rule 3.193 new and effective July 1, 2011)

3.194 **RESERVED**
3.195 **RESERVED**
3.196 **RESERVED**
3.197 **RESERVED**
3.198 **RESERVED**
3.199 **RESERVED**

DEFAULT JUDGMENT

3.200 REQUEST TO ENTER DEFAULT

(a) Failure to Answer. A request to enter default for failure to timely file an answer initially must be directed to the clerk. If the clerk rejects a request to enter default, the defect cannot be cured to the clerk's satisfaction, and counsel disagrees with the clerk, then counsel may apply for *ex parte* relief to the judge assigned for all purposes, Specialized Civil Court judge, or supervising judge, whichever is appropriate.

(b) Other Defaults. A request to enter default for failure to make discovery, failure to comply with court order, or other ground of default must be directed to the judge assigned for all purposes, Specialized Civil Court judge, or supervising judge, whichever is appropriate.

(Rule 3.200 [*7/1/2011, 5/17/2013*] amended and effective July 1, 2026)

3.201 PROCEDURES FOR OBTAINING DEFAULT JUDGMENT (Cal. Rules of Court, rule 3.1800.)

(a) Submission on Declarations Preferred. Determination of applications for default judgment on declarations pursuant to Code of Civil Procedure section 585(d) is the preferred procedure. Declarations must comply with Code of Civil Procedure section 2015.5.

(b) Live Testimony Prove-up Hearings. Live testimony prove-up hearings will be scheduled only if the law requires live testimony (*e.g.*, quiet title), or the court otherwise orders it.

(Rule 3.201 new and effective July 1, 2011)

3.202 PENDING MOTIONS TO VACATE DEFAULT

A party applying for default judgment while a motion to vacate default is pending must advise the court of the pendency of the motion. If the party wishes to pursue judgment while the motion is pending, that party must present a showing of emergency justifying the entry of default judgment prior to hearing of the motion.

(Rule 3.202 new and effective July 1, 2011)

3.203 SERVICE BY PUBLICATION

When service has been effected by publication, an application for a default judgment on declarations must include a declaration regarding service of the application papers in compliance with Code of Civil Procedure section 587.

(Rule 3.203 new and effective July 1, 2011)

3.204 WRITTEN OBLIGATIONS TO PAY MONEY

An application for default judgment on a written obligation to pay money must, unless otherwise ordered, be accompanied by the original writing for cancellation pursuant to California Rules of Court, rule 3.1806.

(Rule 3.204 new and effective July 1, 2011)

3.205 EVIDENTIARY STANDARDS

(a) Court to Hear Evidence. The court may enter judgment as appears from the evidence to be just pursuant to Code of Civil Procedure section 585(b).

(b) Authentication. Unauthenticated documents will not be received in evidence unless their authenticity has been pleaded in the complaint and admitted by entry of default.

(c) Hearsay. The court, in its discretion, may disregard hearsay.

(d) Foundation. The court, in its discretion, may disregard evidence lacking foundation, including declarations on the merits by attorneys or assignees which lack foundation as to their personal knowledge.

(Rule 3.205 new and effective July 1, 2011)

3.206 INTEREST

If interest is requested in excess of the usury limitations of California Constitution Article XV, Section 1, proof must be presented of plaintiff's exemption from the usury limitations unless an exemption has been pleaded in the complaint and admitted by the entry of default.

(Rule 3.206 new and effective July 1, 2011)

3.207 ATTORNEYS' FEES

(a) Fee Schedule. If attorneys' fees are awarded on default, they shall be determined in accordance with Local Rule 3.214.

(b) Contractual Provision. When the basis for a claim of attorneys' fees is a contractual provision, the precise clause providing for fees must be cited.

(Rule 3.207 new and effective July 1, 2011)

3.208 **RESERVED**
3.209 **RESERVED**
3.210 **RESERVED**
3.211 **RESERVED**
3.212 **RESERVED**

FORM AND EXECUTION OF JUDGMENT; ATTORNEYS' FEES

3.213 FORM OF JUDGMENT

(a) Original and Copy. Whenever a proposed judgment is submitted to the court, the original shall be accompanied by a complete, legible copy.

(b) Form of Judgment. Judicial Council judgment forms must be used whenever required. When a lengthy or detailed judgment is necessary, or when different relief is sought against different defendants, a specially prepared judgment may be used. Specially prepared judgments must include the full names of the parties for whom, and against whom, the judgment is rendered, including their capacities as plaintiffs, defendants, cross-complainants, and cross-defendants.

(c) Execution by Clerk of Documents. If a judgment awards real or personal property and the necessary documents for the transfer are not at that time executed, the court will order the execution of those necessary documents by the proper party by a date certain. On order of the court, the Clerk has the authority to execute documents specified in the court's order if the obligated party failed to do so.

(d) Entry of Judgments, Orders, and Decrees. Judgments, orders, and decrees rendered by the court will be entered by the clerk into the permanent electronic database for maintenance and storage of the court's official records.

(e) Possession Plus Money. If plaintiff seeks recovery of both an amount owed and goods in which plaintiff holds a security interest to secure payment of the amount owed, the judgment must provide that sale of the goods should first take place pursuant to Uniform Commercial Code section 9504 and thereafter the proceeds of the sale will be credited against the amount owed prior to issuance of a writ of execution on the balance.

(Rule 3.213 [*7/1/2011*] amended and effective July 1, 2019)

3.214 ATTORNEYS' FEES

(a) Contract Provision or Note. When a promissory note, contract, or statute provides for the recovery of reasonable attorneys' fees, the following schedule will apply to the amount of the new judgment unless otherwise determined by the court.

Default case:

$0.01 to $1,000, 15% with a minimum of $75.00;
$1,000.01 to $10,000, $150 plus 6% of the excess over $1,000;
$10,000.01 to $50,000, $690 plus 3% of the excess over $10,000;
$50,000.01 to $100,000, $1,890 plus 2% of the excess over $50,000;
Over $100,000, $2,890 plus 1% of the excess over $100,000.

Contested case (unless otherwise determined by the court):

$0.01 to $1,000, 15% with a minimum of $100;
$1,000.01 to $10,000, $150 plus 8% of the excess over $1,000;
$10,000.01 to $50,000, $870 plus 6% of the excess over $10,000;

$50,000.01 to $100,000, $3,270 plus 4% of the excess over $50,000;
Over $100,000, $5,270 plus 2% of the excess over $100,000.

(b) Mortgage or Trust Deed. When a mortgage or trust deed is foreclosed which provides for the recovery of reasonable attorneys' fees, the applicable fee in subdivision (a) above will be increased by 10%.

(c) Foreclosure of Assessment or Bond Lien. When the lien of a street or other assessment or of a bond issued for the cost of a public improvement is foreclosed, the fee will be computed as provided in subdivision (a), except that the minimum will be $75.00 where only one assessment or bond is being foreclosed in the action, and $20.00 additional for the second and each additional assessment or bond.

(d) Itemization as to Extraordinary Services. An application for a fee greater than listed in the foregoing schedule because of extraordinary services must include an itemized statement of the services rendered or to be rendered.

(e) Services Benefitting a Minor. No attorneys' fees for services benefitting a minor shall be allowed in any action except upon application in open court after notice to the minor's guardian, each of the minor's parents, and the minor (if the minor is over 14 years old).

(Rule 3.214 new and effective July 1, 2011)

3.215 **RESERVED**
3.216 **RESERVED**
3.217 **RESERVED**
3.218 **RESERVED**
3.219 **RESERVED**

ENFORCEMENT OF JUDGMENT

3.220 POST-JUDGMENT ORDERS

(a) Application for Money Deposited (Code Civ. Proc., §§ 708.710 - 708.795). An application for an order for the payment of money which has been deposited with the clerk of the court pursuant to Code of Civil Procedure section 708.710 *et seq.* must state: (1) the amount of money and date it was deposited with the clerk, (2) any amount previously received by the applicant, and (3) whether a claim of exemption or motion to vacate the judgment has been filed. The clerk will endorse on the application the amount of money on deposit.

(b) Property Otherwise Deposited. An application to receive personal property or money, other than that deposited pursuant to Code of Civil Procedure sections 708.710 – 708.795, must state: (1) when, why and by whom it was deposited, (2) any term or condition of the deposit, (3) the name and address of every person claiming any interest in it, and (4) the reason the claimant is entitled to receive it. The clerk will endorse on the application the amount of money or description of the property on deposit. The judge may require the applicant to proceed on noticed motion.

(c) Execution on Installment Order or Judgment. An application for the issuance of a writ of execution as to an order or judgment for the payment of money in installments must state: (1) the pertinent provisions of the order or judgment, (2) the total amount which has been paid, (3) the amount of principal then due, and (4) the calculations as to any interest claimed. If the applicant is an assignee of the original creditor, the applicant must attach a copy of the assignment and state the date of service or notice of the assignment to the judgment debtor.

(Rule 3.220 new and effective July 1, 2011)

3.221 JUDGMENT DEBTOR PROCEEDINGS

(a) Application.

(1) A natural person must be named on the order to appear for examination proceedings on behalf of a corporation, company, partnership or other business entity, unless the court otherwise orders for good cause shown in a written declaration.

(2) The clerk will give notice of the date and time for hearing.

(3) A copy of the judgment must be provided with the application.

(4) The application must be filed in the district in which the judgment was entered. If the courthouse where judgment was entered provides for judgment debtor's proceedings, the application for a debtor's proceeding must be filed in that courthouse. If not, the application must be filed in the courthouse where the district's supervising judge is located.

(b) Proof of Service.

(1) After service of the notice and application, proof of service of an order issued pursuant to Code of Civil Procedure sections 708.110, 708.120, or 708.130 must be filed directly with the clerk in the assigned department no later than 4:00 p.m., three court days before the hearing date, unless otherwise ordered by the court.

(2) Failure to file proofs of service will result in the proceeding being taken off calendar without costs awarded to the applicant. No further hearing will be scheduled earlier than 120 days from the date of the originally scheduled hearing, except for good cause shown in a written declaration.

(c) Failure to Appear at Hearing by Applicant.

(1) If the applicant fails to appear, and the person, firm, entity or corporation named in the order appears, the proceeding will be taken off calendar without costs awarded to the applicant.

(2) No further hearing will be scheduled earlier than 120 days from the date of the originally scheduled hearing, except for good cause shown in a written declaration.

(d) Failure to Appear at Hearing by Person Ordered to Appear. If a person ordered to appear fails to appear at the time and place specified in the order, and the proceeding has not been dismissed or taken off calendar, the applicant may request that the court issue an arrest warrant for the non-appearing person.

(1) On the first failure to appear, except for good cause shown, the court shall issue and hold the arrest warrant to the next available date and order the applicant to give written notice to the non-appearing person informing the non-appearing person that an arrest warrant will issue if the non-appearing person does not appear for examination on the continued date.

(2) The applicant must pay forthwith the service fee required by Government Code section 26744 (applies when the warrant is issued and not held).

(e) Continuance. No continuance will be granted unless both the applicant and the person to be examined appear on the date of the examination or the applicant appears with a valid proof of service for the non-appearing person.

(f) Claims of Non-Service. If the person ordered to appear denies service of the order for appearance, the court shall conduct a hearing solely to determine if proper service was made. The court may continue the examination to permit any person to present evidence in support or in opposition to the claim of non-service. If the court determines that service was not made, it may dismiss the proceeding without costs awarded to the applicant.

(g) Claims That Statements in the Application Are Untrue. When the truth of material facts set forth in the application filed in support of an order issued pursuant to Code of Civil Procedure sections 708.110, 708.120, or 708.130 is disputed by the person, firm, or corporation to whom the order was directed, the court shall conduct a hearing. If the court finds that material facts set forth in the application are untrue, the court shall dismiss the proceeding without costs awarded to the applicant.

(Rule 3.221 [*7/1/2011*] amended and effective July 1, 2022)

3.222 WRITS OF EXECUTION, POSSESSION AND SALE

(a) Papers Required. A party who applies for a writ of execution, possession and sale or related orders must file the following papers:

(1) Application for Issuance of Writs of Execution, Possession and Sale and Related Orders;

(2) The Writ of Possession, Sale and Execution and Related Orders, completed in full except for the seal and signature of the deputy clerk.

(b) Location of Filing. The Application and Writ and Related Orders must be filed in the clerk's office as follows:

(1) In the Central District, Room 118, Judgments Section.

(2) In other districts, the department or office designated by the supervising judge.

(Rule 3.222 [*7/1/2011*] amended and effective January 1, 2019)

3.223 WRIT OF EXECUTION ON A DWELLING

(a) Evidence Required. An application for an order for sale of a dwelling must provide at the hearing competent evidence of the following:

(1) The fair market value of the property by a real estate expert;

(2) Litigation guarantee or title report that contains a legal description of the property, the names of the current owners, a list of all deeds of trust, abstracts of judgments, tax liens and other liens recorded against the property, whether a declaration of homestead has been recorded, whether a current homeowner's exemption or disabled veteran's exemption has been filed with the county assessor, and the persons claiming such exemption;

(3) The amount of any liens or encumbrances on the dwelling, and the names and addresses of the lienholders and when the judgment creditor's lien attached. The judgment creditor must ascertain the precise amounts of obligations secured by senior liens by making a written demand for beneficiary statements from senior lienholders pursuant to Civil Code section 2943. The judgment creditor may need to conduct an examination pursuant to Code of Civil Procedure sections 708.120 or 708.130 to determine the precise amounts of the junior liens, the daily rate of interest due on the senior and junior liens, and encumbrances of record; and

(4) The date of service on the judgment creditor of the levying officer's notice that the dwelling was levied upon.

(b) Certified Order. The clerk will provide the judgment creditor with a certified copy of the court order for transmittal to the levying officer. If the judgment was entered in another court, the clerk also will provide a certified copy of the order for transmittal to the clerk of the court in which the judgment was entered.

(Rule 3.223 new and effective July 1, 2011)

3.224 **RESERVED**
3.225 **RESERVED**
3.226 **RESERVED**
3.227 **RESERVED**
3.228 **RESERVED**
3.229 **RESERVED**

SPECIAL PROCEEDINGS

3.230 SMALL CLAIMS

(a) Trial Preparation. In small claims court cases the parties must exchange exhibits and the parties must inform the clerk before trial of any special challenges to be made, such as venue.

(b) Failure to Appear for Trial.

(1) If the plaintiff fails to appear, the case may be dismissed or judgment for defendant may be entered after evidence is presented. The court should advise the defendant that the plaintiff may file a motion to vacate the judgment.

(2) If a defendant who has filed an answer fails to appear, judgment may be awarded to plaintiff, but only after evidence is submitted.

(3) If both parties fail to appear on the date set for trial, the court will dismiss the case without prejudice.

(Rule 3.230 [*7/1/2011*] amended and effective January 1, 2016)

3.231 PREROGATIVE WRITS

(a) Alternative Writ or Noticed Motion for a Peremptory Writ. A prerogative writ, also known as an extraordinary writ, begins with filing a verified petition. (Code Civ. Proc., § 1096.) Mandamus is the customary prerogative writ sought in the trial court. There are two means by which a party may set a mandamus petition for trial: noticed motion for a peremptory writ and alternative writ. The noticed motion procedure is strongly preferred by the court.

(b) Noticed Motion for a Peremptory Writ. A petitioner filing a noticed motion for peremptory writ may file a verified petition for the writ and then serve it on the respondent and any real party-in-interest in the manner of serving summons and complaint. (Code Civ. Proc., § 1088.5.)

(1) Trial Setting Conference. The court will hold a trial setting conference at which it will set the dates for record preparation, briefing of the motion, and a hearing date. The hearing on the motion is the trial of the case.

(2) Timing of the Hearing. The court generally will not set the matter for hearing until it is assured that any required administrative record has been prepared or that there is adequate time for gathering and organizing the evidence in a traditional mandamus case. Setting trial before these assurances have been made would only unnecessarily clog the court's calendar and require continuance of trial.

(c) Alternative Writ. A petitioner seeking issuance of an alternative writ must apply first for the alternative writ directing the agency to take action or, in the alternative, show cause why it has not done so. (Code Civ. Proc., § 1087.) The application must be accompanied by a memorandum of points and authorities. The court may grant the alternative writ and set an order to show cause, or it may deny the writ outright. An alternative writ issued by a trial court is not a determination of the petition's final merit. It serves the function of a summons and, when properly served, provides the trial court with

jurisdiction over the opposing party. If an alternative writ is granted, the subsequent order to show cause hearing is the hearing on the merits of the petition.

(1) Prior Service of Application. An alternative writ may not issue on an *ex parte* basis without proper notification. Absent a showing of good cause or waiver by the responding party, the petition, application for alternative writ, memorandum, and proposed alternative writ must be served on the respondent and any real party-in-interest pursuant to Code of Civil Procedure section 1010 *et seq*. at least five days before the alternative writ hearing. Although service by mail is permitted, personal service is preferred. Proof of service is required with the application. (Code Civ. Proc., § 1107.)

(2) Briefing Schedule and Hearing Date. Issuance of the alternative writ places the matter on the court's calendar for an order to show cause hearing. It does not by itself result in a stay or afford any affirmative relief. A briefing schedule will be set by the court as part of the alternative writ.

(3) Service of Alternative Writ. The alternative writ and the order for its issuance (as well as the petition and other supporting papers if not previously served in this manner) must be served on the respondent and any real party-in-interest in the manner of serving summons and complaint, unless the court orders otherwise. (Code Civ. Proc., § 1096.)

(d) Service of a Board or Commission. Where service is required under either the noticed motion or alternative writ procedure, if the respondent or real party-in-interest is a board or commission, service must be made upon the presiding officer, or upon the secretary, or upon a majority of the members of such board or commission.

(e) Request for Stay. Upon filing the petition, and whether proceeding by noticed motion for a peremptory writ or alternative writ, a petitioner may make an *ex parte* application to stay the agency's decision in an administrative mandamus case under Code of Civil Procedure section 1094.5(h)(1), (if the agency is a licensed hospital or any state agency and a hearing was required by a statute to be conducted in accordance with the Administrative Procedures Act (Gov. Code, §§ 11340-11529)), or under Code of Civil Procedure section 1094.5(g). A stay of an agency decision in a traditional mandamus case is governed by principles for injunctive relief.

(f) Pleadings. The rules of practice governing civil actions are generally applicable to writ proceedings. (Code Civ. Proc., § 1109.) The respondent agency and real party-in-interest may file a demurrer, motion to strike, answer, or otherwise appear.

(g) Preparation of the Record. A record is required for administrative mandamus and for traditional mandamus review of quasi-legislative agency actions. The record in administrative mandamus cases generally consists of the pleadings, all notices and orders, the exhibits presented at hearing, all written evidence, the proposed and final decision, any post-decision actions, and any reporter's transcripts. In cases under Code of Civil Procedure section 1094.5, the petitioner must ensure that the record is prepared as necessary for the court's decision. The petitioner may elect to prepare the record or ask the respondent agency to prepare the record. As transcripts are often prepared separately by a court reporter, a petitioner often must contact both the respondent agency and the reporter to obtain the complete record. In cases under Code of Civil Procedure section 1094.6, the local agency must prepare the record. Whichever party prepares the record, the parties must cooperate to ensure timely completion of a record which they agree is complete and accurate. Under both Code of Civil Procedure sections 1094.5 and 1094.6, the petitioner bears the cost of preparing the record unless proceeding *in forma pauperis*, and in that circumstance the respondent bears the cost.

(1) The record must be consecutively numbered ("Bates-stamped") from beginning to end, including any transcript pages, and the parties must cite only to Bates-stamped page numbers in their briefs (*e.g.*, "AR 23").

(2) The record must be bound in appropriate side-bound three-inch binders. Spiral binding is preferred and three-ring binders are acceptable. If three-ring binders are used, the volume number and an enumeration of the enclosed Bates-stamped pages must be listed on the outside spine of each binder (*e.g.,* Vol. 1, pages 1-323).

(3) The evidence in administrative mandamus cases is confined to the administrative record, unless the exception in Code of Civil Procedure section 1094.5(e) applies. Any motion to augment the record under Section 1094.5(e) must be filed as a noticed motion. A party considering filing a motion to augment should discuss the timing of the motion with the court at the trial setting conference.

(h) Preparation of Evidence in Traditional Mandamus. In traditional mandamus based on an agency's ministerial duty or informal action, and in other prerogative writs where no administrative hearing was required by law, the evidence is presented by way of declarations, deposition testimony, and documentary evidence unless a statute expressly provides for a record. Although the court has discretion to do so, it will rarely permit oral testimony. The evidence must be attached as exhibits to the parties' briefs or filed as a separate appendix. If separately presented, the evidence must be bound in appropriate side-bound three-inch binders. Spiral binding is preferred and three-ring binders are acceptable.

(i) Briefing. The parties are subject to the limits of 15 pages for the opening brief, 15 pages for the opposition, and ten pages for the reply as set forth in California Rules of Court, rule 3.1113(d), unless a party seeks, and the court grants, an order for an oversized brief.

(1) Traditional or Administrative Mandamus. The opening and opposition briefs must state the parties' respective positions on whether the petitioner is seeking traditional or administrative mandamus, or both. If the petition seeks both traditional and administrative mandamus, the briefs must specify the portion of supporting evidence pertaining to each mandamus claim.

(2) Statement of Facts. The opening and opposition briefs must contain a statement of facts which fairly and comprehensively sets forth the pertinent facts, whether or not beneficial to that party's position, and each material fact must be supported by a citation to a page or pages from the administrative record as follows: (AR 23). The parties should cite to specific pages of the record (*e.g.,* AR 56-57) and avoid block cites (*e.g.,* AR 56-275).

(3) Scope of Review. The scope of the court's review – "substantial evidence" vs. "independent judgment" – depends upon the nature of the relief sought and a variety of other factors. The parties must state their position on this issue in the opening and opposition briefs.

(j) Joint Appendix. If the record or evidence is voluminous, the court may order that the parties prepare a joint appendix of the pages actually cited in all of the parties' briefs. The purpose of the joint appendix is to provide the court with an easy-to-use single binder of the evidence supporting the parties' respective positions. The joint appendix should be contained in a single spiral bound or three-ring binder. The joint appendix shall consist of the entire administrative decision challenged in the petition for writ of mandate followed by the pages actually cited in the parties' briefs, no matter which party cited them, in consecutive numerical Bates-stamp order with labelled side tabs separating pages that come from different documents. Only the cited pages from a document should be included in the joint appendix. Do not include the entire document. If it is necessary to provide context to a cited page, a party may include a cover page or other pertinent pages from a document even though not

actually cited. The parties may highlight significant information on the pages in the joint appendix, and may use different colors to identify which party highlighted the information on a particular page.

(k) Lodging the Record. The record, and joint appendix if one is ordered, must be lodged when the petitioner's reply brief is filed unless the court orders otherwise.

(l) Trial Notebook. The court may order the parties to prepare a trial notebook. The trial notebook shall consist of the petition, the parties' briefs, and any requests for judicial notice. The documents shall be separated by labelled tabs. The trial notebook shall be contained in a one- or three-inch binder as appropriate and lodged at the same time as petitioner's reply brief, any joint appendix, and the record.

(m) Trial; No Default. The "trial" consists of oral argument by the parties. A writ of mandate cannot be granted by default; the case must be heard by the court whether or not the adverse party appears. (Code Civ. Proc., § 1088.)

(n) Judgment. After trial, the prevailing party will be ordered to prepare a proposed judgment and any writ of mandate, serve them on the opposing parties for approval as to form, wait ten days after service for any objections, meet and confer if there are objections, and then submit the proposed judgment and applicable writ along with a declaration stating the existence or non-existence of any unresolved objections. An order to show cause re: judgment hearing will be set for purposes of resolving any objections and signing the judgment. If the judgment has been signed, no appearance will be required, and the hearing will be taken off calendar.

(Rule 3.231 [*7/1/2011, 7/1/2017*] amended and effective January 1, 2019)

3.232 CEQA ACTIONS

(a) Application of Mandamus Rules. Unless otherwise noted, the rules for prerogative writs also apply to mandamus actions challenging an agency decision under the California Environmental Quality Act ("CEQA") (Pub. Res. Code, § 21000 *et seq.*).

(b) Where Filed. Notwithstanding Local Rule 2.3, CEQA actions must be filed in the Central District where they will be referred to Department 1, as master calendar, for reassignment for all purposes, including any requests for a temporary restraining order or preliminary injunction, to judges designated by the Presiding Judge pursuant to Public Resources Code section 21167.1.

(c) Notice of Preparation of the Administrative Record. In accordance with Public Resources Code section 21167.6(a), the petitioner must serve the responding agency with either a request for preparation of the administrative record or a notice of election to prepare the record within ten business days after the action is filed.

(d) Preparing the Administrative Record.

(1) Preparation by the Respondent Public Agency.

(A) Under Public Resources Code section 21167.6(a), a petitioner may elect that the respondent agency prepare the record. To do so, the petitioner must file a request that the respondent agency prepare the record at the time of filing the petition, and serve the request on the agency within ten business days.

(B) Within 20 calendar days after receipt of petitioner's request, the respondent public agency must serve on all parties a preliminary notification of the estimated cost, setting forth an estimated range for the number of pages, the agency's customary charge for copying per page, and any other estimated reasonable costs that will be charged for a copy of the record. The preliminary notification must also state the location(s) of the documents anticipated to be included in the administrative record, and the contact person(s) for an inspection of the documents as the record is

being prepared. The preliminary notification must be supplemented by the agency from time to time as additional documents are located or determined appropriate for inclusion in the record.

(C) Within 40 calendar days after service of the request that it prepare the record, the agency must serve all parties with a detailed index of the documents constituting the proposed record and a supplemental estimated cost for the record.

(D) Within seven calendar days after receipt of the index, the petitioner and any real parties-in-interest must serve a list of all documents or items that the party contends should be added to, or deleted from, the record.

(2) Preparation by Petitioner.

(A) The petitioner may choose to prepare the record by serving the respondent agency with a notice of election to prepare the record within ten business days of filing suit. Alternatively, the petitioner may notify the agency in writing within the same time period that the petitioner is considering an election to prepare the record.

(B) Within 20 calendar days after receipt of either notice, the agency must provide the preliminary notification discussed above. The agency must supplement the preliminary notice as additional documents are located or determined appropriate for inclusion in the record.

(C) Within five calendar days after receipt of the preliminary notification, the petitioner may elect to prepare the record by serving the agency with a notice of election to prepare the record.

(D) Within 20 calendar days after service of the preliminary notification, the petitioner must serve on all parties a detailed index of the documents constituting the proposed record.

(E) Within seven calendar days after receipt of the index, the agency and any real parties-in-interest must serve a list of all documents or items that the party contends should be added to, or deleted from, the record.

(e) Certifying the Record. The record must be certified by the agency before it is lodged with the court. If the agency prepared the record, it must certify the record no later than 60 days after service of the petitioner's request that it be prepared. (Pub. Res. Code, § 21167.6(b)(1).) If the petitioner elected to prepare the record, the petitioner must transmit it to the agency, so that it is certified no later than 60 calendar days after the tenth business day following filing of the lawsuit.

If the agency refuses to certify the entire record prepared by the petitioner, it must make a partial certification, specifying any alleged defects in the record. The parties may stipulate or apply *ex parte* for one or more extensions of time to prepare and certify the record, although no one extension may exceed 60 days without a court determination that a longer period is in the public interest. (Pub. Res. Code, § 21167.6(c).)

(f) Disputes Over the Contents of the Administrative Record. Any dispute over the contents of the record must be resolved by noticed motion. A party considering filing a motion to augment should discuss the timing of the motion with the court at the trial setting conference.

(g) Lodging the Record. The certified record, which must be well-organized and consecutively paginated (Bates-stamped) as required by Local Rule 3.231(g), must be lodged with the court when petitioner's reply brief is filed. Any joint appendix ordered by the court also must be lodged with the reply brief.

(h) Trial Setting. Petitioner must request a hearing within 90 days of filing the petition. (Pub. Res. Code, § 21167.4.) The court will set the matter for a trial setting conference, at which a trial date and briefing schedule will be set. Ordinarily, the court will not set the matter for trial until it is assured that the administrative record is or will be ready. The hearing date shall be set on (1) a date not later than 160 days from the date on which petitioner's request for a hearing was filed, to the extent that is

feasible, or (2) a later date upon a showing of good cause or a stipulation of the parties. (Pub. Res. Code, § 21167.4.)

(i) Mediation. In accordance with Government Code section 66031, the parties may elect to mediate a CEQA action. They shall notify the court of the election at the trial setting conference.

(j) Settlement Meeting. The parties are required by Public Resources Code section 21167.8(a) to hold a settlement meeting within 45 days of service of the petition on the responding agency. If the parties agree that a settlement meeting within that time frame is premature, the settlement meeting may be continued, so that it takes place after the administrative record has been certified and served. If the parties do not agree that the early meeting is premature, an initial meeting must take place within 45 days of service and a meeting must take place within five days after the administrative record has been served. The parties may, but are not required to, schedule additional meetings.

(k) Statement of Issues. The parties are required by Public Resources Code section 21167.8(f) to file and serve a statement of issues which will be used by the opposing party and the court in identifying the legal and factual contentions at trial. The statements of issues must be consistent with, and may not expand on, the scope of the pleadings.

(l) Trial Notebook. Petitioner must prepare a trial notebook to be lodged with the petitioner's reply brief. The trial notebook must consist of the petition, the parties' briefs, any motions set to be heard at trial, the statement of issues, and any requests for judicial notice. The documents should be separated by labelled tabs.

(m) Trial. At the outset of trial, the lodged administrative record will be deemed to have been received into evidence without the need for court order.

(Rule 3.232 [*7/1/2011, 5/17/2013, 7/1/2018, 1/1/2019*] amended and effective July 1, 2019)

3.233 **RESERVED**
3.234 **RESERVED**
3.235 **RESERVED**
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3.237 **RESERVED**

EMINENT DOMAIN

3.238 EMINENT DOMAIN ACTIONS

The following rules concern the scheduling and conduct of eminent domain and inverse condemnation proceedings filed in the County and governed by the Eminent Domain Law, Code of Civil Procedure section 1230.010 *et seq.*

(Rule 3.238 new and effective July 1, 2011)

3.239 PRE-FILING TESTING FOR CONTAMINATION OR OTHER CONDITIONS

To avoid disruption and delay in eminent domain proceedings as a result of the discovery of contamination or other conditions, condemnors should follow the procedures provided in Code of Civil Procedure section 1245.010 *et seq.* to petition to enter and test for such contamination or condition prior to filing the complaint in eminent domain.

If pre-condemnation testing is conducted, copies of any reports of that testing shall be promptly provided to the owner upon the owner's request. The public entity shall notify the owner in writing of

the availability of any testing report within 20 days after the report is completed. The cost of making one copy of the report shall be borne by the public entity.

If a condemnation action is filed and prejudgment possession is sought, and if the condemnor is then aware of contamination or other condition that may affect the value or potential uses of the property, the condemnor shall notify the owner of the existence of the contamination or other condition at the time a deposit is made to take prejudgment possession.

(Rule 3.239 new and effective July 1, 2011)

3.240 INITIAL CASE MANAGEMENT CONFERENCE

Pursuant to California Rules of Court, rule 3.722, the court will set an initial case management conference. The date designated may be changed only upon order of the court.

(a) Joint Case Management Statement. All counsel must meet and confer on the topics required by California Rules of Court, rule 3.724, in person or by telephone no later than 15 calendar days prior to the initial case management conference. The parties must file a joint case management statement, Judicial Council form CM-110, signed by all counsel, no later than five calendar days prior to the initial case management conference. The case management statement must attach an addendum addressing the following issues:

(1) Brief statement of the purpose of acquisition, the property address, portion of property being taken, nature of improvements, and zoning;

(2) Names and capacities of parties served and of parties not yet served;

(3) Scope of the taking, if less than fee simple;

(4) Whether condemnor intends to acquire subject to any easements, leases or other interests of record;

(5) Right-to-take challenges or other affirmative defenses anticipated to be raised, and by which parties;

(6) Whether severance damages, benefits, pre-condemnation damages, loss of goodwill, or compensation for inventory are being claimed, and if so, by which parties;

(7) Whether condemnor intends to seek prejudgment possession. If so, the anticipated date of possession and whether any defendants object thereto;

(8) Whether Code of Civil Procedure section 1260.040 legal issue motions are anticipated;

(9) Whether condemnor intends to claim that soil or groundwater contamination or other conditions in or on the property will affect the opinion of value, and if so, whether exchange of reports of contamination and estimated cleanup costs should be exchanged in advance of exchange of appraisals;

(10) Whether condemnor intends to seek prejudgment access for inspections or testing. If so, the anticipated date(s) of access and whether any defendants object thereto;

(11) Whether bonus value or other apportionment issues are anticipated;

(12) Nature of any disputes regarding title, non-permitted improvements, ownership of improvements pertaining to the realty, or tax proration;

(13) Whether delays are anticipated because of relocation of tenants, structures, or utilities;

(14) Whether the parties stipulate to the date of valuation;

(15) Whether the parties stipulate to the exchange of the final statutory offer and demand at the mandatory settlement conference;

(16) Other matters to which the parties are prepared to stipulate; and

(17) Other matters that may affect pretrial scheduling.

Counsel must bring to the initial case management conference a written stipulation and order concerning facts or issues to which they have stipulated.

(b) Date for Exchange of Expert Witness Lists and Appraisals. At the initial case management conference, the court will set a date for the simultaneous exchange of expert witness lists and appraisals. The date of exchange will be no sooner than nine months after the complaint is filed and will be at least 90 days prior to trial, unless the court orders otherwise for good cause shown. The parties also may stipulate to the exchange of expert lists and appraisals outside of court.

The court has adopted this rule concerning exchange of expert lists and appraisals as a substitute for, and as deemed compliance with, the procedures set forth in Code of Civil Procedure sections 1258.210-1258.290. The parties are not required to file a formal demand for exchange of expert lists and appraisals as provided for in Code of Civil Procedure section 1258.210. (*See* Code Civ. Proc., §1258.300.)

(c) Trial Date. In setting the trial date, the court shall consider the fact that eminent domain cases have precedence over other civil matters for hearing or trial in accordance with Code of Civil Procedure section 1260.010. The trial date generally will be set not less than one year from the filing of the complaint.

(d) Case Management Order. In the case management order, the court will set dates for the expert witness list and appraisal exchange, a seven-month status conference, a mandatory settlement conference, a trial readiness conference, and trial.

(Rule 3.240 [*7/1/2011, 7/1/2014*] amended and effective July 1, 2019)

3.241 EXPERT WITNESS LISTS

The list of expert witnesses which each party must prepare and exchange shall include the name, business or residence address, and business, occupation, or profession of each person intended to be called as an expert witness by the party, and a statement of the subject matter to which the expert testimony relates.

(Rule 3.241 [*7/1/2011*] amended and effective July 1, 2022)

3.242 APPRAISALS

(a) When Required. A party must exchange an appraisal prepared by or for each witness, including an owner of a property, who will offer an opinion on any of the following:

(i) The value of the property being taken;

(ii) The amount of the damage, if any, to the remainder of the larger parcel from which such property is taken;

(iii) The amount of the benefit, if any, to the remainder of the larger parcel from which such property is taken; and

(iv) The amount of any other compensation, including business goodwill and fixtures and equipment, which is required to be paid by Chapter 9 (Code Civ. Proc., §1263.010 *et seq.*) or Chapter 10 (Code Civ. Proc., § 1265.010 *et seq.*) of the Eminent Domain Law.

(b) Content of Appraisal. At a minimum, appraisals shall contain the information set forth in Code of Civil Procedure section 1258.260 and the reason(s) for the witness's opinion(s).

(Rule 3.242 new and effective July 1, 2011)

3.243 AMENDMENT OF EXPERT LISTS AND APPRAISALS AFTER EXCHANGE

A party seeking to amend a list of expert witnesses or an appraisal after the exchange must bring a noticed motion for leave to amend, unless the court orders a different schedule for good cause shown. The motion must attach the proposed amended expert list or appraisal. In determining whether to permit the amendment the court will consider the following factors:

(1) Whether the moving party in the exercise of reasonable diligence should have determined to call the witness, or discovered or listed the opinion or data, by the exchange date;

(2) Whether the moving party failed to determine to call the witness, or to discover or list the opinion or data, through mistake, inadvertence, surprise, or excusable neglect; and

(3) The extent to which the opposing party has relied upon the list of expert witnesses and the appraisal opinion and data, and will be prejudiced if the witness is called or there is testimony concerning the opinion or data.

(Rule 3.243 new and effective July 1, 2011)

3.244 EXCLUSION OF WITNESSES OR TESTIMONY FOR FAILURE TO PROPERLY EXCHANGE EXPERT LISTS AND APPRAISALS

If a party fails to properly exchange expert lists or appraisals as required by these rules, any affected party may move to preclude the witness from testifying to an opinion or data during the case-in-chief of the party offering the witness.

At the hearing on the motion, the court may, in its discretion and upon such terms as may be just, permit a party to call a witness, or permit a witness to testify on direct examination to an opinion or data, for which there was not a proper exchange. In making that determination the court will consider the following factors:

(1) Whether the moving party in the exercise of reasonable diligence should have determined to call the witness, or discovered or listed the opinion or data, by the exchange date;

(2) Whether the moving party failed to determine to call the witness, or to discover or list the opinion or data, through mistake, inadvertence, surprise, or excusable neglect; and

(3) The extent to which the opposing party has relied upon the list of expert witnesses and the appraisal opinion and data, and will be prejudiced if the witness is called or there is testimony concerning the opinion or data.

(Rule 3.244 new and effective July 1, 2011)

3.245 MANDATORY SETTLEMENT CONFERENCE

The court may hold a mandatory settlement conference in each case before trial. The settlement conference shall be scheduled a sufficient time after the exchange of appraisals to allow the parties to conduct expert depositions and engage in settlement discussions. All counsel and all persons with settlement authority must attend the settlement conference in person, unless prior arrangements have been made with the court for that person to appear by telephone.

(Rule 3.245 [*7/1/2011*] amended and effective July 1, 2019)

3.246 FINAL OFFER AND FINAL DEMAND

At least 20 calendar days prior to the date of trial, plaintiff must file with the court and serve on the defendant(s) its final offer for the property sought to be condemned, and defendant must file with the court and serve on the plaintiff its final demand. (Code Civ. Proc., § 1250.410.)

Alternatively, the parties may agree that the requirements of Code of Civil Procedure section 1250.410 will be satisfied by exchanging and filing final offers and demands at the conclusion of the mandatory settlement conference.

(Rule 3.246 new and effective July 1, 2011)

3.247 **RESERVED**
3.248 **RESERVED**
3.249 **RESERVED**
3.250 **RESERVED**
3.251 **RESERVED**

ALTERNATIVE DISPUTE RESOLUTION

3.252 PROCEDURES FOR HANDLING COMPLAINTS ABOUT COURT-PROGRAM MEDIATORS IN COURT-CONNECTED MEDIATION PROGRAMS FOR GENERAL CIVIL CASES

(a) Application. This rule establishes the court's procedure for receiving, investigating, and resolving complaints about mediators on the court's mediation volunteer panel for general civil cases, as required by California Rules of Court, rule 3.868. Nothing in this rule should be interpreted in a manner inconsistent with California Rules of Court, rules 3.865-3.872, or as limiting the court's authority, in its sole and absolute discretion, to determine who may be included on or removed from its list of mediators or whom the court may recommend, select, appoint, or compensate as a mediator. This rule also does not limit the court's authority to follow other procedures or take other actions to ensure the quality of mediators who serve in its mediation program in contexts other than when addressing a complaint. The failure to follow a requirement or procedure in this rule will not invalidate any action the court takes in addressing a complaint.

(b) Definitions. The following definitions apply to this rule:

(1) ADR Committee. ADR Committee is the Alternative Dispute Resolution ("ADR") Committee of the Superior Court of Los Angeles County ("court"), whose members are appointed by the Presiding Judge or the Presiding Judge's designee.

(2) Chair of the ADR Committee. The chair of the ADR Committee is the judicial officer designated by the Presiding Judge to lead the ADR Committee. The Presiding Judge delegates to the chair of the ADR Committee responsibility for making the final decision about the action to be taken on any complaint against a mediator on the court's mediation volunteer panel.

(3) Complaint. Complaint means a written communication presented to the court's complaint coordinator alleging that a court-program mediator engaged in conduct that may violate a provision of the rules of conduct while mediating a court-assigned case. Complaints must be in writing, contain sufficient information about the alleged misconduct by the mediator to enable the court to investigate it, and include the name and contact information of the complainant.

(4) Complainant. Complainant means the person who makes or presents a complaint to the court about a court-program mediator.

(5) Complaint Committee. The complaint committee is the Quality Assurance subcommittee of the ADR Committee. Members of the subcommittee are appointed by the chair of the ADR Committee. The complaint committee must include at least one individual who has experience as a mediator and is familiar with the rules of conduct.

(6) Complaint Coordinator. The complaint coordinator is the court's ADR Administrator, who is designated by the Presiding Judge to receive complaints and inquiries about the conduct of court-program mediators while mediating a court-assigned case.

(7) Complaint Proceeding. Complaint proceeding means all the activities that take place as part of presenting, receiving, reviewing, responding to, investigating, and acting on any specific inquiry or complaint.

(8) Court-program Mediator. A court-program mediator means a mediator who has been accepted on the court's mediation volunteer panel.

(9) Inquiry. Inquiry means an unwritten communication presented to the court's complaint coordinator alleging that a court-program mediator may have violated a provision of the rules of conduct while mediating a court-assigned case.

(10) Mediation. Mediation means a process in which a neutral person or persons facilitate communication between the disputants to assist them in reaching a mutually acceptable agreement.

(11) Mediation Communication. Mediation communication means any statement that is made or any writing that is prepared for the purpose of, during, or pursuant to a mediation or a mediation consultation, as defined in Evidence Code section 1115, and includes any communications, negotiations, and settlement discussions among participants during a mediation or a mediation consultation.

(12) The Rules of Conduct. The rules of conduct mean the Rules of Conduct for Mediators in Court-Connected Mediation Programs for Civil Cases set out in California Rules of Court, rules 3.850 through 3.860.

(c) Complaint Processing. The court must process complaints promptly at all stages.

(d) Complaint Files. The court should maintain sufficient information about each complaint and its disposition to identify any history or patterns of complaints submitted under these rules.

(e) Confidentiality.

(1) Preserving the Confidentiality of Mediation Communications. All complaint proceedings will be conducted in a manner that preserves the confidentiality of mediation communications, including but not limited to the confidentiality of any communications among the mediator and individual mediation participants or subgroups of mediation participants.

(2) Confidentiality of Complaint Proceedings. All complaint proceedings will occur in private and will be kept as confidential as possible, consistent with the obligation to conduct an effective investigation. No information or records concerning the receipt, investigation, or resolution of an inquiry or a complaint will be open to the public or disclosed outside the course of the complaint proceeding except as provided in California Rules of Court, rule 3.871(d), or as otherwise required by law.

(f) Submission of Inquiries and Complaints to the Complaint Coordinator. All inquiries and complaints should be submitted or referred to the complaint coordinator.

(g) Addressing Inquiries. Upon receiving an inquiry about a court-program mediator's conduct, the complaint coordinator must inform the person making the inquiry that the complaint procedure provides that the court will only investigate complaints made in writing. If the person does not submit a written complaint, the complaint coordinator may prepare a written summary of the inquiry to memorialize it and to determine whether any further action is warranted.

(h) Acknowledgment and Preliminary Review of Complaints.

(1) Acknowledgment of Complaints. When the complaint coordinator receives a complaint, the coordinator will send the complainant a written acknowledgment that the court received the complaint.

(2) Preliminary Review of Complaints.

(A) The complaint coordinator will review each complaint to determine whether it warrants investigation or can be promptly and informally resolved or closed. Among other things, the complaint coordinator may:

(i) Contact the complainant to clarify the allegations, obtain additional information, or provide information that may address the complainant's concern.

(ii) Communicate with the mediator to obtain the mediator's perspectives on the allegations in the complaint.

(B) The complaint coordinator may close a complaint without initiating an investigation if:

(i) The complaint is withdrawn by the complainant;

(ii) The alleged conduct, even if substantiated, does not violate the rules of conduct;

(iii) The conduct alleged, even if substantiated, does not reflect a material violation of the rules of conduct, the coordinator has discussed the complaint with the mediator, and the mediator has provided an acceptable explanation or response; or

(iv) The complainant, the mediator, and the complaint coordinator have agreed on a resolution to the complaint.

(3) Notification of Closure. The complaint coordinator must notify the complainant in writing if the complaint is closed without initiating an investigation.

(i) Investigations.

(1) Application. The procedures in this rule apply only if a complaint is not resolved or closed through the preliminary review or if the complaint coordinator initiates an investigation under subsection (i)(3) below.

(2) Referral of a Complaint for Investigation. If a complaint is not resolved following the preliminary review, the complaint coordinator will refer it to the complaint committee for investigation and provide it with a summary of the preliminary review that includes:

(A) A copy or summary of the complaint;

(B) A copy or summary of any response from the mediator;

(C) A list of the rules of conduct that the mediator may have violated if the allegations of misconduct are substantiated; and

(D) Copies of any previous complaints about the mediator and any written summaries of inquiries that are relevant to the current complaint.

(3) Initiation by the Complaint Coordinator. The complaint coordinator may initiate an investigation based on information received from any source, including an inquiry, indicating that a mediator may have violated a provision of the rules of conduct. To initiate the investigation, the complaint coordinator must refer the information received to the complaint committee with a list of the rules of conduct that the mediator may have violated if the allegations of misconduct are substantiated.

(4) Mediator's Notice and Opportunity to Respond.

(A) The complaint committee must provide the mediator with a copy of the materials the complaint coordinator provided to the complaint committee under subsections (i)(2) or (i)(3) above.

(B) The mediator will be given an opportunity to respond to the complaint and the list of apparent violations of the rules of conduct.

(5) Preparing Report and Recommendation. The complaint committee will investigate the complaint as it deems appropriate. Thereafter, the complaint committee will prepare a written report that summarizes its investigation and recommend a final decision on the complaint. The complaint committee may recommend one or more actions that are permissible under California Rules of Court, rule 3.870.

(6) Informing Mediator of Recommendation. The complaint committee may inform the mediator of its recommendation and inquire whether the mediator accepts it. If the mediator accepts the recommendation, the complaint committee's report must indicate this.

(7) Submitting Report and Recommendation. The complaint committee must submit its report and recommendation(s) to the chair of the ADR Committee and provide a copy to the complaint coordinator.

(j) Final Decision on a Complaint That Was Investigated.

(1) Responsibility for Final Decision. The chair of the ADR Committee is responsible for making the final decision about the action to be taken on any complaint that was investigated. In the absence or unavailability of the chair, the Presiding Judge will make the final decision on the complaint.

(2) Acting on Recommendation.

(A) Within 30 days after the complaint committee's recommendation is forwarded to the chair of the ADR Committee, the chair of the ADR Committee may submit to the complaint coordinator a decision:

(i) Affirmatively adopting the complaint committee's recommendation as the final decision on the complaint; or

(ii) Directing a different action that is permissible under California Rules of Court, rule 3.870.

(B) If the chair of the ADR Committee does not submit a decision within 30 days after the complaint committee's recommendation is forwarded, as provided in subsection (j)(2)(A) above, the complaint committee's recommendation will become the final decision on the complaint.

(3) Notification of Final Action. The complaint coordinator must promptly notify the complainant and the mediator in writing of the final action taken by the court on the complaint.

(4) Authorized Disclosures. After the decision on a complaint, the chair of the ADR Committee may authorize the public disclosure of information or records concerning the complaint proceeding that do not reveal any mediation communications. The disclosures that may be authorized under this subdivision include the name of a mediator against whom action has been taken, the action taken, and the general basis on which the action was taken. In determining whether to authorize the disclosure of information or records under this subdivision, the chair of the ADR Committee should consider the purposes of the confidentiality of complaint proceedings stated in California Rules of Court, rule 3.871.

(k) Interim Suspension Pending a Final Decision on a Complaint. If the preliminary review or the investigation indicates that a mediator may pose a threat of harm to mediation participants or to the integrity of the court's mediation program, the chair of the ADR Committee may suspend the mediator from the court's mediation volunteer panel pending final decision on the complaint. The complaint coordinator may make a recommendation to the chair of the ADR Committee regarding such a suspension.

(Rule 3.252 [as APPLICABLE LAW *7/1/2011,* **REPEALED** 5/17/2013]
new and effective January 1, 2025)

3.253 **RESERVED**

(Rule 3.253 [as ADR ADMINISTRATOR *7/1/2011*, *1/1/2013*]
REPEALED and effective May 17, 2013)

3.254 **RESERVED**

(Rule 3.254 [as ADR REFERRALS AND
FURTHER STATUS CONFERENCE *7/1/2011*, *1/1/2013*]
REPEALED and effective May 17, 2013)

3.255 **RESERVED**

(Rule 3.255 [as ADR NEUTRAL SELECTION AND
QUALIFICATIONS FOR ADR NEUTRAL PANELS *7/1/2011*, *1/1/2013*]
REPEALED and effective May 17, 2013)

3.256 **RESERVED**

(Rule 3.256 [as RECUSAL AND
DISQUALIFICATION OF ADR NEUTRAL *7/1/2011*, *1/1/2013*]
REPEALED and effective May 17, 2013)

3.257 **RESERVED**

(Rule 3.257 [as RELATED/COORDINATED/
CONSOLIDATED CASES *7/1/2011*, *1/1/2013*]
REPEALED and effective May 17, 2013)

3.258 **RESERVED**

(Rule 3.258 [as INTERPRETERS *7/1/2011*, *1/1/2013*]
REPEALED and effective May 17, 2013)

3.259 **RESERVED**

(Rule 3.259 [as *EX PARTE* COMMUNICATION
WITH ADR NEUTRAL *7/1/2011*, *1/1/2013*]
REPEALED and effective May 17, 2013)

3.260 **RESERVED**

(Rule 3.260 [as CONFIDENTIALITY *7/1/2011*, *1/1/2013*]
REPEALED and effective May 17, 2013)

3.261 **RESERVED**

(Rule 3.261 [as NOTICE OF SETTLEMENT
BEFORE ADR HEARING *7/1/2011*, *1/1/2013*]
REPEALED and effective May 17, 2013)

3.262 **RESERVED**

(Rule 3.262 [as SURVEY FORM *7/1/2011*, *1/1/2013*]
REPEALED and effective May 17, 2013)

3.263 **RESERVED**
3.264 **RESERVED**
3.265 **RESERVED**
3.266 **RESERVED**
3.267 **RESERVED**

MEDIATION

3.268 **RESERVED**

(Rule 3.268 [as SUMMARY DESCRIPTION OF MEDIATION *7/1/2011*] **REPEALED** and effective May 17, 2013)

3.269 **RESERVED**

(Rule 3.269 [as CASES WHICH MAY BE ORDERED INTO MEDIATION *7/1/2011*, *1/1/2013*] **REPEALED** and effective May 17, 2013)

3.270 **RESERVED**

(Rule 3.270 [as CASES WHICH MAY BE REFERRED TO MEDIATION *7/1/2011*, *1/1/2013*] **REPEALED** and effective May 17, 2013)

3.271 **RESERVED**

(Rule 3.271 [as HEARINGS *7/1/2011*, *1/1/2013*] **REPEALED** and effective May 17, 2013)

3.272 **RESERVED**

(Rule 3.272 [as APPEARANCES REQUIRED AT MEDIATION *7/1/2011*, *1/1/2013*] **REPEALED** and effective May 17, 2013)

3.273 **RESERVED**

(Rule 3.273 [as SUBMISSION OF BRIEFS *7/1/2011*] **REPEALED** and effective May 17, 2013)

3.274 **RESERVED**

(Rule 3.274 [as ADR REPORTS *7/1/2011*, *1/1/2013*] **REPEALED** and effective May 17, 2013)

3.275 **RESERVED**
3.276 **RESERVED**
3.277 **RESERVED**
3.278 **RESERVED**
3.279 **RESERVED**

NEUTRAL EVALUATION

3.280 **RESERVED**

(Rule 3.280 [as SUMMARY DESCRIPTION OF NEUTRAL EVALUATION *7/1/2011*, *1/1/2013*] **REPEALED** and effective May 17, 2013)

3.281 **RESERVED**

(Rule 3.281 [as CASES ELIGIBLE FOR NEUTRAL EVALUATION *7/1/2011*, *1/1/2013*] **REPEALED** and effective May 17, 2013)

3.282 **RESERVED**

(Rule 3.282 [as HEARINGS *7/1/2011*, *1/1/2013*] **REPEALED** and effective May 17, 2013)

3.283 **RESERVED**

(Rule 3.283 [as APPEARANCES REQUIRED AT THE NEUTRAL EVALUATION HEARING *7/1/2011*, *1/1/2013*] **REPEALED** and effective May 17, 2013)

3.284 **RESERVED**

(Rule 3.284 [as SUBMISSION OF STATEMENTS AND DOCUMENTS *7/1/2011*, *1/1/2013*] **REPEALED** and effective May 17, 2013)

3.285 **RESERVED**

(Rule 3.285 [as DISPOSITION OF STATEMENTS AND DOCUMENTS *7/1/2011*, *1/1/2013*] **REPEALED** and effective May 17, 2013)

3.286 **RESERVED**

(Rule 3.286 [as ADR REPORT *7/1/2011*, *1/1/2013*] **REPEALED** and effective May 17, 2013)

3.287 **RESERVED**
3.288 **RESERVED**
3.289 **RESERVED**
3.290 **RESERVED**
3.291 **RESERVED**

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

JUDICIAL ARBITRATION

3.292 SUMMARY DESCRIPTION OF ARBITRATION

In arbitration, an "arbitrator" is a neutral person who hears arguments and evidence from each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are often relaxed. Judicial arbitration is non-binding, which means that the parties are free to request a trial *de novo* if they do not accept the arbitrator's decision.

(Rule 3.292 new and effective July 1, 2011)

3.293 CASES SUBJECT TO ARBITRATION

Judicial arbitration may be initiated by the court at any time after the filing of the complaint in any of three ways:

(1) Where the court determines the controversy is amenable to arbitration pursuant to Code of Civil Procedure section 1141.10 *et seq.*;

(2) Upon timely written election of the plaintiff agreeing that the award will not exceed $50,000; and

(3) Upon timely stipulation of the parties.

In categories (1) and (3), the arbitrator's award is not limited to $50,000 and may be for any amount.

(Rule 3.293 new and effective July 1, 2011)

3.294 CASES EXEMPT FROM ARBITRATION

The following actions are exempt from judicial arbitration as provided by California Rules of Court, rule 3.811, or other authority:

(1) Actions containing a non-frivolous or insubstantial prayer for equitable relief;

(2) Class actions;

(3) Small claims actions or trial *de novo* on appeal;

(4) Unlawful detainer proceedings;

(5) Any action found by the court upon its own motion or on motion of a party not to be amenable to arbitration on the ground that arbitration would not reduce the probable time and expense necessary to resolve the litigation;

(6) All limited civil cases in which no jury trial is demanded and the estimated time for trial is less than three days (15 hours of court time); and

(7) A short cause case found by the court to be exempt from case management review pursuant to California Rules of Court, rule 3.735(b).

(Rule 3.294 new and effective July 1, 2011)

3.295 WITHDRAWAL FROM ARBITRATION

A case submitted to arbitration may be withdrawn before hearing only by court order upon stipulation or noticed motion and hearing in the department where the case is pending.

(Rule 3.295 [*7/1/2011*] amended and effective January 1, 2013)

3.296 HEARINGS

(a) Pre-Arbitration Conference. The arbitrator may hold a pre-arbitration conference if the arbitrator finds it helpful to confer with counsel informally before the arbitration begins. Attendees at such conference must be prepared to discuss (1) time estimate for hearing, (2) documentary evidence

to be offered, (3) stipulations, (4) issues to be determined, and (5) depositions to be used. The arbitrator may conduct this conference by telephone.

(b) Setting Time and Place of Arbitration. The arbitrator must set the time and place for the arbitration after consultation with counsel for the parties and consistent with California Rules of Court, rule 3.817. The arbitrator must ensure that the arbitration is set prior to the arbitration completion date.

(c) Notice of Arbitration. The arbitrator must send a Notice of Arbitration (LAADR-028) to all parties.

(d) Continuance of Arbitration. The parties may stipulate to a continuance of the arbitration as provided for in California Rules of Court, rule 3.818. Also, the arbitrator may continue the arbitration on the arbitrator's own motion if the continuance does not exceed 20 days. The arbitration must not be continued beyond the completion date except by order of the court. If the request for the extension of deadline is granted, the parties must notify the arbitrator.

(Rule 3.296 [*7/1/2011*, *1/1/2013, 5/17/2013*] amended and effective July 1, 2022)

3.297 APPEARANCES REQUIRED AT ARBITRATION

Counsel (which includes by definition a self-represented party (Rule 1.1)) must appear at the arbitration. Counsel's non-appearance may subject that party and its attorney, after notice and an opportunity to be heard, to monetary sanctions. Sanctions may include, but are not limited to, suitable compensation to the arbitrator and to the parties who did appear at the arbitration, plus the attorney's fees incurred in making the request for sanctions.

(Rule 3.297 [*7/1/2011*] amended and effective January 1, 2013)

3.298 DISCOVERY DURING ARBITRATION

California Rules of Court, rule 3.822, governs the right to conduct discovery before and after arbitration.

(Rule 3.298 [*7/1/2011*] amended and effective January 1, 2013)

3.299 SUBMISSION OF BRIEFS/EVIDENCE

California Rules of Court, rule 3.823, governs the submission of evidence and briefs at the arbitration.

(Rule 3.299 [*7/1/2011*] amended and effective January 1, 2013)

3.300 DISPOSITION OF EXHIBITS

Documents, statements, and exhibits received in evidence during the arbitration should be returned to the parties who offered them after the arbitrator issues the award. Many arbitrators request that the parties offer copies in evidence so that the arbitrator can discard them after the award is rendered. The arbitrator must not destroy original exhibits since they may be required in the event of a trial *de novo*.

(Rule 3.300 [*7/1/2011*] amended and effective January 1, 2013)

3.301 ADR REPORTS

(a) Award of Arbitrator. Consistent with California Rules of Court, rule 3.825, the arbitrator must serve the award of arbitrator on each party within ten court days after the arbitration and on or before the arbitration completion date. Form LAADR-014 is available for this purpose. The arbitrator also must file the award, accompanied by a proof of service on the parties.

(b) Notice of Trial *De Novo*. A party requesting trial *de novo* must file the Request for Trial *De Novo* After Judicial Arbitration, Judicial Council of California ADR-102, with the court, accompanied by a proof of service on all other parties, within 60 days after the date the arbitrator files the award with the court.

(Rule 3.301 [*7/1/2011, 1/1/2013*] amended and effective May 17, 2013)

3.302 ARBITRATION PANELS

The arbitration panels maintained by the court pursuant to California Rules of Court, rule 3.814, will be made available for judicial arbitration of limited jurisdiction cases.

(Rule 3.302 new and effective July 1, 2011)

3.303 **RESERVED**
3.304 **RESERVED**
3.305 **RESERVED**
3.306 **RESERVED**

QUALITY ASSURANCE RULES APPLICABLE TO MEDIATION, NEUTRAL EVALUATION, AND ARBITRATION

3.307 **RESERVED**

(Rule 3.307 [as QUALITY ASSURANCE SUBCOMMITTEE *7/1/2011*, *1/1/2013*] **REPEALED** and effective May 17, 2013)

3.308 **RESERVED**

(Rule 3.308 [as COMPLAINTS *7/1/2011*, *1/1/2013*] **REPEALED** and effective May 17, 2013)

3.309 **RESERVED**

(Rule 3.309 [originally as STAFF INQUIRIES *7/1/11*, re-titled as INITIAL INQUIRY *1/1/2013*] **REPEALED** and effective May 17, 2013)

3.310 **RESERVED**

(Rule 3.310 [as STAFF ACTION BETWEEN MEETINGS OF THE QAS *7/1/2011* as ADR ADMINISTRATOR ACTION BETWEEN MEETINGS OF THE QAS *1/1/2013*] **REPEALED** and effective May 17, 2013)

3.311 **RESERVED**

(Rule 3.311 [as ADMONISHMENT TO ENSURE CONFIDENTIALITY *7/1/2011*, as ADVISEMENT REGARDING CONFIDENTIALITY *1/1/2013*] **REPEALED** and effective May 17, 2013)

3.312 **RESERVED**

(Rule 3.312 [as RIGHT TO PROVIDE WRITTEN RESPONSE AND REQUEST RECONSIDERATION OF SUSPENSION OR REMOVAL {*7/1/11*}, **REPEALED**, *1/1/2013* as INVESTIGATION AND RECOMMENDED ACTION *1/1/2013*] **REPEALED** and effective May 17, 2013)

3.313 **RESERVED**

(Rule 3.313 [as CONFIDENTIALITY OF COMPLAINT FILES AND ACTIONS/NOTIFICATION TO COMPLAINANT {*7/1/11*} - moved to Rule 3.315 *1/1/2013* as PERMISSIBLE COURT ACTION AND NOTICE OF FINAL DECISION *1/1/2013*] **REPEALED** and effective May 17, 2013)

3.314 **RESERVED**

(Rule 3.314 [as **RESERVED** *7/1/2011*, as RIGHT TO REQUEST RECONSIDERATION OF SUSPENSION OR REMOVAL *1/1/2013*] **REPEALED** and effective May 17, 2013)

3.315 **RESERVED**

(Rule 3.315 [as **RESERVED** *7/1/11*, as Rule 3.313 CONFIDENTIALITY OF COMPLAINT FILES AND ACTIONS/NOTIFICATION TO COMPLAINANT moved to Rule 3.315 *1/1/2013*] **REPEALED** and effective May 17, 2013)

3.316 **RESERVED**
3.317 **RESERVED**
3.318 **RESERVED**

VOLUNTARY SETTLEMENT CONFERENCE

3.319 **RESERVED**

(Rule 3.319 [as SUMMARY DESCRIPTION *7/1/2011*] **REPEALED** and effective May 17, 2013)

3.320 **RESERVED**

(Rule 3.320 [as CASES ELIGIBLE FOR A VOLUNTARY SETTLEMENT CONFERENCE *7/1/2011*] **REPEALED** and effective May 17, 2013)

3.321 **RESERVED**

(Rule 3.321 [as SETTING CONFERENCE DATE *7/1/2011*, *1/1/2013*] **REPEALED** and effective May 17, 2013)

3.322 **RESERVED**

(Rule 3.322 [as ATTENDANCE *7/1/2011*] **REPEALED** and effective May 17, 2013)

3.323 **RESERVED**

(Rule 3.323 [as SETTLEMENT CONFERENCE STATEMENT *7/1/2011*, *1/1/2013*] **REPEALED** and effective May 17, 2013)

3.324 **RESERVED**

(Rule 3.324 [as OFFERS TO COMPROMISE *7/1/2011*] **REPEALED** and effective May 17, 2013)

3.325 **RESERVED**

(Rule 3.325 [as SETTLEMENT *7/1/2011*, *1/1/2013*]
REPEALED and effective May 17, 2013)

3.326 **RESERVED**
3.327 **RESERVED**
3.328 **RESERVED**
3.329 **RESERVED**
3.330 **RESERVED**
3.331 **RESERVED**
3.332 **RESERVED**
3.333 **RESERVED**
3.334 **RESERVED**