

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

CIVIL RULES

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RULE 1 DIFFERENTIAL CIVIL CASE MANAGEMENT SYSTEM

A. OVERVIEW

(1) PURPOSE

The purpose of the Differential Civil Case Management System is to ensure that, from the commencement of litigation to its resolution, whether by trial or settlement, any elapsed time other than reasonably required for pleadings, discovery and court events is unacceptable and should be eliminated. To enable the just and efficient resolution of cases, the Court, and not the lawyers or litigants, should control the pace of litigation. The Court is strongly committed to reducing delay, and once achieved, maintaining a current docket.

(2) APPLICATION

The differential civil case management system applies to all general civil cases as defined in CRC¹ 1.6(4), including limited and unlimited civil cases.

(Eff. 7/01/07)

(3) INCORPORATION OF STATE STATUTES AND RULES

The Trial Court Delay Reduction Act (Gov. Code 68600 et seq.), California Rules of Court, Titles 1, 2, and 3, and the Standards of Judicial Administration, Standards 2.1 and 2.2, are incorporated into these rules.

(Eff. 7/01/07)

(4) PRESUMPTION

When a general civil case is filed, it is presumed to be subject to the disposition goal under case management plan 1, as defined in CRC 3.714(b).

(Eff. 7/01/07)

B. CASE MANAGEMENT JUDGES

General civil cases are managed by case management judges designated by the Presiding Judge. When a general civil case is filed, it is assigned to a case management judge. The case management judge may thereafter assign the case to another judge or judicial officer for any purpose.

(Eff. 7/01/02)

¹All references to CRC refer to the California Rules of Court

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C. CASES INVOLVING EMPLOYEES

If a court employee or deputy sheriff working at a facility, or a member of his or her family, is a party to a case, the clerk or Supervising Judge of the Civil Division shall transfer the case to another facility, unless the location is specified by statute, including Civil Code § 1812.10 and § 2984.4 and Code of Civil Procedure § 392 and § 395.

(Eff. 1/1/10)

D. PROPER COURTHOUSE FOR FILING A GENERAL CIVIL CASE

- (1) All unlimited civil cases must be filed in the Downtown Superior Court.
- (2) All limited civil cases must be filed in the Downtown Superior Court or the South County Courthouse, subject to the following rules:
 - a. A tort case may be filed in the South County Courthouse if at least one defendant resides at a Gilroy, Morgan Hill, or San Martin address, or the injury or damage occurred in Gilroy, Morgan Hill, San Martin or a surrounding unincorporated area within Santa Clara County.
 - b. A contract case may be filed in the South County Courthouse if at least one defendant resides at a Gilroy, Morgan Hill or San Martin address, or the contract was entered into or to be performed in Gilroy, Morgan Hill, San Martin, or a surrounding unincorporated area within Santa Clara County.
 - c. Other types of cases may be filed in the South County Courthouse if at least one defendant resides at a Gilroy, Morgan Hill or San Martin address or the case requires a determination of a right in land that has a Gilroy, Morgan Hill or San Martin address.
 - d. Upon the noticed motion of a party, or the Court’s own motion, for good cause shown, a limited civil case may be transferred from the Downtown Superior Court to the South County Courthouse or vice versa.

E. CIVIL LAWSUIT NOTICE

- (1) When the complaint or other initial pleading is filed, the Clerk of the Court completes a Civil Lawsuit Notice, in all cases except those designated as CRC “Rule 3.740 collections.” (See attached form CV-5012.) The Civil Lawsuit Notice assigns the case to a case management judge and schedules the first Case Management Conference (CMC) before the case management judge or the ADR Administrator. The party who filed the initial pleading must serve a copy of the Civil Lawsuit Notice on all other parties named in the pleading. A party who subsequently files a

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pleading that adds a new party must serve a copy of the Civil Lawsuit Notice on all new parties. Service of the Civil Lawsuit Notice must be done at the same time as service of the pleading. When the Civil Lawsuit Notice is served, it must reflect the most up-to-date information available concerning the date, time and location of the next CMC. Therefore, the party serving the Notice must complete the information on the next CMC if the first CMC was continued or has passed.

(Eff. 7/01/08)

- (2) **CRC Rule 3.740 collections cases.** The plaintiff may designate a case as a CRC “Rule 3.740 collections” case by filing a Civil Case Cover Sheet with the box “Rule 3.740 collections” checked. When the complaint is

filed, the Clerk of the Court completes a Civil Lawsuit Notice – Rule 3.740 Collections Cases. (See attached form CV-5052.) The plaintiff must serve a copy of the Civil Lawsuit Notice – Rule 3.740 Collections Cases on all defendants. A party who subsequently files a pleading that adds a new party must serve a copy of the Civil Lawsuit Notice – Rule 3.740 Collections Cases on all new parties.

(Eff. 7/01/08)

F. MANDATORY CASE MANAGEMENT CONFERENCES

(1) **DEFINITION**

The term “Case Management Conference” (“CMC”) includes the first Case Management Conference, subsequent Case Management Conferences, ADR Status Conferences, Trial Setting Conferences, Dismissal Reviews, and any other conference scheduled by the Court.

(Eff. 1/01/04)

(2) **DATE OF FIRST CASE MANAGEMENT CONFERENCE**

a. In all cases, except those designated as "uninsured motorist" and "Rule 3.740 collections," the Clerk of the Court will schedule the first CMC approximately 120 days from the date of filing of the complaint.

(Eff. 7/01/08)

b. “Uninsured motorist” cases. The plaintiff may designate a case as an “uninsured motorist case” by filing and serving a declaration demonstrating that the designation is appropriate. If the declaration is filed with the complaint, the Clerk of the Court will schedule the first CMC approximately 180 days from the date of filing of the complaint. If the plaintiff files the declaration at a later time, the Case Management Conference will not be continued unless the plaintiff applies for a continuance.

(Eff. 7/01/04)

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(3) REQUEST TO CHANGE CMC DATE

Pursuant to written stipulation of all parties, the Court may advance a CMC. Upon timely application and a showing of good cause, the Court may continue a CMC. If the Court continues a conference, the party who applied for the continuance must serve notice upon all parties who were served with a copy of the Civil Lawsuit Notice.

(Eff. 7/01/04)

(4) MANDATORY ATTENDANCE

Attendance at all CMCs is mandatory unless otherwise excused by the Court.

(Eff. 1/01/06)

RULE 2 ALTERNATIVE DISPUTE RESOLUTION (ADR)

A. POLICY STATEMENT

Many cases can be resolved to the satisfaction of all parties without the necessity of traditional litigation, which can be expensive, time consuming, and stressful. The Court finds that it is in the best interests of the parties that they participate in alternatives to traditional litigation, including arbitration, mediation, neutral evaluation, special masters and referees, and voluntary settlement conferences. Therefore, the Court will refer all general civil cases to an appropriate form of ADR before they are set for trial, unless there is good cause to dispense with the ADR requirement.

(1) DISCLAIMER

The Court and the California Administrative Office of the Courts may not defend or indemnify any ADR provider or neutral who serves on a court related program, or who is listed on a court ADR provider list. ADR providers are encouraged to seek errors and omissions insurance from a qualified insurance provider.

(Eff. 1/01/03)

B. UNLIMITED CIVIL CASES

(1) In unlimited civil cases, if all parties have appeared, then all parties may stipulate to any form of ADR at any time. The Court has an ADR Stipulation and Order Form for this purpose. (See attached form CV-5008.) If the parties submit a signed ADR stipulation at least 15 days before a Case Management Conference (CMC), and the Court approves the stipulation and the order is filed, the CMC will be canceled and an ADR Status Conference will be scheduled. A stipulation to a type of ADR other than judicial arbitration will not cancel a CMC unless it contains the name of the ADR provider and the date on which the ADR will be conducted.

(Eff. 7/01/06)

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- (2) If, at any time, the parties stipulate to a type of ADR other than judicial arbitration, but have not already selected an ADR provider and date, then, within 20 days, plaintiff’s counsel must inform the ADR Administrator in writing of the name of the ADR provider and the date on which the ADR will be conducted. Parties may use the Court’s ADR Stipulation and Order Form for this purpose. (See attached form CV-5008.)

(Eff. 7/01/06)

- (3) Parties who have previously stipulated to judicial arbitration may later stipulate to mediation or neutral evaluation by submitting a signed ADR stipulation and proposed order to the case management judge.

(Eff. 1/01/04)

- (4) If the parties stipulate to judicial arbitration, the arbitrator will be selected pursuant to the procedure outlined in CRC 3.815.

(Eff. 7/01/07)

C. LIMITED CIVIL CASES

In limited civil cases, if the parties file a signed ADR stipulation at least 15 days before the first CMC, the Court will cancel the conference and mail notice of an ADR Status Conference. A stipulation to a type of ADR other than judicial arbitration will not cancel the CMC unless it contains the name of the ADR provider and the date on which the ADR will be conducted. If, prior to the initial CMC, the parties have not stipulated to a form of ADR, the case management judge will decide the appropriate form of ADR, if any, at the Conference.

(Eff. 1/01/04)

D. ADR GRIEVANCE PROCEDURE

It is the goal of the Superior Court of California, County of Santa Clara ADR Program to encourage excellence and the highest ethical standards in ADR practice. The Santa Clara Superior Court has established the following procedure for handling grievances regarding the conduct of any neutral serving on any of the Civil Division’s ADR programs.

(Eff. 7/01/09)

- (1) All complaints regarding the conduct of ADR program neutrals must be submitted in writing to the designated Complaint Coordinator under CRC 3.867(a).

(Eff. 7/01/09)

- (2) When a complaint regarding a neutral is received by the Court, it will be directed to the Complaint Coordinator for processing. The Complaint Coordinator will send a written acknowledgment of the receipt of the complaint to the complainant.

(Eff. 7/01/09)

- (3) The Complaint Coordinator will assemble available information regarding the complaint, and preliminarily review the complaint to determine the appropriate response. The Complaint Coordinator may respond directly to

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the complainant, or may refer the complaint to the Civil Supervising Judge for review.

(Eff. 7/01/09)

- (4) Upon referral from the Complaint Coordinator, the Civil Supervising Judge will promptly review the complaint and determine whether further investigation is appropriate. If the Civil Supervising Judge finds a complaint does not warrant further investigation, no further action will be taken.

(Eff. 7/01/09)

- (5) The Civil Supervising Judge will refer all other complaints to an investigative subcommittee of the Court ADR Committee.

(Eff. 7/01/09)

- (6) The investigative subcommittee of the ADR Committee will review the complaint, conduct an investigation, and make a recommendation for action to be taken by an appointed subcommittee of the Civil Committee of the Bench. A copy of the complaint will be provided to the neutral, who will be allowed an opportunity to respond. The appointed subcommittee may recommend that no further action be taken on the complaint, that the neutral be counseled, admonished, or reprimanded, that further training be required, or that the neutral be suspended or removed from the Court’s ADR program panel. The final decision on the appropriate action to be taken, based on this recommendation, will be made by the Presiding Judge or his or her designee. The retention of neutrals on the Court’s ADR program panel is at the sole discretion of the Court. The neutral will be notified promptly in writing of the final decision.

(Eff. 7/01/09)

- (7) Each complainant will be notified promptly in writing of the disposition of the complaint.

(Eff. 7/01/09)

- (8) All papers filed and proceedings conducted on a complaint against a neutral will be confidential to the same extent the particular ADR procedure is confidential.

(Eff. 7/01/09)

- (9) Each member of the investigative subcommittee and the appointed subcommittee, as well as the Civil Supervising Judge and the final decision maker on the complaint, will be covered by the disqualification under CRC 3.872.

(Eff. 7/01/09)

RULE 3 JUDGES ADR PROGRAM

Parties may apply at the earliest opportunity to participate in an ADR session with a sitting civil judge. These ADR options include mediation and settlement conferences. The program is governed by the following rules:

A. ELIGIBILITY/CRITERIA FOR PARTICIPATION

- (1) The case, if tried with or without a jury, would consume significant court resources.

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- (2) The parties and their attorneys represent in good faith that they desire to resolve the case, and that they agree to participate in an ADR session with an agreed-upon judge.
- (3) The parties are prepared to complete an ADR session as soon as the case is accepted into the program.
- (4) The Court has obtained jurisdiction over all necessary parties so that a resolution resulting from an ADR session will be final.
- (5) The Supervising Civil Judge accepts the case for the program despite the failure to satisfy one or more of the above-stated criteria.

B. PROCEDURE

- (1) Application must be made on the Judges ADR Program Stipulation and Order form (see attached form CV-5017). The application must be signed by all counsel and self-represented parties.
- (2) The application must be submitted to and approved by the Civil Supervising Judge.
- (3) When the application is approved, counsel and/or self-represented parties must promptly contact the department of the judge selected to conduct the ADR session, to schedule the session. ADR sessions will be conducted on Fridays, unless otherwise ordered by the ADR judge.
- (4) When the application is approved, all law and motion and discovery proceedings shall be stayed until completion of the ADR session, and all case management conferences shall be vacated, except as otherwise ordered by the Court.
- (5) Good faith participation in the ADR session by all parties will satisfy the requirement of Rule 2 that parties participate in alternative dispute resolution before a case is set for trial.

C. TIMELINE

- (1) The ADR session shall commence within thirty days of approval of the application, and shall be completed no later than sixty days after approval of the application, except as otherwise ordered by the Court.
- (2) The case will be set for Mediation Status Review approximately seventy days after approval of the application.

D. PERSONS ATTENDING/STATEMENTS

- (1) Lead counsel, parties, and persons with full authority to settle the case must personally attend the ADR session, unless excused by the ADR

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judge for good cause. If any consent to settle is required for any reason, the person or persons with that consensual authority must be personally present at the ADR session, unless excused by the ADR judge for good cause.

- (2) Counsel and self-represented parties must submit to the ADR judge and serve on all parties, but not file, full written statements of their position regarding settlement no later than five calendar days before the ADR session.

E. MEDIATION

- (1) Mediation conducted under the Judges ADR Program is conducted under Evidence Code §§ 1115-1128, which provide for confidentiality of communication.
- (2) If mediation before the ADR judge results in settlement, the parties may place their agreement on the record, or they may report the case settled and privately execute a written settlement agreement. In either case, the parties may stipulate that the Court shall retain jurisdiction over them to enforce the settlement, pursuant to Code of Civil Procedure § 664.6. If the terms of settlement are placed on the record, or if a party moves to enforce the settlement, the terms of settlement shall not be confidential, unless a party seeking confidentiality complies with CRC 2.550, *et seq.*

F. SETTLEMENT CONFERENCE

- (1) A settlement conference conducted under the Judges ADR Program is conducted under CRC 3.1380. There is no provision for confidentiality of communication, except as provided in Evidence Code § 1152(a).
- (2) If a settlement conference before the ADR judge results in settlement, the parties may place their agreement on the record, or they may report the case settled and privately execute a written settlement agreement. In either case, the parties may stipulate that the Court shall retain jurisdiction over them to enforce the settlement, pursuant to Code of Civil Procedure § 664.6.

G. FURTHER COURT PROCEEDINGS

- (1) Except as provided in paragraphs E(2) and F(2) above, the ADR judge will recuse himself or herself from acting in any further court proceedings in the case, unless the parties stipulate in writing that the judge may so act.
- (2) The ADR judge shall be subject to the provisions of Evidence Code § 703.5.

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- (3) ADR judges are bound by the disqualification and recusal requirements of Code of Civil Procedure § 170.1, *et seq.*, and by the disclosure requirements of the Canons of Judicial Ethics.

(Eff. 1/1/08)

RULE 4 CIVIL EARLY SETTLEMENT CONFERENCE PROGRAM

The Civil Early Settlement Conference Program is available to parties who stipulate, using the ADR Stipulation and Order Form (see attached form CV-5008), to have a neutral attorney conduct a settlement conference in their case at the neutral’s office or other agreed place. The program is governed by the following rules:

(Eff. 7/1/08)

- A.** All parties and counsel must agree upon the neutral, or agree to allow the Court to select the neutral. The parties may, but are not required to, select the neutral from the Court’s list of program neutrals available from the Court’s ADR web page. The Court has not screened neutrals for training or experience and makes no warranty regarding their ability. If the parties allow the Court to select the neutral, the Court will assign a neutral from the Court’s list.

- B.** All parties must complete the ADR Stipulation and Order Form, checking the box “Early Settlement Conference,” and must file the form in the Clerk’s Office.

(Eff. 7/1/08)

If the form is filed at least 15 calendar days before the initial Case Management Conference (CMC), the conference will be vacated. If the case is a limited jurisdiction case, it will be set for a trial setting conference to be held approximately 90 calendar days after the vacated initial CMC. If the case is an unlimited jurisdiction case, it will be set for ADR review approximately 90 calendar days after the vacated initial CMC.

(Eff. 7/1/08)

If the ADR Stipulation and Order form is filed after the initial CMC, upon approval of the Court, any pending CMC will be vacated and the case will be set for ADR review in approximately 60 calendar days.

(Eff. 7/1/08)

- C.** Plaintiff’s counsel must contact the office of the selected neutral to arrange a settlement conference location, date, and time agreeable to all parties. Court facilities are not available for the conferences.

- D.** The Court will pay the neutral a flat fee of \$150.00 for up to three hours of the neutral’s time. Neutrals will be paid from the same fund and in the same manner as judicial arbitrators. No additional charges, such as travel, parking, or space rental, are to be added to the neutral’s flat fee. Parties and counsel must negotiate directly with the neutral to obtain more than three hours of the neutral’s time. *Pro bono* services are available to a party who has qualified for a waiver of court fees under CRC 3.50, *et seq.*

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- E.** A settlement conference conducted under the Civil Early Settlement Conference Program is conducted under CRC 3.1380. It is not a mediation, as defined in Evidence Code § 1115. There is no provision for confidentiality of communication, except as provided in Evidence Code § 1152(a).
- F.** Parties and counsel must comply with CRC 3.1380, unless the neutral excuses compliance.
- G.** Following settlement of the case, plaintiff’s counsel must promptly notify the Court, as required by CRC 3.1385.
- H.** Any grievance regarding a neutral will be handled pursuant to Local Civil Rule 2D.

(Eff. 1/1/08)

**RULE 5 RULES GOVERNING ALL TYPES OF ADR EXCEPT JUDICIAL
ARBITRATION**

A. OVERVIEW

- (1) The ADR Administrator has a list of court-approved ADR providers and information about their qualifications, the services they provide, and the fees they charge.
- (2) The parties may choose any ADR provider they wish, including a provider who is not on the list of court- approved ADR providers.
- (3) The ADR provider need not be an attorney.
- (4) All participants in the ADR process must participate in good faith.
- (5) In conducting a session, the ADR provider must require the attendance of persons with full authority to resolve the dispute. The provider may not permit a telephone appearance unless good cause was shown in a timely manner before the session.
- (6) Unless the ADR provider’s fees and expenses have been fixed by the Court, the parties and the provider must agree on the fees and expenses. The fees and expenses of the ADR provider must be borne by the parties equally, unless they agree otherwise.

B. COURT-APPROVED ADR PROVIDERS

- (1) Court-approved ADR providers must be available to accept at least one pro bono or modest means case per year.
- (2) When an ADR provider is added to the list of court-approved ADR providers, the ADR Administrator will send the following documents to the provider:

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- a. An ADR Attendance Form;
- b. An ADR Provider’s Statement;
- c. An ADR Evaluation, to be filled out separately by the parties and their counsel.

- (3) At the conclusion of the ADR process, the provider must give copies of the ADR Evaluation to the parties and their counsel. Within the next 10 days, the provider must complete the ADR Attendance Form and the ADR Provider’s Statement and sends them to the ADR Administrator.

(Eff. 7/01/02)

RULE 6 JUDICIAL ARBITRATION

A. ASSIGNMENT OF ARBITRATOR

Provided that all parties have answered and filed a Case Management Statement, within 15 days of receiving a court-approved order to judicial arbitration, the court’s arbitration administrator will send each party a list of names of arbitrators from the court’s judicial arbitrator list. Each party has 10 days to strike one name from the list and return it to the court’s arbitration administrator. Within 30 days, the court’s arbitration administrator will appoint at random one of the remaining arbitrators. If the appointed arbitrator is not immediately available, the case will be assigned as soon as the appointed arbitrator becomes available. The appointed arbitrator will contact counsel and each self represented party to set a date and time for the arbitration hearing.

B. PLEADINGS SUBMITTED TO ARBITRATOR

At least 5 court days prior to the scheduled arbitration hearing, each party must lodge with the arbitrator a copy of his or her latest pleadings.

(Eff. 7/01/02)

C. LENGTH OF ARBITRATION HEARINGS

Hearings must not exceed 3 hours, or in the arbitrator's discretion, upon good cause shown, a maximum of 5 hours except as otherwise provided herein. If any party believes that the hearing will require more than 5 hours ("lengthy hearing"), that party may obtain permission for such lengthy hearing by either:

- (1) Filing at least 5 court days before the hearing a written stipulation among the parties and the arbitrator for a lengthy hearing and providing for payment by the parties of a reasonable rate of compensation for the arbitrator for each hour of hearing in excess of five hours; or
- (2) Obtaining a court order by written application showing good cause for a lengthy hearing made to the court at or before the time when the matter is referred to arbitration.

(Eff. 7/01/02)

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D. FILING OF AWARD

The arbitrator must file the award with the Court within 10 days of the completion of the arbitration hearing. If the arbitrator cannot file the award within that time frame, the arbitrator may request an extension from the case management judge.

E. FAILURE TO ARBITRATE

If the arbitration is not held within 90 days after the assignment of the arbitrator, counsel and each self represented party must appear at the ADR Status Conference. The case management judge may re-order the case to arbitration or vacate the order to arbitration and set the case for trial.

(Eff. 7/01/02)

RULE 7 PRETRIAL MOTIONS AND EX-PARTE PROCEEDINGS

A. UNLIMITED CIVIL CASES

(1) Pre-trial motions that do not pertain to discovery matters are heard on the law and motion calendar in the department of the case management judge. The law and motion calendar is called on Tuesdays and Thursdays at 9:00 a.m.

(2) Discovery motions are heard on the discovery calendar in the Discovery Department. The discovery calendar is called on Fridays at 9:00 a.m.

(Eff. 1/01/03)

B. LIMITED CIVIL CASES

All pretrial motions, including discovery motions, are heard on the law and motion calendar in the department of the case management judge. The law and motion calendar is called on Tuesdays and Thursdays at 9:00 a.m. In South County, the law and motion calendar is called on Mondays at 9:00 a.m.

(Eff. 1/01/03)

C. SCHEDULING HEARINGS

A party seeking a hearing date on the law and motion calendar or the discovery calendar must contact the calendar clerk to obtain approved alternate dates for the hearing. If possible, the party should obtain agreement to one of the alternate dates from all opposing parties. When a date is chosen, the party must inform the calendar clerk.

(Eff. 1/01/03)

D. CONTINUANCES

Continuances of scheduled hearings may be obtained only upon application, for good cause, to the department scheduled to hear the motion.

**RULE 7 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

CIVIL RULES

E. TENTATIVE RULINGS

The Court follows CRC 3.1308(a)(1) for those departments that have elected to issue tentative rulings in civil law and motion and discovery matters. Counsel and litigants are responsible for determining whether the department hearing their motion has made this election. Those departments issuing tentative rulings will do so generally by 2:00 p.m., and no later than 3:00 p.m., on the court day preceding the scheduled hearing. If the Court has not directed oral argument, a party contesting a tentative ruling must give notice of its intention to appear to the other side and the Court no later than 4:00 P.M. on the court day preceding the scheduled hearing. Appearances may be by telephone (through CourtCall) or in person. The tentative ruling will automatically become the order of the Court on the scheduled hearing date if the Court has not directed oral argument and if the contesting party fails to timely notice an objection to the other side and the Court. Tentative rulings will be posted on the Court’s website, www.sccsuperiorcourt.org, where further information may be found. If a party does not have access to the internet, the tentative ruling may be accessed by calling Court Services at (408) 882-2515. Questions about these procedures may be addressed to the specific department where the matter is to be heard.

(Eff. 1/01/10)

F. EX PARTE APPLICATIONS

Ex parte applications are heard every court day between 8:15 and 9:00 a.m. If the ex-parte application concerns a discovery matter, it must be brought to the Discovery Department. Otherwise, it must be brought to the department of the case management judge. In South County, ex parte applications are heard every court day at 1:00 p.m. All ex parte applications are heard only in compliance with CRC 3.1203(a), which requires notice to all parties no later than 10:00 a.m. the court day before the ex parte appearance, absent a showing of exceptional circumstances that justify a shorter time for notice.

(Eff. 1/01/09)

RULE 8 TRIAL SETTING, MANDATORY SETTLEMENT CONFERENCES AND TRIAL

A. TRIAL SETTING

The trial date will be set by the case management judge at a Trial-Setting Conference or other conference. If the time estimated for trial is more than one day, a Mandatory Settlement Conference will be scheduled to take place during the week before the trial date.

**RULE 8 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

CIVIL RULES

B. MANDATORY SETTLEMENT CONFERENCE

If a Mandatory Settlement Conference has been scheduled, the Court will send written notice of the time, date, and department. No later than five court days before the date set for the settlement conference, each party must submit to the Court and serve on each party a Settlement Conference Statement not to exceed five pages, excluding exhibits. The conference will be supervised by a judge or temporary judge. Trial counsel, parties and persons with full authority to settle the case must personally attend unless excused by the Court.

If insurance coverage is available to satisfy plaintiff's settlement demand and a representative of defendant's insurer with full settlement authority attends the mandatory settlement conference with defendant's trial counsel, named defendants need not attend unless their personal consent is necessary to settle the case. Named defendants must also personally attend the mandatory settlement conference when (1) there is an insurance coverage dispute; (2) plaintiff seeks to recover damages not covered by insurance; or (3) plaintiff's demand exceeds insurance policy limits.

(Eff. 7/01/07)

C. ASSIGNMENT TO TRIAL

Before the date set for trial, the Court will advise the parties by telephone if the case is assigned to a trial judge or placed on standby.

D. SERVICE AND LODGING OF DOCUMENTS

Unless the case was settled at the Mandatory Settlement Conference or dismissed in full prior thereto, or unless otherwise ordered by the Court, the following items must be lodged in the department of the trial judge or, if none, with the Court's calendar secretary, and served on all other parties by noon on the last court day before the date set for trial:

(Eff. 7/1/05)

- (1) all in limine motions;
- (2) exhibit lists, except impeachment exhibits;
- (3) witness lists, except impeachment witnesses, and unusual scheduling problems;
- (4) jury instruction requests, except for instructions that cannot reasonably be anticipated prior to trial;
- (5) proposed special verdicts;
- (6) any stipulations on factual or legal issues;
- (7) a concise, non-argumentative statement of the case to be read to the jury in jury trials;

**RULE 8 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

CIVIL RULES

(8) trial briefs.

E. APPEARANCE ON THE DATE SET FOR TRIAL

Trial counsel must appear in the department assigned for trial at 8:45 a.m. on the date set for trial, unless otherwise instructed by the Court’s calendar secretary.

(Eff. 7/01/02)

RULE 9 PROPOSED ORDERS

Any proposed order submitted to the Court for signature must contain a footer with the title of the order on every page, including the signature page, unless it is a Judicial Council form. In addition, the Court signature and date lines must not be on a page by themselves; the signature page must contain some text of the order.

(Eff. 1/01/10)

RULE 10 SANCTIONS

If any counsel, a party represented by counsel, or a party unrepresented by counsel, fails to comply with any of the requirements of these rules, the Court, on motion of a party or on its own motion, may strike out all or any part of any pleading of that party, or dismiss the action or proceeding or any part thereof, or enter a judgment by default against that party, or impose penalties of a lesser nature as otherwise provided by law, and may order that party or his or her counsel to pay to the moving party the reasonable expenses in making the motion, including reasonable attorney fees. Alternatively, the Court may impose a monetary sanction.

(Eff. 7/01/02)

RULE 11 TELEPHONIC APPEARANCES

A. PROCEEDINGS IN WHICH PERMITTED

Unless otherwise ordered, parties may appear by telephone at a case management conference, trial setting conference, or at a hearing for dismissal review, arbitration or mediation status review, law and motion, and discovery matters. A party may appear by telephone for other matters only by leave of Court.

(Eff. 7/1/05)

B. PRIVATE VENDOR TO PROVIDE TELECONFERENCING SERVICES

In accordance with CRC 3.670, the Court has contracted with CourtCall, LLC to provide teleconferencing services for court appearances. A party who chooses to appear by telephone must submit to CourtCall, at least 3 court days before the appearance, the CourtCall form requesting telephonic appearance together with the fee for CourtCall’s service. Information as to the form and fee may be obtained directly from CourtCall at 1-888-88-COURT.

(Eff. 7/1/08)

**RULE 11 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

CIVIL RULES

C. NOTICE BY PARTY

A party who chooses to appear by telephone will satisfy the requirement of CRC 3.670 for notice to the Court by timely providing to CourtCall the CourtCall telephonic appearance request form, which CourtCall will promptly fax to the Court. A party who chooses to appear by telephone must notify all other parties of the party’s intent to appear by telephone in the manner required by CRC 3.670.

(Eff. 7/1/07)

D. AVAILABILITY/PROTOCOL

A party appearing by telephone must call the toll free teleconference line designated by CourtCall at least 5 minutes before the scheduled conference or hearing, to check in.

A party appearing by telephone must be available from the commencement of the applicable calendar until the completion of the party’s conference or hearing, and must (a) eliminate to the greatest extent possible all ambient noise from the party’s location, (b) speak directly into a telephone handset, (c) not call in with a cellular or cordless telephone device or through a personal computer, and (d) not use the “hold” button. A party appearing by telephone must state his or her name for the record each time the party speaks, and must participate in the hearing with the same degree of courtesy and courtroom etiquette required for a personal appearance.

(Eff. 7/1/05)

E. CONTINUANCE

If a party requests a continuance of a conference or hearing after another party has timely notified the Court of an intent to appear by telephone, the party requesting the telephonic appearance must contact CourtCall to reschedule the telephonic appearances if the continuance is granted.

(Eff. 7/1/05)

RULE 12 UNLAWFUL DETAINER CASES

A. PURPOSE

This rule is promulgated to deal with the special problems created by the summary nature of unlawful detainer proceedings. The term “unlawful detainer cases” refers to all cases filed pursuant to Chapter 4 of Title 3 of Part 3 of the Code of Civil Procedure and, thus, includes forcible entry and forcible detainer cases.

(Eff. 7/01/02)

**RULE 12 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

CIVIL RULES

B. DESIGNATION OF UNLAWFUL DETAINER CASES

The Court will designate a case as an “unlawful detainer case” when the complaint is filed if 1) the caption alleges unlawful detainer, forcible entry or forcible detainer, and 2) the prayer seeks restitution of possession of real property.

(Eff. 7/01/02)

C. PROPER COURTHOUSE FOR FILING AN UNLAWFUL DETAINER CASE

- (1) An unlawful detainer case that concerns real property with a Gilroy, Morgan Hill or San Martin mailing address must be filed in the South County Courthouse if the amount in controversy is \$25,000 or less.
- (2) All other unlawful detainer cases must be filed in the Downtown Superior Court.
- (3) An unlawful detainer case that was properly filed in the South County Courthouse may remain there even if the amount in controversy rises above \$25,000 as a result of delay in the prosecution of the case.
- (4) Upon the motion of a party, or the court’s own motion, for good cause shown, an unlawful detainer case may be transferred from the South County Courthouse to the Downtown Superior Court or vice versa.

(Eff. 7/01/02)

D. UNLAWFUL DETAINER CASES IN DOWNTOWN SUPERIOR COURT

- (1) All unlawful detainer cases are assigned to the Unlawful Detainer Department designated by the Presiding Judge.
- (2) Ex-parte applications are heard every court day between 8:15 a.m. and 9:00 a.m.
- (3) Noticed motions are heard at 9:15 a.m. on Wednesday, Thursday, and Friday.
- (4) Court trials are heard at 9:00 a.m. on Wednesday, Thursday, and Friday.
- (5) Jury trials are heard in any available department in the Downtown Superior Court.
- (6) Post-judgment claims of right to possession are heard at 9:15 a.m. on Wednesday, Thursday, and Friday.

(Eff. 7/1/08)

(Eff. 7/1/08)

(Eff. 7/1/08)

E. UNLAWFUL DETAINER CASES IN SOUTH COUNTY COURTHOUSE

Each unlawful detainer case will be assigned to a department in the South County Courthouse for all purposes.

**RULE 12 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

CIVIL RULES

F. NOTICED MOTIONS

Any party who wishes to bring a noticed motion must contact the appropriate calendar clerk to obtain an approved date and time for the hearing.

G. TRIAL

Once the case is at issue, any party who has appeared, and has not been dismissed and is not in default, may file a Request/Counter-Request to Set Case for Trial – Unlawful Detainer (Judicial Council form UD-150). The Court will set the date for trial and mail notice to all parties except those who have been dismissed. If a Request/Counter-Request to Set Case for Trial is not filed within 60 days of the filing of the Complaint, the Court may dismiss the action on its own motion without further notice.

(Eff. 7/01/09)

H. CONVERSION TO ORDINARY CIVIL ACTION

If possession of the premises is surrendered to the plaintiff before trial, the case will proceed as an unlawful detainer case unless one of the parties files a motion for leave to file a pleading that will convert the case to an ordinary civil action. If trial has already been set, the trial judge will hear the motion for leave to amend before the trial. If the motion is granted, the court will vacate the trial, redesignate the case as an ordinary civil action, and schedule a CMC. The case will thereafter proceed as an ordinary civil action.

(Eff. 7/01/02)

I. POST JUDGMENT CLAIM OF RIGHT TO POSSESSION

Upon receipt of a post-judgment claim of right to possession, the court will schedule a hearing and mail notice to the plaintiff and the claimant.

(Eff. 7/01/02)

RULE 13 SCHEDULE OF REASONABLE ATTORNEY’S FEES

The Court has adopted a schedule of reasonable attorney’s fees. (See attached form CV-5021.) The schedule applies to all cases in which a default judgment is entered in favor of a party who pleaded and proved entitlement to reasonable attorney’s fees.

(Eff. 7/01/06)

RULE 14 JURY FEES

The amount of jury fees required to be posted in advance of a jury trial is \$150.00. If a case settles after jury fees have been deposited, the jury fees will not be returned unless the court is notified of the settlement by 2:00 p.m. on the court day preceding the trial date for which the deposit was made.

(Eff. 7/01/02)

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

CIVIL RULES

RULE 15 FACSIMILE FILING

A. GENERAL POLICY

The Superior Court of Santa Clara County hereby adopts CRC 2.300 et seq., allowing for the facsimile filing of documents in all civil cases.

(Eff. 7/01/07)

B. AGENCY FILING

Pursuant to CRC 2.303, the Court accepts for filing all documents submitted by fax filing agencies, except those specified in CRC 2.300(b).

(Eff. 7/01/07)

C. DIRECT FILING

(1) Pursuant to CRC 2.304, the Court accepts for filing all documents submitted by facsimile transmission directly with the Court through the Court's automated facsimile filing system, except those specified in CRC 2.300(b).

(Eff. 7/01/07)

(2) The Court's facsimile machine is available 24 hours a day.

(3) The Court's Automated Fax Filing service must be activated by calling 1-800-322-4945. The filing attorney must provide a credit card number, expiration date and fax number. The Court will maintain the confidentiality of the filing attorney's credit card number.

(4) The Court's automated facsimile filing telephone number is 1-800-547-4581.

(5) In addition to filing and facsimile transmission fees, a party who facsimile files a new complaint will be charged a postage and handling fee for issuance of the summons and notices issued by the Court at time of filing.

(6) Faxed documents must comply with all filing requirements otherwise listed in the State and Local Rules of Court. Compliance with filing requirements and proper transmission of the documents are the responsibility of the sending party and the automated fax filing service.

(Eff. 7/01/02)

RULE 16 ELECTRONIC FILING AND SERVICE

**A. APPLICABILITY OF CALIFORNIA STATUTES AND
CALIFORNIA RULES OF COURT**

The Court adopts this rule in accordance with Code of Civil Procedure § 1010.6. CRC 2.250 et seq. are incorporated into this rule.

(Eff. 7/01/07)

**RULE 16 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

CIVIL RULES

B. ELECTRONIC FILING SERVICE PROVIDER (VENDOR)

The Court’s electronic filing service provider (Vendor) for the Complex Litigation Department is:

Andy Jamieson - Glotrans
2915 McClure St., Oakland, CA 94609
Telephone: (510) 208-4775
Email: ajam@glotrans.com

(Eff. 7/01/07)

C. COMPLEX LITIGATION

All actions classified as provisionally complex pursuant to CRC 3.400(c) must be electronically filed and served. The Complex Litigation Judge will decide as soon as reasonably practicable, with or without a hearing, whether the action is Complex Litigation. All actions classified by the Complex Litigation Judge as Complex Litigation are subject to the Court’s Electronic Filing and Service Standing Order unless exempted by order of the Complex Litigation Judge for good cause. The Electronic Filing and Service Standing Order is published in electronic format on the Court’s Website address: <http://www.scefiling.org> and is available at the Old Courthouse and the Downtown Superior Court.

(Eff. 7/01/07)

D. OTHER ACTIONS

The Court does not permit electronic filing or electronic service in other actions unless ordered by the Court.

(Eff. 7/01/07)

RULE 17 APPLICATION FOR ORDERS FOR PAYMENT OF MONEY

A. PAYMENT OF MONEY

An application for an order for payment of money must be supported by an affidavit clearly setting forth the claimant's right to the specific amount shown, and a statement that the amount in question is presently on deposit in the Treasurer's Office.

(Eff. 7/01/02)

B. PAYMENT FOR PREPARATION OF TRANSCRIPT

An application for an order authorizing payment for preparation of a transcript out of funds deposited by an attorney or a party in propria persona, must be supported by an affidavit demonstrating 1) that the work has been done; 2) a statement of the charges therefore has been supplied to the person who deposited the funds; 3) ten days have elapsed; and 4) there is no dispute concerning the charges.

(Eff. 7/01/02)

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

CIVIL RULES

RULE 18 INTERPRETERS

A party who desires an interpreter must timely give notice to the court and all other parties of record and make arrangements for the presence and the payment of the interpreter. If the interpreter is not an Official Court Interpreter, his/her name and qualifications must be provided to the court and opposing counsel at least 5 court days prior to the date of the interpreter's appearance.

(Eff. 7/01/02)

RULE 19 SMALL CLAIMS ACTIONS

A. PROPER COURTHOUSE FOR FILING A SMALL CLAIMS ACTION

All small claims actions must be filed in the Santa Clara Courthouse, Palo Alto Courthouse, or South County Courthouse, subject to the following rules:

(Eff. 1/01/09)

(1) MULTIPLE ACTIONS AGAINST SAME DEFENDANT

If the plaintiff files 3 or more separate actions against the same defendant at the same time, the actions must be filed in the Santa Clara Courthouse.

(Eff. 1/01/09)

(2) SANTA CLARA COURTHOUSE

A small claims action may be filed in the Santa Clara Courthouse if the defendant resides at a Campbell, Los Gatos, Milpitas, Monte Sereno, San Jose, Santa Clara, or Saratoga address; or the action concerns a contract entered into or to be performed in any of those cities; or the action concerns an injury or damage that occurred in any of those cities.

(Eff. 1/01/09)

(3) SOUTH COUNTY COURTHOUSE

A small claims action may be filed in the South County Courthouse if the defendant resides at a Gilroy, Morgan Hill, or San Martin address; or the action concerns a contract entered into or to be performed in any of those cities; or the action concerns an injury or damage that occurred in any of those cities.

(4) PALO ALTO COURTHOUSE

A small claims action may be filed in the Palo Alto Courthouse if the defendant resides at a Cupertino, Los Altos, Los Altos Hills, Mountain View, Palo Alto, or Sunnyvale address; or the action concerns a contract entered into or to be performed in any of those cities; or the action concerns an injury or damage that occurred in any of those cities.

**RULE 19 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

CIVIL RULES

(5) DEFENDANT’S CROSS-CLAIM

A defendant’s cross-claim must be filed in the same courthouse where the small claims action was filed by the plaintiff.

B. DATE, TIME, AND PLACE FOR HEARING

When the small claims action is filed, the court clerk will schedule the hearing according to the following rules:

(Eff. 7/01/07)

(1) MULTIPLE ACTIONS AGAINST THE SAME DEFENDANT

If the plaintiff files 3 or more actions against the same defendant at the same time, the court clerk will schedule the hearing on a Friday at 1:30 p.m. in Department 57.

(Eff. 1/01/09)

(2) SAME COURTHOUSE

The clerk will schedule all other hearings in the same courthouse where the small claims action was filed unless the plaintiff requests a night court session.

(Eff. 7/01/07)

(3) NIGHT COURT SESSIONS

Night court sessions are held in the Santa Clara Courthouse at 6:00 p.m. on the second and fourth Tuesday of every month, excluding Court holidays.

(Eff. 1/01/09)

(4) TRANSFER

For good cause shown, the defendant may request the Court to transfer the hearing to a different courthouse where small claims hearings are heard. At least 10 days before the hearing date, the defendant must file the request at the courthouse where the small claims action was filed and mail a copy of the request to each party to the action. If the Court finds that the interests of justice would be served by transferring the hearing to the courthouse requested by the defendant, the Court will mail a notice to all parties of the new date, time, and place for hearing.

(Eff. 7/01/07)

C. SERVICE OF CLAIMS

(1) PLAINTIFF’S CLAIM

The plaintiff must serve the Notice to Small Claims Litigants (see attached form SC-8006) with the Plaintiff’s Claim and Order to Go to Small Claims Court.

(Eff. 7/01/07)

**RULE 19 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

CIVIL RULES

(2) SERVICE BY CERTIFIED MAIL

Either party may pay the court a fee to have the court clerk serve their claim on the other party by certified mail, return receipt requested. Before the date set for hearing, the party requesting service may look in the court file to see whether the receipt for certified mail was signed by the other party and returned. Only the judicial officer or temporary judge makes the legal decision whether service was proper.

(Eff. 7/01/07)

(3) INABILITY TO SERVE DEFENDANT IN TIME

If the plaintiff is unable to serve the defendant in time, the plaintiff may request a later hearing date by going to the clerk’s office at least one court day before the date set for the hearing.

(Eff. 7/01/07)

D. SETTLEMENT BEFORE HEARING

A party who settles his or her claim before the date set for the hearing must notify the Court in writing at least one court day before the hearing. A party may do this by filing a Request for Dismissal. (See attached form SC-8007.)

(Eff. 7/01/07)

E. DISMISSAL FOR FAILURE TO APPEAR AT HEARING

If a party does not appear at the hearing, his or her claim will be dismissed, but if there is a claim against him or her, it will be heard.

(Eff. 7/01/07)

F. APPEAL

An appeal of a judgment rendered in a small claims action must be filed in the same courthouse where the action was filed. The appeal will be heard at the Downtown Superior Courthouse by a judicial officer other than the one who issued the judgment. The Court will notify the parties of the date, time, and place for the hearing on the appeal.

(Eff. 7/01/07)

CIVIL COURT RULES

ATTACHMENTS

ATTACHMENT CV-5008	ADR Stipulation and Order Form
ATTACHMENT CV-5012	Civil Lawsuit Notice
ATTACHMENT CV-5017	Judges ADR Program Stipulation and Order Form
ATTACHMENT CV-5021	Schedule of Reasonable Attorney Fees
ATTACHMENT CV-5052	Civil Lawsuit Notice – Rule 3.740 Collections Cases
ATTACHMENT SC-8006	Notice to Small Claims Litigants
ATTACHMENT SC-8007	Request for Dismissal

ATTORNEY OR PARTY WITHOUT AN ATTORNEY (NAME AND ADDRESS)	TELEPHONE NUMBER:	<i>FOR COURT USE ONLY</i>
ATTORNEY FOR (Name):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA		
STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PLAINTIFF:		CASE NUMBER:
DEFENDANT:		
ADR STIPULATION AND ORDER FORM		

Pursuant to California Rule of Court 3.221(a)(4), the parties and their attorneys stipulate that all parties in this action have appeared, and the claims in this action shall be submitted to the following alternative dispute resolution process:

- Mediation
- Neutral Evaluation
- Referee/Special Master
- Early Settlement Conference
- Binding Arbitration
- Non-binding Judicial Arbitration pursuant to CCP §1141.10 et seq., CRC Rule 3.810 et seq.
 - Discovery will remain open until 30 days before trial
- Other: _____

It is also stipulated that _____ (name of individual neutral, not organization) shall serve as _____ (neutral function/process) and that the session will take place on _____ (enter a FIRM date) at _____ (time).

This is is not an Order after CMC Hearing. The CMC Hearing was held on _____.

Date: _____

(Type or Print Name)

(Signature)

(Type or Print Name)

(Signature)

(Type or Print Name)

(Signature)

(Type or Print Name)

(Signature)

(Attach Additional Signature Pages if Necessary)

ORDER ON REVERSE SIDE

ORDER:

Case Number: _____

The Case Management Conference currently set for _____, 20____, at _____AM/PM in Department _____ is hereby vacated.

Mediation Status Review

Case Status Review re: _____

Trial Setting Conference

is set for _____, 20 ____, at _____AM/PM in Department _____.

Judicial Arbitration Order Review Hearing will be set by notice upon assignment of the arbitrator.

Trial Setting Conference following ADR Review is set for _____, 20____, at _____AM/PM in Department _____.

IT IS SO ORDERED.

Date:

Judicial Officer

CLERK'S CERTIFICATE OF PERSONAL SERVICE

I certify that I am not a party to this cause and that a true and correct copy of this document was hand-delivered to the parties listed below at _____ (time) on _____ (date) in the Clerk's Office, Calendar Unit of the Superior Court of California, County of Santa Clara located at 191 N. First Street, San Jose, California.

David H. Yamasaki, Clerk of the Court, by _____, Deputy Clerk

CLERK'S CERTIFICATE OF MAILING

I certify that I am not a party to this cause and that a true and correct copy of this document was mailed first class postage prepaid in a sealed envelope addressed as shown below and the document was mailed at _____ (time) on _____ (date) in San Jose, California.

David H. Yamasaki, Clerk of the Court, by _____, Deputy Clerk

TO: _____

TO: _____

TO: _____

TO: _____

CIVIL LAWSUIT NOTICE

Superior Court of California, County of Santa Clara
191 N. First St., San Jose, CA 95113

CASE NUMBER: _____

PLEASE READ THIS ENTIRE FORM

PLAINTIFF (the person suing): Within 60 days after filing the lawsuit, you must serve each Defendant with the *Complaint*, *Summons*, an *Alternative Dispute Resolution (ADR) Information Sheet*, and a copy of this *Civil Lawsuit Notice*, and you must file written proof of such service.

DEFENDANT (The person sued): You must do each of the following to protect your rights:

1. You must file a **written response** to the *Complaint*, using the proper legal form or format, in the Clerk's Office of the Court, within **30 days** of the date you were served with the *Summons* and *Complaint*;
2. You must serve by mail a copy of your written response on the Plaintiff's attorney or on the Plaintiff if Plaintiff has no attorney (to "serve by mail" means to have an adult other than yourself mail a copy); and
3. You must attend the first Case Management Conference.

**Warning: If you, as the Defendant, do not follow these instructions,
you may automatically lose this case.**

RULES AND FORMS: You must follow the California Rules of Court and the Superior Court of California, County of Santa Clara Local Civil Rules and use proper forms. You can obtain legal information, view the rules and receive forms, free of charge, from the Self-Help Center at 99 Notre Dame Avenue, San Jose (408-882-2900 x-2926), www.scselfservice.org (Select "Civil") or from:

- State Rules and Judicial Council Forms: www.courtinfo.ca.gov/forms and www.courtinfo.ca.gov/rules
- Local Rules and Forms: <http://www.sccsuperiorcourt.org/civil/rule1toc.htm>

CASE MANAGEMENT CONFERENCE (CMC): You must meet with the other parties and discuss the case, in person or by telephone, at least 30 calendar days before the CMC. You must also fill out, file and serve a *Case Management Statement* (Judicial Council form CM-110) at least 15 calendar days before the CMC.

You or your attorney must appear at the CMC. You may ask to appear by telephone – see Local Civil Rule 8.

Your Case Management Judge is: _____ Department: _____

The 1st CMC is scheduled for: (Completed by Clerk of Court)

Date: _____ Time: _____ in Department: _____

The next CMC is scheduled for: (Completed by party if the 1st CMC was continued or has passed)

Date: _____ Time: _____ in Department: _____

ALTERNATIVE DISPUTE RESOLUTION (ADR): If all parties have appeared and filed a completed *ADR Stipulation Form* (local form CV-5008) at least 15 days before the CMC, the Court will cancel the CMC and mail notice of an ADR Status Conference. Visit the Court's website at www.sccsuperiorcourt.org/civil/ADR/ or call the ADR Administrator (408-882-2100 x-2530) for a list of ADR providers and their qualifications, services, and fees.

WARNING: Sanctions may be imposed if you do not follow the California Rules of Court or the Local Rules of Court.

ATTORNEY OR PARTY WITHOUT AN ATTORNEY (NAME AND ADDRESS)	TELEPHONE NUMBER:	FOR COURT USE ONLY
ATTORNEY FOR <i>(Name)</i> :		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PLAINTIFF: DEFENDANT:		
JUDGES ADR PROGRAM STIPULATION AND ORDER FORM		CASE NUMBER:

The parties and their attorneys stipulate that the claims in this action be submitted to the Judges ADR Program as a

- Mediation
- Settlement Conference.

It is further stipulated that the matter be submitted to the following Judge(s), in the following order:

- 1. The Hon. _____, Judge, Superior Court of California, County of Santa Clara; or
- 2. The Hon. _____, Judge, Superior Court of California, County of Santa Clara; or
- 3. A Judge of the Superior Court of California, County of Santa Clara assigned by the Civil Supervising Judge.

We estimate the trial will take _____ days.

Parties and counsel have read and agree to be bound by the Rules of the Judges ADR Program, and the Rules Court of the Superior Court of California, County of Santa Clara.

Date: _____

(Attorney for Plaintiff, or Self-Represented Plaintiff)

(Signature)

(Attorney for Defendant or Self-Represented Defendant)

(Signature)

(Attach Additional Signature Pages if Necessary)

ORDER ON REVERSE SIDE

ORDER:	CASE NUMBER:
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Application for Judges ADR is:

- Approved
- Denied

This case is submitted for

- Mediation
- Settlement Conference

to Judge _____, Department _____

Parties and/or counsel shall contact the ADR Judge within 10 calendar days for scheduling of the hearing.

Mediation/Settlement Status Review is set for _____, 20____, at _____ A.M./P.M. in Department _____.

The Case Management Conference set for _____, 20____, at _____ A.M./P.M. in Department _____ remains set is vacated.

IT IS SO ORDERED.

Date: _____

Judicial Officer

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA**

SCHEDULE OF REASONABLE ATTORNEY FEES

Whenever the obligation sued upon provides for the recovery of a reasonable attorney fee, the fee in each default case shall be fixed pursuant to this schedule. Where the principal amount of the judgment is:

FROM	TO	REASONABLE ATTORNEY'S FEE
\$ 0	\$ 500	\$ 150.00
501	2,500	150.00 plus 25% of amount over \$ 500
2,501	5,000	650.00 plus 15% of amount over 2,500
5,001	10,000	1,100.00 plus 6% of amount over 5,000
10,001	50,000	1,400.00 plus 3% of amount over 10,000
50,001	100,000	2,600.00 plus 2% of amount over 50,000
	over 100,000	3,600.00 plus 1% of amount over 100,000

If, after service of the summons and complaint, a voluntary payment is made toward the principal, the reasonable attorney fee shall be calculated based upon the principal amount of the judgment that would have been awarded if the payment had not been made.

In unlawful detainer actions, when the obligation sued upon provides for the recovery of attorney's fees, the attorney's fees in default cases and in cases where judgment is rendered pursuant to Section 437c of the Code of Civil Procedure, shall be a fee equal to the sum of \$375.00 or a fee set pursuant to the foregoing schedule, whichever is greater.

A claim for a fee in excess of the amount provided for by the foregoing schedule must be made by application to the Court for extraordinary fees and supported by the declaration of counsel. In granting or withholding such fees, the Court will consider the following factors: (1) the time and labor required, (2) the novelty and difficulty of the questions involved, (3) the skill required to properly conduct the case, (4) whether the acceptance of employment in the particular case caused loss of other employment, (5) whether the acceptance of employment in the particular case precluded counsel's appearance on behalf of others in cases arising out of the same transaction, (6) the customary charges of the bar for similar services, (7) the amount involved in the controversy, and (8) the contingency or certainty of collecting the award.

CIVIL LAWSUIT NOTICE – RULE 3.740 COLLECTIONS CASE

Superior Court of California, County of Santa Clara
191 N. First Street, San Jose, CA 95113

CASE NUMBER: _____

PLEASE READ THIS ENTIRE FORM

PLAINTIFF (the person suing): Within 180 days after filing the lawsuit, you must serve each defendant with the *Complaint*, *Summons*, and a copy of this *Civil Lawsuit Notice –Rule 3.740 Collections Cases*, and you must file written proof of such service.

DEFENDANT (The person being sued): **You must do each of the following to protect your rights:**

1. You must file a **written response** to the *Complaint*, using the proper legal form or format, in the Clerk's Office of the Court, within **30 days** of the date you were served with the *Summons* and *Complaint*;
2. You must send a copy of your written response on the Plaintiff's attorney (to "serve by mail" means to have an adult other than yourself mail a copy to the Plaintiff's attorney); and
3. You must come to Court when you are notified of a Court date.

**Warning: If you, as the Defendant, do not follow these instructions,
you may automatically lose this case.**

Your **CASE MANAGEMENT JUDGE** is: _____ in **DEPT**: _____

Your Case Management Judge will hear any motions filed in your case before trial. A motion is a written request, filed with the Court, asking the Court to make decisions about your case.

RULES AND FORMS: You must follow the California Rules of Court (CRC) and the Superior Court of California, County of Santa Clara Local Civil Rules and use proper forms. You can get legal information, view the rules and get forms, free of charge, from the **Self-Help Center** at 99 Notre Dame Avenue, San Jose (408-882-2900 x-2926), or from:

- State Rules and Judicial Council Forms: www.courtinfo.ca.gov/forms and www.courtinfo.ca.gov/rules
- Local Rules and Forms: www.sccsuperiorcourt.org/civil/rule1toc.htm

OTHER HELPFUL LEGAL RESOURCES:

- Court's Self-Help website: Select "Civil" www.scselfservice.org
- Lawyer Referral and Modest Means Panel: (408) 971-6822 www.sccba.com
- California Codes ("The Law"): Select the code & click "Search" www.leginfo.ca.gov/calaw.html
- Pro Bono Project Lawyers in the Library: San Jose, (408) 808-2355 www.probonoproject.org
- Pro Bono Project Lawyers in the Library: Mountain View, (408) 998-5298 x-311 www.probonoproject.org
- State Referral and Self-Help Resources website www.lawhelpcalifornia.org
- Santa Clara County Law Library: 360 N. First St., San Jose, (408) 299-3567 www.sccll.org
- Do-It-Yourself legal books www.santaclaracountylib.org
- Consumer Law - Alexander Law Center (Santa Clara University): www.silibrary.org (408) 288-7030
- Department of Consumer Affairs www.dca.ca.gov
- Office of Human Relations (Mediation) www.sccdrps.org

WARNING: Sanctions may be imposed if you do not follow the California Rules of Court or the Local Rules of Court.



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA**

NOTICE TO SMALL CLAIMS LITIGANTS

The Superior Court of California, County of Santa Clara – Small Claims Division encourages alternative dispute resolution (mediation) to resolve cases where the parties agree to participate voluntarily.

What is mediation?

Mediation is a voluntary process for resolving disputes with the help of a neutral, third party, called a mediator. Mediation allows you and the other party to reach a mutually acceptable settlement of your cases instead of having to appear in court to have a judge impose a decision on you. The mediator will not provide legal advice, evaluate your case, or make any decision or judgment for you. However, the mediator will help you and the other party focus on reaching an agreement that is acceptable to all parties involved in the dispute. The mediator will draft the agreement in writing in your words.

When can I go to mediation?

You may participate in mediation before your court appearance date regardless of where the case was filed. If your case was filed at the Los Gatos Courthouse, you can also participate in mediation on the date scheduled for trial. If you choose mediation, you are encouraged to contact the following agencies as soon as possible to schedule the mediation or to ask any questions that you may have:

SMALL CLAIMS DISPUTES

Regarding any subject matter & filed in Santa Clara County, call:
SANTA CLARA COUNTY DISPUTE RESOLUTION PROGRAM SERVICES
at (408) 792-2321 or visit www.sccdrps.org/small_claims.htm

HOUSING & NEIGHBORHOOD DISPUTES

Before filing in Small Claims Court, call
SANTA CLARA COUNTY DISPUTE RESOLUTION PROGRAM SERVICES
Community Disputes at (408) 792-2314 or visit www.sccdrps.org

OR

PROJECT SENTINEL
Gilroy, Palo Alto, Mountain View, and Sunnyvale at (408) 720-9888

The staff at the offices listed above will discuss the mediation process with you. They can provide a wide variety of conflict resolution services. **YOU WILL NOT BE CHARGED FOR THESE SERVICES.**

How does mediation work on the day of the trial?

Mediation services for Small Claims litigants are available on site at the Los Gatos Courthouse for cases set for trial on Wednesday and Thursday of each week. Both the plaintiff and the defendant must agree to participate in the process. A mediator from the program will meet with you and the other party in your case. You do not need to make an appointment ahead of time to participate in mediation on the day of your hearing; however you may wish to call the dispute resolution program office ahead of time to try to resolve your Small Claims case before the hearing date.

If your case is resolved through mediation, you and the other party will sign a document that outlines what you both have agreed to do. If you are not able to resolve your case through mediation, you will go back into the courtroom and a judicial officer will hear your case. Mediation will not delay your opportunity for a court hearing. The Court, of course, hopes that the mediation will resolve the dispute and eliminate the need for court action.

What are the benefits of mediation?

One of the advantages of mediation, compared with a trial, is that it allows the parties more time to present their issues and it allows options and resolutions to be discussed candidly and privately. As a result, the parties to a dispute can be in more control of the resolution than when a judge is involved. Mediation proceedings are confidential and conducted in private. Mediations can be conveniently scheduled at any time during the day, some early evenings, and on limited weekends.

<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA</p> <p>STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:</p>	<p><i>FOR COURT USE ONLY</i></p>
<p>PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:</p>	
<p>REQUEST FOR DISMISSAL (SMALL CLAIMS)</p>	<p>CASE NUMBER:</p>

If you settle the case before trial, you must file a dismissal with the clerk. **Please file your dismissal at least 3 (three) court days prior to hearing date.**

TO THE CLERK: Please **dismiss** the Claim of **Plaintiff/Petitioner** as follows: (check applicable box)

- 1. With prejudice (may not file again)
- 2. Without prejudice (may file again)
- 3. Partial dismissal (for multiple Defendants/Respondents)
Dismiss only as to _____
 - a) With prejudice (may not file again)
 - b) Without prejudice (may file again)

Date:

_____ (TYPE OR PRINT NAME) ▶ _____ (SIGNATURE OF PLAINTIFF/PETITIONER)

If a claim of Defendant/Respondent has been filed, the Defendant/Respondent may dismiss their action as follows:

TO THE CLERK: Please **dismiss** the Claim of **Defendant/Respondent** as follows: (check applicable box)

- 1. With prejudice (may not file again)
- 2. Without prejudice (may file again)
- 3. Partial dismissal (for multiple Plaintiffs/Petitioners)
Dismiss only as to _____
 - a) With prejudice (may not file again)
 - b) Without prejudice (may file again)

Date:

_____ (TYPE OR PRINT NAME) ▶ _____ (SIGNATURE OF PLAINTIFF/PETITIONER)

NOTE: In some facilities, if there is a Claim of Plaintiff/Petitioner AND a Claim of Defendant, and only one party wants to file a dismissal prior to the hearing, the party who wants to file the dismissal should file it in the Court when appearing on the other claim in the case. Check with the clerk at the Courthouse where your claim is filed for clarification.