Superior Court of California
County of Solano

Rule 3 – Civil Cases

3.1 APPLICATION OF RULES

Rule 3 shall apply to all civil cases, limited and unlimited, filed in the Superior Court of California, County of Solano. Unless otherwise specified elsewhere in the local rules, Rule 3 shall not apply to matters filed under the California Family Code (including adoptions and petitions to terminate parental rights), small claims cases, unlawful detainer cases, probate cases, mental health cases, juvenile cases, or extraordinary writs.

Any reference in these rules to "attorney" or "counsel" shall apply equally to any person representing himself or herself in a case subject to these rules.

(Rule 3.1 amended effective July 1, 2011; adopted effective January 1, 1998; previously amended effective October 1, 2002, January 1, 2009, and January 1, 2010.)

3.2 DIRECT CALENDARING OF CIVIL CASES; ASSIGNMENTS AND REASSIGNMENTS

When a civil case is filed, or received and filed as a transfer from another county, the Clerk of the Court shall assign the case to one of the judges in the Civil Division of the court. The assignment to a judge shall be deemed to be for all purposes. The method of selection of the judge to be assigned to a case shall be subject to the approval of the Supervising Judge of the Civil Division and shall be designed to equally distribute the workload among the judges of the Civil Division and best serve the court.

When a judicial officer is disqualified in a civil matter, either on a peremptory challenge, for cause, or by the judicial officer's own determination, the matter shall be reassigned per Rule 1.4. A matter reassigned to another judicial officer for any other reason shall likewise be for all purposes, unless otherwise ordered by the Presiding Judge or Supervising Judge of the Civil Division.

This rule does not apply to limited jurisdiction collection actions that qualify under California Rules of Court, rule 3.740, except that a judge may be assigned in those cases upon any of the following events: (1) The plaintiff's failure to file proof of service or obtain order for publication of summons within 180 days of the filing of the complaint; (2) the plaintiff's failure to obtain default judgment within 360 days of the filing of the complaint, if no responsive pleading has been filed; or (3) upon the filing of a responsive pleading by a defendant.

(Rule 3.2 amended effective January 1, 2012; adopted effective January 1, 1998; previously amended effective January 1, 2009, and July 1, 2011.)

3.3 NOTIFICATION OF PLAINTIFF OF ASSIGNMENT TO ONE JUDGE FOR ALL PURPOSES

Upon the filing of the complaint, the Clerk of the Court shall notify plaintiff, plaintiff's attorney, or an agent of the plaintiff of the assignment to one judge for all purposes; and, if in person, the person receiving notice shall sign an acknowledgement of the notification on a form to be prepared by the Clerk of the Court indicating thereon that the notification is received on behalf of plaintiff. The clerk shall file the acknowledgement of the notification in the court file with an attached proof of personal service. If the notification of the plaintiff, his attorney or agent is not in person and acknowledged in writing, then the clerk shall mail a notice to plaintiff at his or her address of record by first class mail and file a proof of mailing in the court file.

Plaintiff shall promptly notify all parties in the case at the time the assignment is made and notify all parties who later enter the case and file with the court a proof of service of such notification of the assignment to a judge for all purposes within five (5) days after the notice is served.

(Rule 3.3 amended effective July 1, 2010; adopted effective January 1, 1998.)

3.4 DESIGNATION OF COURT [Repealed]

(Rule 3.4 repealed effective July 1, 2011; adopted effective January 1, 1998; amended effective October 1, 2002, and July 1, 2010.)

3.5 CALENDARING OF HEARINGS

With the exception of ex parte matters, all hearings shall be scheduled through the Civil Division calendar clerk.

(Rule 3.5 adopted effective July 1, 2011.)

3.6 DEPOSIT OF JURY FEES

Advance jury fees in the amount of one hundred and fifty dollars ($150.00) shall be deposited with the Clerk of the Court in compliance with Code of Civil Procedure section 631. Jury fees deposited after June 27, 2012, are nonrefundable.

(Rule 3.6 amended effective July 1, 2013; adopted as Rule 3.10 effective January 1, 1998; previously amended effective October 1, 2002; previously amended and renumbered effective January 1, 2010; amended effective July 1, 2011, and January 1, 2013.)

3.7 FORFEITURE OF JURY FEES PER CCP SECTION 631.3

For purposes of Rule 3.6 and per Code of Civil Procedure section 631.3, it is deemed necessary for the court to have at least five court days notice of waiver of jury, continuance or settlement of the case in order to notify the jurors that the trial will not proceed at the time set. Failure to notify the court in writing of a waiver of jury, continuance of a jury trial date, or settlement of a case set for trial at least five court days prior to the assigned date of trial shall result in the forfeiture of the jury fee deposit.

Because jury fees deposited after June 27, 2012, are nonrefundable, this local rule shall apply only to cases where jury fees were deposited on or before June 27, 2012.

(Rule 3.7 amended effective July 1, 2013; adopted as Rule 3.11 effective January 1, 1998; amended and renumbered effective January 1, 2010; amended effective July 1, 2011, and January 1, 2013.)

3.8 NOTIFICATION TO COURT OF DROPS, CONTINUANCES AND STIPULATIONS

When a matter is to be dropped, continued or stipulated to, counsel for the moving party shall promptly notify the department of the court to which the matter is assigned. No matters will be continued after announcement of a tentative ruling thereon, except by order of the court for good cause.

No matter shall be continued unless the department of the court to which the matter is assigned approves of the continuance date. Any continuance requested within forty-eight (48) hours of the hearing date shall be directed to the department in which the hearing is scheduled for approval.

In the absence of a showing of good cause by counsel, no matter shall be continued on the law and motion calendar pursuant to stipulation of counsel, or otherwise, more than twice.

(Rule 3.8 amended and renumbered effective January 1, 2010; adopted as Rule 3.13 effective January 1, 1998; former Rule 3.8, which concerned the court case number, repealed effective January 1, 2010.)

3.9 TENTATIVE RULINGS

a. AVAILABILITY OF TENTATIVE RULINGS

Per California Rules of Court, rule 3.1308, the court has adopted a tentative rulings procedure for civil law and motion. A tentative ruling on a civil matter will be available after 2:00 p.m. on the court day immediately preceding the scheduled hearing on that matter by signing onto the court's web site at www.solano.courts.ca.gov and selecting "Tentative Rulings," or by telephoning (707) 207-7331. Tentative rulings will not be posted for unlawful detainer matters.

(Subd (a) amended effective July 1, 2015; adopted as Rule 3.14 effective January 1, 1998; previously amended effective October 1, 2002; amended and relettered effective January 1, 2010; previously amended effective July 1, 2011, January 1, 2012, and July 1, 2013.)

b. NOTIFICATION OF INTENT TO APPEAR AT HEARING

The tentative ruling shall become the ruling of the court unless a party desiring to be heard notifies the court and all other parties of the party's intention to appear.

The party desiring to be heard shall advise the court of his or her intention to appear by doing either of the following no later than 4:30 p.m. on the court day preceding the hearing:

(1) Submitting a *Request for Oral Argument* through the court's website; or,

(2) Telephoning the department hearing the matter at the telephone number indicated in the tentative ruling.

In either case, the party giving notice of his or her intention to appear shall advise the court that the party has notified all other parties of the party's intention to appear and argue.

(Subd (b) amended effective July 1, 2017; adopted as Rule 3.15 effective January 1, 1998; relettered as subd (b) effective January 1, 2010; previously amended effective July 1, 2010 and January 1, 2016.)

c. **ARGUMENT ON TENTATIVE RULING**

Where an appearance has been requested or invited by the court, limited argument will be entertained, not to exceed 20 minutes per case. Appearances may be made telephonically, in accordance with California Rules of Court, rule 3.670 and Solano County Local Rules, rule 4.12(h), unless the court orders a personal appearance.

(Subd (c) amended effective July 1, 2011; adopted as Rule 3.16 effective January 1, 1998; previously amended effective January 1, 2009; relettered effective January 1, 2010.)

d. **NOTICE OF TENTATIVE RULINGS SYSTEM TO BE INCLUDED IN NOTICE OF MOTION**

All motions shall include notice of this local rule in substantially the following form: "Notice: The Superior Court in and for Solano County has adopted a tentative rulings system that is described in the court's local Rule 3.9. Failure to comply with Rule 3.9 may seriously affect parties' rights in this case."

(Subd. (d) adopted effective January 1, 2012.)

(Rule 3.9 amended effective July 1, 2017; adopted as Rule 3.14 effective January 1, 1998; previously amended effective October 1, 2002; amended and renumbered as Rule 3.9 effective January 1, 2010; amended effective July 1, 2010, July 1, 2011, January 1, 2012, July 1, 2013, July 1, 2015, and January 1, 2016.)

3.10 TELEPHONIC APPEARANCES

Litigants or counsel wishing to appear by telephone per California Rules of Court, rule 3.670 shall refer to the Court's website at www.solano.courts.ca.gov and follow the procedures as set forth on the website. Litigants or counsel wishing to appear telephonically shall be responsible for all fees and costs charged by the service provider.

(Rule 3.10 amended effective July 1, 2017; adopted effective July 1, 2014.)

3.11 APPEARANCES BY PERSONS IN CUSTODY

The court will not transfer or transport an inmate to court in connection with a civil complaint for damages, including a small claims action. Pursuant to Code of Civil Procedure section 116.540(f), a party incarcerated in a county jail, a Department of Corrections and Rehabilitation facility, or a Division of Juvenile Facilities facility is not required to personally appear, but may submit written declarations to serve as evidence supporting their claim. Such declarations must be filed at least five (5) court days in advance. An inmate wishing to make a telephonic appearance must make the request in writing at least five (5) court days in advance. If no declarations have been received by the court and no telephonic appearance has been scheduled, dismissal of the action or entry of a default judgment may be entered.

(new Rule 3.11 adopted July 1, 2020.)

3.12 FAILURE TO NOTIFY COURT WHEN ATTORNEY CANNOT BE PRESENT SHALL BE DEEMED SUFFICIENT CAUSE TO ORDER OFF CALENDAR

If an attorney cannot be present on time at the call of the matter on calendar, he or she must, prior to the call, inform the courtroom clerk of that department of the reason for and extent of such delay. Failure to appear or furnish such information shall be deemed sufficient cause for ordering the matter off calendar or for proceeding to hear the matter in the absence of counsel, as the court, in its discretion, may determine.

(Rule 3.12 renumbered July 1, 2020; renumbered as 3.11 effective January 1, 2010; adopted as Rule 3.19 effective January 1, 1998.)

3.13 OFF CALENDAR

A law and motion matter that has gone off calendar may be restored thereto only upon notice, excepting in an extraordinary situation, to be determined by the court in its discretion.

(Rule 3.13 renumbered effective July 1, 2020; Rule 3.12 renumbered effective January 1, 2010; adopted as Rule 3.20 effective January 1, 1998; former Rule 3.12, which concerned the California Rules of Court, repealed effective January 1, 2010.)

3.14 EX PARTE MATTERS

Ex parte matters will be heard upon appointment scheduled directly with the designated department. The date and time of the ex parte hearing must be confirmed with the designated department prior to the moving party giving notice of the hearing. For purposes of this rule, the designated department is the department already assigned to the case, or, if the case has not yet been assigned to a department or judicial officer, the designated department is the department assigned by the Supervising Judge.

Unless otherwise expressly authorized by law, a party requesting ex parte relief related to law and motion matters shall file the underlying motion prior to or contemporaneously with filing of the ex parte application. The ex parte application shall comply with California Rules of Court 3.1200-3.1207.

A request to schedule an ex parte hearing may be summarily denied without hearing when the request fails to meet the criteria set forth in California Rules of Court, rules 3.1200-3.1207. Ex parte applications submitted to seek scheduling relief from court setting guides or caps, but which do not otherwise seek relief from the Code of Civil Procedure or California Rules of Court, may be summarily granted without a hearing.

An ex parte hearing shall be conducted only following the filing of the ex parte application and supporting paperwork, any underlying related motion, and proof of satisfaction of any filing fees. Prior to the commencement of the hearing, the moving party shall file a declaration under penalty of perjury confirming that notice was provided to the opposing side, including the date, time, manner and name of any party so informed and proof of service of any applicable papers.

(Rule 3.14 renumbered effective July 1, 2020; Rule 3.13 amended effective July 1, 2018; adopted as Rule 3.21 effective January 1, 1998;previously amended effective July 1, 2005; previously amended effective July 1, 2009;renumbered as Rule 3.13 effective January 1, 2010; amended effective July 1, 2010;amended effective July 1, 2011; amended effective July 1, 2013.)

3.15 INFORMAL DISCOVERY CONFERENCES (CCP § 2016.080)

Requests for informal discovery conferences made per Code of Civil Procedure section 2016.080 shall be filed with the clerk's office.

A request for an informal discovery conference shall include a declaration with facts showing the requesting party made a reasonable and good faith attempt at an informal resolution of each issue presented. A request for an informal discovery conference shall also include a statement enumerating the specific discovery requests at issue, identified by type, set, and number (e.g. Plaintiff's Special Interrogatories, Set Two, Numbers 7, 9, 13 and 14); a copy of the discovery propounded that is at issue (e.g. a copy of Plaintiff's Special Interrogatories, Set Two); a copy of any response received to the discovery at issue (e.g. a copy of Defendant's Response to Plaintiff's Special Interrogatories, Set Two); and a brief explanation as to the nature of the dispute for each discovery request at issue.

Each attorney appearing at the informal discovery conference shall have authority to enter into binding agreements concerning discovery on behalf of their client.

(Rule 3.15 renumbered effective July 1, 2020; Rule 3.14 adopted effective July 1, 2018; former Rule 3.14 repealed effective July 1,2011.).)

3.16 MOTIONS TO CONSOLIDATE

Motions to consolidate cases shall be heard in the department to which the case with the lowest file number is assigned.

In the event that cases are consolidated and unless otherwise ordered by the judicial officer hearing the consolidation motion, the pleadings filed thereafter shall be filed in the case file with the lowest file number and the consolidated case shall be assigned for all purposes to the judge to which the case with the lowest file number is assigned.

(Rule 3.16 renumbered effective July 1, 2020; Rule 3.15 amended effective July 1, 2010; adopted as Rule 3.26 effective January 1, 1998;renumbered as Rule 3.15 effective January 1, 2010.)

3.17 MOTIONS PAPERS

Motions papers must be received within three court days of reserving a law and motion date. If papers are not received within three court days, the date reserved will be canceled.

(Rule 3.17 renumbered effective July 1, 2020; Rule 3.16 amended effective July 1, 2010; adopted as Rule 3.27 effective October 1, 2002;renumbered as Rule 3.16 effective January 1, 2010.)

3.18 MANDATE ACTIONS ARISING UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

a. **WHERE FILED**

Mandamus actions challenging an agency decision under the California Environmental Quality Act (Public Resources Code §21000 et seq.) ("CEQA") shall be filed in the office of the Civil Clerk of the Court. Each action shall be accompanied by an initial filing form designating the action as Environmental Law – CEQA (Public Resources Code § 21167.1), and shall be assigned to the designated CEQA department for all purposes.

(Subd (a) amended effective July 1, 2010; adopted effective July 1, 2005.)

b. **MEDIATION**

In accordance with Government Code section 66031, within five (5) days after the deadline for respondent or defendant to file a response to the action, plaintiff or petitioner shall prepare and lodge with the designated CEQA department a notice form for the court's signature inviting mediation. The court shall then mail the notice of invitation to the parties.

(Subd (b) amended and relettered effective July 1, 2010; adopted as subd (c) effective July 1, 2005; prior subd (b), concerning ordering the administrative record, repealed effective July 1, 2010.)

c. PREPARING THE ADMINISTRATIVE RECORD

(1) Preparation by the Public Agency

(a) Within twenty (20) calendar days after receipt of a request to prepare the administrative record, the public agency responsible for such preparation shall personally serve on petitioners a preliminary notification of the estimated cost of preparation, setting forth the agency's normal costs per page, other reasonable costs, if any, the agency anticipates, and the likely range of pages. This notice shall also state, to the extent then known, the location(s) of the documents anticipated to be incorporated into the administrative record, shall designate the contact person(s) responsible for identifying the agency personnel or other person(s) having custody of those documents, and shall provide a listing of dates and times when those documents will be made available to petitioners or any party for inspection during normal business hours as the record is being prepared. This notice shall be supplemented by the agency from time to time as additional documents are located or determined appropriate to be included in the record.

(Subd (a) relettered effective January 1, 2010; adopted as Subd (d)(1) effective July 1, 2005.)

(b) Upon receipt of this preliminary notification, petitioners may elect to prepare the record themselves provided they notify the agency within five (5) calendar days of such receipt. If petitioners so elect, then within forty (40) calendar days of service of the initial notice to prepare the administrative record, petitioners shall prepare and serve on all parties a detailed index listing the documents proposed by petitioners to constitute the record. Within seven (7) calendar days of this notification, the agency and/or other parties shall prepare and serve the petitioners and all parties with a document notifying them of any document(s) or item(s) that such parties

contend should be added to, or deleted from, the record. The agency shall promptly notify petitioners of any required photocopying procedures and/or conditions with which petitioners must comply in their preparation of the record.

(Subd (b) relettered effective January 1, 2010; adopted as Subd (d)(2) effective July 1, 2005.)

(c) If petitioners do not so elect, then within forty (40) calendar days after service of the request to prepare the administrative record, the agency shall prepare and serve on the parties a detailed index listing the documents proposed by the agency to constitute the record and provide a supplemental estimated cost of preparation. Within seven (7) calendar days of receipt of this notification, petitioners and/or any other parties shall prepare and serve the agency and all parties with a document notifying the agency of any document(s) or item(s) that such parties contend should be added to, or deleted from, the record.

(Subd (c) relettered effective January 1, 2010; adopted as Subd (d)(3) effective July 1, 2005.)

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

(2) **Preparation by Petitioners**

(a) Within twenty (20) calendar days after receipt of petitioners' notice of election to prepare the record themselves, the public agency responsible for certification of the record shall personally serve on petitioners a preliminary notification designating, to the extent then known, the location(s) of the documents anticipated to be incorporated into the administrative record, the contact person(s) responsible for identifying the agency personnel or other person(s) having custody of those documents, and the dates and times when those documents will be made available to petitioners or any party for their inspection and copying. This notice shall also state any required photocopying procedures and/or conditions with which petitioners must comply in their preparation of the record. This notice shall be supplemented by the agency as additional documents are located or determined appropriate to be included in the record.

(Subd (a) adopted effective July 1, 2005.)

(b) Within forty (40) calendar days after service of petitioners' notice of election, petitioners shall prepare and serve on all parties a detailed index listing the documents proposed by petitioners to constitute the record. Within seven (7) calendar days of this notification, the agency and/or other parties shall prepare and serve the petitioners and all parties with a document notifying them of any document(s) or item(s) that such parties contend should be added to, or deleted from, the record.

(Subd (b) adopted effective July 1, 2005.)

(Subd (2) renumbered effective January 1, 2010; adopted as Subd (d)(4) effective July 1, 2005.)

(Subd (c) relettered effective July 1, 2010; adopted as subd (d) effective July 1, 2005; amended effective January 1, 2010.)

d. **FORMAT OF ADMINISTRATIVE RECORD**

The format of the administrative record shall be governed by California Rules of Court, rules 3.1365 and either 3.1367 or 3.1368, as appropriate.

(Subd (d) amended and relettered effective July 1, 2010; adopted as subd (e) effective July 1, 2005.)

e. **LODGING THE ADMINISTRATIVE RECORD IN ELECTRONIC FORMAT**

Any party lodging the administrative record in an electronic format as permitted by California Rules of Court, rule 3.1365 et seq. shall simultaneously file a declaration with the court affirming under penalty of perjury that the medium in which the record is contained and lodged with the court is free of computer viruses or other malware.

(Subd (e) amended and relettered effective July 1, 2010; adopted as subd (f) effective July 1, 2005.)

f. **DISPUTES REGARDING THE CONTENTS OF THE ADMINISTRATIVE RECORD**

Once the record has been filed, any disputes about its accuracy or scope should be resolved by appropriate noticed motion. For example, if the agency has prepared the record, petitioners may contend that it omits important documents or that it contains inappropriate documents; if the petitioners have prepared the record, the agency may have similar contentions. A motion to supplement the certified record with additional documents and/or to exclude certain documents from the record may be noticed by any party and should normally be filed concurrently with the filing of petitioners' opening memorandum of points and authorities in support of the writ. Opposition and reply memoranda on the motion should normally be filed with the opposition and memoranda, respectively, regarding the writ. The motion should normally be calendared for hearing concurrently with the hearing on the writ.

(Subd (f) relettered effective July 1, 2010; adopted as subd (g) effective July 1, 2005.)

g. **BRIEFING SCHEDULE AND LENGTH OF MEMORANDA**

Unless otherwise ordered by the court, the following briefing schedule shall be followed in all cases:

(1) Petitioners shall file directly in the designated CEQA department and serve personally, by overnight mail or, if previously agreed, by fax or electronic service, an opening memorandum of points and authorities in support of the petition within thirty (30) days from the date the administrative record is served.

(2) Respondent and Real Party in Interest shall file directly in the designated CEQA department and serve personally, by overnight mail, or if previously agreed, by fax or electronic service, opposition points and authorities, if any, within thirty (30) days following service of petitioners' memoranda of points and authorities.

(3) Petitioners shall have twenty (20) days from service of the opposition's points and authorities to file directly in the designated CEQA department and serve personally, by overnight mail, or if previously agreed, by fax or electronic service, a reply memorandum of points and authorities.

(4) The parties may agree upon a shorter time frame for briefing by written stipulation filed with the court.

(Subd (g) amended and relettered effective July 1, 2010; adopted as subd (i) effective July 1, 2005.)

h. **TRIAL NOTEBOOK**

Petitioner shall prepare a trial notebook which shall be filed with the designated CEQA Department fourteen (14) days before the date of the hearing. The trial notebook shall consist of the petition, the answer(s), the briefs, any motions set to be heard at trial, the statement of issues, and any other document(s) agreed upon by the parties or ordered by the court.

(Subd (h) amended and relettered effective July 1, 2010; adopted as subd (j) effective July 1, 2005; previous subd (h), concerning notice of hearing, repealed effective July 1, 2010.)

(Rule 3.18 renumbered effective July 1, 2020; Rule 3.17 amended effective July 1, 2010; adopted as Rule 3.28 effective July 1, 2005; amended and renumbered as Rule 3.17 effective January 1, 2010.)

3.19 FILING OF NOTICES OF UNAVAILABILITY

The court shall not accept for filing a "Notice of Unavailability of Counsel" or other document or pleading whose sole purpose is to advise the court and/or other parties of an attorney's or party's unavailability. (*Carl v. Superior Court of Orange County* (2007) 157 Cal.App.4th 73.)

(Rule 3.19 renumbered effective July 1, 2020; Rule 3.18 renumbered effective January 1, 2010; adopted as Rule 3.29 effective January 1, 2009.)