CHAPTER 6
CIVIL DEPARTMENT

6.01 ORGANIZATION AND DISTRIBUTION OF BUSINESS

A. The civil division shall be comprised of the supervising civil judge and a minimum of two (2) other judges as assigned by the presiding judge. The presiding judge may assign additional judges as needed.

B. The civil division operates on a direct calendar system. A Notice of All Purpose Case Assignment and Setting of Case Management Conference will be filed and transmitted to the initiating party. The notice and Alternative Dispute Resolution (ADR) information packet must be served together with the Summons and Complaint pursuant to California Rule of Court 3.722 and this chapter of these Local Rules of Court.

(Adopted October 1, 1998; Amended July 1, 2017)

6.02 JURISDICTION AND LOCATION

A. Jurisdiction. The civil division shall have jurisdiction over all civil cases, regardless of jurisdictional amount.

B. Location. The civil division shall be located in the Monterey Division Courthouse at 1200 Aguajito Road, Monterey, California. All civil cases shall be processed and tried by the civil division except as otherwise authorized by these rules, specially assigned, or as directed by the presiding judge.

(Adopted October 1, 1998; Amended January 1, 2006; Subd.(c) added and rule amended January 1, 2009; Amended January 1, 2011; Amended July 1, 2017)

6.03 REPEALED

(Adopted October 1, 1998; Calendars - Repealed January 1, 2011)

6.04 REPEALED

(Adopted October 1, 1998; Determination and designation of jurisdictional amounts in controversy - Repealed July 1, 2012)

6.05 CASE AND TRIAL MANAGEMENT RULES - GENERAL

A. Rules 6.05 – 6.11 shall apply to all civil cases except domestic relations, adoption, probate, and unlawful detainer unless otherwise ordered by the court.

B. The setting of all civil cases for trial shall be in accordance with rules 3.713 – 3.735 of the California Rules of Court and these rules.

(Adopted October 1, 1998; Amended January 1, 2003; Amended January 1, 2008; Amended July 1, 2009)

CHAPTER 6

CIVIL DEPARTMENT

6.06 REPEALED.

(Adopted October 1, 1998; Policy statement – Repealed July 1, 2017)

6.07 CASE DISPOSITION

A. The court will differentiate between cases according to their anticipated complexity and length. In the discretion of the court, cases will generally be assigned, under these policies and rules, into one of the following categories:

CATEGORY ONE: Category one cases are defined as cases that are expected to reach disposition in no more than twelve (12) months. Generally, these cases would have an estimated length of trial of two (2) days or less and/or present no complex issues.

CATEGORY TWO: Category two cases are defined as cases that are expected to reach disposition in no more than twelve (12) to eighteen (18) months. Generally, these cases would have an estimated length of trial of four (4) days of less and/or present significant legal issues.

CATEGORY THREE: Category three cases are defined as cases that are expected to reach disposition in eighteen (18) to twenty-four (24) months. Generally, these cases would have an estimated length of trial of over four (4) court days and/or present complex legal or factual issues.

B. The court may in the interest of justice exempt a general civil case from the case disposition time goals under California Rule of Court, rule 3.713, if it finds the case involves exceptional circumstances that will prevent the court and the parties from meeting the goals and deadlines imposed by the program. In making the determination, the court is guided by California Rules of Court, rules 3.715 and 3.400.

If the court exempts the case from the case disposition time goals, the court must establish a case progression plan and monitor the case to ensure timely disposition consistent with the exceptional circumstances, with the goal of disposing of the case within three (3) years.

C. The court recognizes that an early and amicable disposition will minimize costs to the litigants and public. The court will encourage referrals to the court-directed mediation program, early voluntary settlement conferences, and/or other alternative dispute resolution in all cases.

D. Failure to follow these rules, file a mandatory case management statement or trial management report and/or attend a mandatory case management conference may result in sanctions.

(Adopted October 1, 1998; Amended January 1, 2007; Amended January 1, 2008; Subd. (e) repealed, rule re-lettered January 1, 2009; Amended July 1, 2010; Amended (repealed subd. (b) and re-lettered (c)-(g) to (b)-(f)) July 1, 2012; Amended July 1, 2017)

CHAPTER 6

CIVIL DEPARTMENT

6.08 FROM CASE FILING TO CASE MANAGEMENT CONFERENCE

A. On the filing of every complaint, the clerk shall set a date for an initial CASE MANAGEMENT CONFERENCE at least one-hundred-twenty (120) days, but no later than one-hundred-eighty (180) days, from the filing of the complaint.

B. Plaintiff shall serve all parties with notice of the initial case management conference within the timeframe set forth in California Rule of Court, rule 3.722(b).

C. The parties may request that the initial case management conference be vacated or continued by filing a request to vacate or continue initial case management conference and order concurrently with the case management statement. Receipt of a signed copy of the request to vacate or continue initial case management conference and order granting the request is necessary for parties to be excused from the case management conference; if parties do not receive a signed copy of the order granting the request, they must attend the initial case management conference.

(Adopted October 1, 1998; Amended January 1, 2003; Amended July 1, 2004; Amended January 1, 2007; Amended January 1, 2008; Amended January 1, 2010; Subd. (d) repealed, (e) – (h) re-lettered and amended July 1, 2010; Amended (repealed subd. (c) – (d) and (f) – (g), renumbered (e) to (c)) July 1, 2012; (a) Amended July 1, 2016)

6.09 CASE MANAGEMENT CONFERENCES

A. At the case management conference, counsel for each party and each self-represented party must appear personally or telephonically, must be familiar with the case, and must be prepared to discuss all matters contained in the case management statements.

B. If it appears for good cause that the matter will not be ready for trial within three (3) to five (5) months of the case management conference, the court may set additional case management or status conferences as necessary.

C. Failure to file a case management statement, appear at the case management conference, or participate effectively at the case management conference may result in sanctions.

(Adopted October 1, 1998; Amended January 1, 2003; Amended January 1, 2007; Amended July 1, 2010; Amended July 1, 2017)

6.10 MANAGEMENT OF TRIAL

All requests for continuances of trial dates, whether contested or uncontested, must comply with CRC 3.1332.

(Adopted October 1, 1998; Amended January 1, 2003; Amended July 1, 2004; Amended January 1, 2008; Amended July 1, 2010; Amended July 1, 2017)

CHAPTER 6

CIVIL DEPARTMENT

6.11 TRIAL MANAGEMENT ORDERS AND REPORTS

In order to ensure that the case is ready for trial and that there will be no unnecessary delays, the following orders are made:

A. Trial counsel for each of the parties shall meet and confer prior to trial for purposes of reviewing exhibits, potential witnesses, stipulations, exchange of trial motions, and compliance with this order. Failure to meet and confer concerning the matters herein may result in sanctions in accordance with Code of Civil Procedure section 575.2, including but not limited to the exclusion or limitation of evidence, monetary sanctions, dismissal of the case, striking of pleadings or entry of a default judgment.

B. The attorneys shall prepare a trial management report and brief (see appendix A) and file the report as set forth below. Courtesy chambers copies of all trial management reports, briefs and motions in limine shall be submitted on the same day that the document is e-filed.

Category One: Friday prior to trial.

Category Two: Four (4) court days prior to trial, no later than 3:00 p.m.

Category Three: The court may set a trial management conference approximately ten (10) days prior to trial. The attorneys shall meet and confer, prior to the trial management conference, for purposes of preparing the trial management report and brief. The trial management report and brief shall be filed jointly or individually at least three (3) days prior to the conference, otherwise (4) court days prior to trial.

(Adopted October 1, 1998; Amended July 1, 1999; Amended January 1, 2003; Amended and re-titled July 1, 2010; Amended July 1, 2012; Amended July 1, 2016)

6.12 COURT-DIRECTED MEDIATION PROGRAM RULES

A. Eligible Cases. The court shall determine those cases that are suitable for the "Mediation Program" and shall announce the determination orally to the parties at a case management conference. Parties may request court directed mediation by filing a stipulation with the court. The case will be reviewed by the court and if the case is suitable, the parties will receive a "Notice of Referral to Mediation" from the court's Alternative Dispute Resolution (ADR) administrator.

B. Referral to Mediation.

1. Referral Process. If the parties accept the court's determination and agree to mediation, the court's ADR Administrator will refer the case for mediation. Mediators are selected from a list on a rotating basis, unless otherwise ordered by the court. The ADR administrator will select two (2) mediators, one of whom shall be the assigned mediator and other shall be the alternate mediator. If there is a conflict of interest for the assigned mediator, the parties will contact the alternate mediator.

2. Compensation. Mediators shall volunteer their preparation time and the first two (2) hours of mediation. After two (2) hours of mediation, the mediator may either: 1)

continue to volunteer his or her time; or 2) give the parties the option of concluding the mediation or paying the mediator for additional time at an hourly rate of $200. The mediation will continue only if all parties and the mediator agree. After eight (8) hours in one (1) or more mediation sessions, if all parties agree, the mediator may charge his or her hourly rate or such other rate that all parties agree to pay. In special circumstances for complex cases, requiring substantial preparation time, the parties and the mediator may make other arrangements. No party may offer or give the mediator any gift.

3. Payment. All terms and conditions of payment must be clearly communicated to the parties by the mediator. The parties may agree in writing to pay the fee in other than equal portions. The parties shall pay the mediator directly.

4. Mediation Agreement. A MEDIATION AGREEMENT between the assigned mediator and the parties shall have the form set forth in appendix F and shall set forth the terms of the engagement, including, but not limited to, a specific enumeration of the pro bono hours, the parties' option to continue mediation on a specific fee basis after the pro bono hours have been spent, confidentiality, disclosure of conflicts of interest, and the incorporation by reference of the Mediation Program local rules. The "Mediation Agreement" shall be fully signed before the commencement of the mediation session.

C. Timing and Scheduling the Mediation.

1. Parties Duty to Determine Mediator Conflicts of Interest and to Deliver Documents to the Mediator. Within twenty (20) days of receiving the Notice Referral to Mediation, the parties shall confer with the assigned mediator to determine whether conflicts of interest exist. They shall also deliver a complete copy of their case management statements to the mediator.

2. Scheduling by Mediator. Promptly after being appointed to a case, the parties shall contact the mediator and discuss the timing of scheduling mediation. Counsel shall then confer with their clients and each other, and counsel representing plaintiff shall then inform the mediator of potential dates that are available to the parties and their counsel. The mediator shall then fix the date and place of the mediation within the deadlines set forth by these rules and within their scheduling needs. Counsel shall respond promptly to and cooperate fully with the mediator with respect to scheduling the mediation session.

3. Deadline for Conducting Mediation. Unless otherwise ordered, the mediation shall be completed at least thirty (30) days prior to the parties' next case management conference or mandatory settlement conference.

D. Written Mediation Statements.

1. Time for Submission. No later than five (5) calendar days before the first mediation session, each party shall submit directly to the mediator, and shall serve on all other parties, a written mediation statement.

2. Prohibition Against Filing. Mediation statements shall not be filed with the court.

3. Content of Statement. The statements shall be concise, include any information that may be useful to the mediator, and shall:

    a. Identify, by name and title or status of, the persons(s) with decision-making authority, who, in addition to counsel, will attend the mediation as representative(s) of the party, and persons connected with a party opponent (including an insurer representative) whose presence might substantially improve the utility of the mediation or the prospects for settlement;

    b. Describe briefly the substance of the suit addressing the party's view of the issues and liability of damages and discussing the key evidence;

    c. Identify the discovery or motions that promise to contribute most to equipping the parties for meaningful settlement negotiations;

    d. Describe the history and current status of any settlement negotiations and provide any other information about any interests or considerations not described elsewhere in the statement that might be pertinent to settlement; and

    e. Include copies of documents likely to make the mediation more productive or improve settlement prospects.

E. Contact with Mediator before the Mediation. Before the mediation, the mediator may allow the parties to submit an additional confidential written statement for the mediator only, or may discuss the case in confidence with a party and the party's lawyer during a telephone conversation. The mediator shall not disclose any party's confidential communications without the party's permission.

F. Attendance at the Mediation Session.

1. Parties. All named parties and their counsel are required to attend the mediation session and participate in good faith. This requirement reflects the court's view that the principal values of mediation include affording litigants the opportunity to articulate directly to other litigants and a neutral mediator their positions and arguments and to be heard first hand. Mediation also enables parties to collaborate in the search for mutually agreeable solutions.

    a. A person with authority to settle the case must be present at the mediation.

    b. Corporation or Other Entity. A party other than a natural person (e.g., a corporation or an association) satisfies this attendance requirement if represented by a person (other than outside counsel) who has authority to settle and who is knowledgeable about the facts of the case.

    c. Government Entity. A unit or agency of government satisfies this attendance requirement if represented by a person who has, to the greatest extent feasible, authority to settle, and who is knowledgeable about the facts of the case, the governmental unit's position, and the procedures and policies under which the governmental unit decides whether to accept proposed settlements. If the action is

brought by a governmental entity on behalf of one (1) or more individuals, at least one (1) such individual also shall attend.

2. Counsel. Each party shall be accompanied at the mediation by the lawyer who will be primarily responsible for handling the trial of the matter.

3. Insurers. Insurer representatives who are necessary are required to attend in person.

4. Request to be Excused. Only the assigned mediator may excuse a party from the mediation. A person who is required to attend mediation may be excused from attending in person only after demonstrating to the mediator that his or her personal attendance would impose an extraordinary or otherwise unjustifiable hardship. Any party requesting to be excused must contact the mediator at least five (5) days in advance of the scheduled mediation to arrange how the party will be able to participate without appearing in person. All arrangements must be approved by the assigned mediator.

5. Participation by Telephone. A person excused from appearing in person at the mediation session shall be available to participate by telephone.

6. Failure to comply with this rule may result in an award of attorney fees or sanctions pursuant to California Rules of Court, rule 2.30 and Code of Civil Procedure section 128.5.

G. Procedure at Mediation.

1. Procedure. The mediation shall be informal. Mediators shall have discretion to structure the mediation to maximize the benefits of the process.

2. Separate Caucuses. The mediator may hold separate, private caucuses with each side or each lawyer or, if the parties agree, with the clients only. The mediator may not disclose communications made during such caucuses to another party or counsel without the consent of the party who made the communication.

H. Confidentiality.

1. Confidential Treatment. Except as provided in subdivision 2 below entitled “Limited Exceptions to Confidentiality,” the mediator, all counsel and the parties, and any other persons attending the mediation shall treat all statements made at the session, and documents prepared for and created at the session as “confidential information.” The confidential information shall not be:

   a. Disclosed to anyone not involved in the litigation;

   b. Disclosed to the court; or

   c. Used for any purpose, including impeachment, in any pending or future proceeding in this court.

2. Limited Exceptions to Confidentiality. This rule does not prohibit:

a. Disclosures as may be stipulated by all parties and the mediator;

b. A report to or any inquiry by the court regarding a possible violation of these Mediation Program rules;

c. Any participant or the mediator from responding to an appropriate request for information duly made by the persons authorized by the court to monitor or evaluate the court's Mediation Program; or

d. Disclosures as are otherwise required by law.

3. Confidentiality Agreement. The mediator may ask the parties and all persons attending the mediation to sign a confidentiality agreement on a form provided by the court or included in the Mediation Agreement utilized by the mediator.

I. Follow Up. At the close of the mediation session, the mediator and the parties shall jointly determine whether it would be appropriate to schedule a follow up session. The follow up could include, but need not be limited to, written or telephonic reports that the parties might make to one another or to the mediator, the exchange of specified kinds of information, or another mediation session.

J. Certification of Session. Within ten (10) days of the close of each mediation session the mediator shall report to the court on the status of the mediation by filing with the court the STATEMENT OF AGREEMENT OR NONAGREEMENT (ADR-100) [appendix G].

K. Membership on the Mediator Panel.

1. The court has established an ADR Committee pursuant to California Rules of Court, rules 10.782 and 10.783. The committee is responsible for overseeing the ADR programs for general civil cases, including the responsibilities specified in California Rules of Court, rule 3.813(b) relating to the court's judicial arbitration program.

2. The court shall maintain a panel of mediators. The ADR committee shall review applications from potential mediators, evaluations of panel members, and make recommendations to the supervising civil judge on the designation of panel mediators. The ADR committee shall designate the panel, and may add or remove mediators from the panel at any time.

3. Any person with a juris doctorate degree who has completed the training required by the Dispute Resolution Program Act for meditators may apply to the ADR committee for membership on the court directed mediation panel. Applications are due by October 1 each year. Applications are available on the court's website and should be submitted to the ADR administrator at the Monterey County Superior Court. If the ADR committee determines that the applicant is qualified for membership on the mediation panel, the ADR committee shall add the applicant's name to the list of members by January 1 of the following year. Mediators on the court's mediation panel must follow the processes in the Court's Mediator Manual available on the court's public website.

CHAPTER 6

CIVIL DEPARTMENT

(Adopted January 1, 2006; Amended January 1, 2008; Subd. f (6) added and rule amended January 1, 2009; Amended July 1, 2012)

L. Procedures for Handling Complaint about Court-Program Mediators

1. Application. The rules in this chapter establish the court's procedures for receiving, investigating, and resolving complaints about mediators in the court's mediation program for general civil cases, as required by rule 3.868 of the California Rules of Court. Nothing in these rules should be interpreted in a manner inconsistent with rules 3.865 – 3.872 of the California Rules of Court or as limiting the court's inherent or other authority, in its sole and absolute discretion, to determine who may be included on or removed from its list of mediators or who may be recommended, selected, appointed, or compensated as a mediator by the court. These rules also do not limit the court's authority to follow other procedures or take other actions to ensure the quality of mediators who serve in the court's mediation program in contexts other than when addressing a complaint. The failure to follow a requirement or procedure in these rules will not invalidate any action taken by the court in addressing a complaint.

2. Definitions. As used in this chapter:

a. The "rules of conduct" means the "Rules of Conduct for Mediators in Court-Connected Mediation Programs for Civil Cases" set out in rules 3.850 – 3.860 of the California Rules of Court.

b. "Court-program mediator" means a mediator who:

i. Has agreed to be included on the court's list or panel of mediators for general civil cases and is notified by the court or the parties that he or she has been selected to mediate a case within the court's mediation program; or

ii. Has agreed to mediate a general civil case in the court's mediation program after being notified by the court or the parties that he or she was recommended, selected, or appointed by the court or will be compensated by the court to mediate that case.

c. "Inquiry" means an unwritten communication presented to the court's complaint coordinator indicating that a mediator may have violated a provision of the rules of conduct.

d. "Complaint" means a written communication presented to the court's complaint coordinator indicating that a mediator may have violated a provision of the rules of conduct.

e. "Complainant" means the person who makes or presents a complaint.

f. "Complaint coordinator" means the person designated by the supervising civil judge to receive complaints and inquiries about the conduct of mediators.

g. “Complaint proceeding” means all of the proceedings that take place as part of presenting, receiving, reviewing, responding to, investigating, and acting on any specific inquiry or complaint.

h. “Mediation communication” means any statement that is made or any writing that is prepared for the purpose of, in the course of, or pursuant to a mediation or a mediation consultation, as defined in Evidence Code section 1115, and includes any communications, negotiations, and settlement discussions between participants in the course of a mediation or a mediation consultation.

3. Confidentiality.

a. Preserving the confidentiality of mediation communications.

All complaint proceedings will be conducted in a manner that preserves the confidentiality of mediation communications, including but not limited to the confidentiality of any communications between the mediator and individual mediation participants or subgroups of mediation participants.

b. Confidentiality of complaint proceedings.

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

4. Submission of inquiries and complaints to the complaint coordinator.

All inquiries and complaints should be submitted or referred to the complaint coordinator.

5. Addressing inquiries.

If the complaint coordinator receives an inquiry, the coordinator must inform the person making the inquiry that the complaint procedure provides for investigation of written complaints only and that the person should submit a written complaint if he or she wants the court to conduct an investigation or take action. If the person does not submit a complaint, the complaint coordinator may prepare a written summary of the inquiry.

6. Acknowledgment and preliminary review of complaints.

a. Acknowledgment of complaints.

When the complaint coordinator receives a complaint, the coordinator will send the complainant a written acknowledgment of this receipt.

b. Preliminary review of complaints.

i. The complaint coordinator will review each complaint to determine whether it warrants investigation or can be promptly, informally, and amicably resolved or closed. The coordinator may:

a) Informally contact the complainant to obtain clarification or additional information or to provide information that may address the complainant's concern.

b) Communicate informally with the mediator to obtain the mediator's perspectives.

ii. If it appears to the complaint coordinator that the mediator may have violated a provision of the rules of conduct, the complaint coordinator must inform the mediator about the complaint and give the mediator an opportunity to provide an informal response.

iii. The complaint coordinator may close a complaint without initiating an investigation if:

a) The complaint is withdrawn by the complainant; or

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

iv. With the consent of the presiding judge or the supervising civil judge's designated judicial officer, the complaint coordinator may close a complaint without initiating an investigation if:

a) No violation of the rules of conduct appears to have occurred or the complaint is without sufficient merit to warrant an investigation; or

b) The conduct alleged would constitute a very minor violation of the rules of conduct, the coordinator has discussed the complaint with the mediator, and the mediator has provided an acceptable explanation or response.

c. Notification of closure

If the complaint coordinator closes a complaint without initiating an investigation, the coordinator must send the complainant notice of this action.

7. Appointing an investigator or a complaint committee.

The supervising civil judge will appoint an investigator who has experience as a mediator and is familiar with the rules of conduct, or a complaint committee that includes at least one (1) such individual, to investigate and make recommendations concerning any complaint that is not resolved or closed by the complaint coordinator as a result of the preliminary review.

8. Investigations.

d. Application. The procedures in this rule apply only if a complaint is not resolved or closed through the preliminary review or if the complaint coordinator initiates an investigation under b.

e. Referral of a complaint for investigation. If a complaint is not closed as a result of the preliminary review, the complaint coordinator will refer it to the investigator or complaint committee for investigation.

The complaint coordinator will provide the investigator or complaint committee with a summary of the preliminary review that includes:

i. A copy of the complaint;

ii. A copy or summary of any response from the mediator;

iii. A list of any violation of the rules of conduct that it appears may have occurred; and

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

Initiation by the complaint coordinator. The complaint coordinator may initiate an investigation based on information received from any source, including an inquiry, indicating that a mediator may have violated a provision of the rules of conduct. To initiate the investigation, the complaint coordinator must refer the information received to an investigator or complaint committee with a list of the violations of the rules of conduct that it appears may have occurred.

b. Mediator's notice and opportunity to respond.

h. The investigator or complaint committee must provide the mediator with a copy of the materials provided to the investigator or complaint committee by the committee by the complaint coordinator under (b) or (c).

ii. The mediator will be given an opportunity to respond to the complaint and the list of apparent violations.

c. Preparing report and recommendation.

The investigator or complaint committee will conduct the investigation that the investigator or complaint committee considers appropriate. Thereafter, the investigator or complaint committee will prepare a written report that summarizes the investigation and states the investigator's or complaint committee's recommendation concerning the final decision on the complaint. The investigator or complaint committee may recommend one (1) or more actions that are permissible under rule 3.870 of the California Rules of Court.

d. Informing mediator of recommendation.

The investigator or complaint committee may inform the mediator of its recommendation and inquire whether the mediator accepts that recommendation. If the mediator accepts the recommendation, the investigator's or complaint committee's report must indicate this.

e. Submitting report and recommendation.

The investigator or complaint committee must submit its report and recommendation to the complaint coordinator. The complaint coordinator must promptly forward a copy of the report and recommendation to the supervising civil judge.

9. Final decision on a complaint that was investigated.

a. Responsibility for final decision.

The supervising civil judge is responsible for making the final decision about the action to be taken on any complaint that was investigated under rule 6.12(l) or for designating another judicial officer or a committee that includes a judicial officer to perform this function.

b. Acting on recommendation.

i. Within thirty (30) days after the investigator's or complaint committee's recommendation is forwarded to the supervising civil judge, the supervising civil judge or designee may submit to the complaint coordinator a decision:

a) Affirmatively adopting the investigator's or complaint committee's recommendation as the final decision on the complaint; or

b) Directing a different action that is permissible under rule 3.870 of the California Rules of Court.

ii. If the supervising civil judge or designee does not submit a decision within thirty (30) days after the complaint committee's recommendation is forwarded, as provided in (i), the investigator's or complaint committee's recommendation will become the final decision on the complaint.

c. Notification of final action.

The complaint coordinator must promptly notify the complainant and the mediator in writing of the final action taken by the court on the complaint.

d. Authorized disclosures.

After the decision on a complaint, the supervising civil judge may authorize the public disclosure of information or records concerning the complaint proceeding that do not reveal any mediation communications. The disclosures that may be authorized under

this subdivision include the name of a mediator against whom action has been taken, the action taken, and the general basis on which the action was taken. In determining whether to authorize the disclosure of information or records under this subdivision, the supervising civil judge or designee should consider the purposes of the confidentiality of complaint proceedings stated in rule 3.871 of the California Rules of Court.

10. Interim suspension pending a final decision on a complaint.

    If the preliminary review or the investigation indicates that a mediator may pose a threat of harm to mediation participants or to the integrity of the court's mediation program, the supervising civil judge or the other judicial officer or committee designated by the supervising civil judge to make the final decision about the action to be taken on any complaint may suspend the mediator from the court's panel or list pending final decision on the complaint. The complaint coordinator may make a recommendation to the supervising civil judge or the designee regarding such a suspension.

(Adopted January 1, 2006; Amended January 1, 2008; Subd. f (6) added and rule amended January 1, 2009; Amended January 1, 2010; Amended July 1, 2010; Amended July 1, 2012; Amended July 1, 2017)

6.13 SETTLEMENT CONFERENCES

A. A mandatory settlement conference will be set by the court approximately thirty (30) days prior to the trial date unless the court determines that an earlier settlement conference shall be appropriate.

B. Unless otherwise ordered by the court, at any mandatory settlement conference, all parties and/or principals with full legal and monetary authority to settle the case shall be in personal attendance. Insurance representatives shall have full authority to settle the case and shall be fully knowledgeable about the case.

C. Requests for telephone standby shall be approved only by the judge. If telephone standby is approved, the requesting person shall be available at the agreed location until excused by the court regardless of the time in that location. In any case where telephone standby has been approved, the court may, in its sole discretion, continue the conference and order that person to personally attend.

D. Each party shall comply with California Rules of Court, rule 3.1380(c). In addition the Settlement Conference Statement shall contain the following information:

    1. A complete description of the nature of the case and the facts in support of that party's contentions, including both liability and damages, and indicating those matters that are agreed upon or in dispute;

    2. The legal contentions of that party with authorities in support thereof;

    3. A listing of all alleged economic damages incurred and the basis; and a statement of those agreed to and/or in dispute;

4. All prior settlement offers and demands; and

5. Any perceived impediments to settlement.

E. Settlement conference statements shall not be confidential unless ordered by the court.

F. The trial attorneys or a fully informed associate with full authority to settle the matter shall attend for each party. Counsel shall be prepared to make a bona fide offer of settlement.

G. Failure to comply with this rule may result in an award of attorney fees or sanctions pursuant to California Rules of Court, rule 2.30 and Code of Civil Procedure section 128.5.

H. These rules shall apply to all settlement conferences whether considered mandatory or voluntary.

(Adopted October 1, 1998; Amended January 1, 2003; Amended January 1, 2008; Amended July 1, 2010; Amended July 1, 2016)

6.14 TELEPHONE APPEARANCE

In accordance with the provision of rule 3.670 of the California Rules of Court, counsel and unrepresented litigants shall have the option of appearing by telephone in any conference or non-evidentiary law and motion hearing, excluding settlement conferences. Teleconferencing is provided through Court Call Service, a private vendor. Arrangements to schedule teleconferencing for a conference or hearing shall be made directly with Court Call Service by calling 1-888-882-6878. A fee will be charged for this service and shall be payable directly to Court Call Service.

If a person appearing by phone cannot be heard audibly in the courtroom, a personal appearance may be required.

(Adopted October 1, 1998; Amended July 1, 1999; Amended January 1, 2003; Amended July 1, 2007; Amended July 1, 2017)

6.15 MISCELLANEOUS RULES

A. Qualified collection actions (Cal. Rules of Court, rule 3.740) will be assigned to the court's case disposition calendar. A hearing will be set thirteen (13) months from the date of filing. If default judgment or dismissal has been entered no appearance is necessary.

   Upon the filing of a response/denial/answer by a defendant(s), the collection action will be changed to a civil fast track/delay reduction case and a case management conference or mandatory settlement conference/trial setting conference will be set within sixty (60) to ninety (90) days of the filing of the responsive pleading.

B. Alternative Dispute Resolution. It is the policy of this court to promote and encourage alternative dispute resolution. In any case where judicial arbitration is ordered, the parties

may stipulate to substitute private arbitration or mediation. In any case where the matter is referred to any form of alternative dispute resolution, including judicial arbitration, it shall be finally concluded in no more than ninety (90) days if no other date is set by the court.

C. Interpreters. It is the responsibility of the attorney/party to obtain an interpreter if needed for any civil matter. A family member, friend, or the attorney may only interpret: 1) in an uncontested matter; 2) with the express consent of the party; 3) with the express statement of the attorney that there is no conflict of interest; and 4) on being properly sworn.

D. Court Reporters. The court's policy regarding court reporters can be found on the court's website.

E. Complex Litigation. The rules governing complex litigation can be found on the court's website. Click here to view rules on complex litigation.

(Adopted October 1, 1998; Amended January 1, 2003; Amended January 1, 2007; Amended July 1, 2007; Amended January 1, 2008; Subd. (d) added, rule amended January 1, 2009; Amended July 1, 2010; Amended July 1, 2012 (repealed subd. (b), (c), and (e), renumbered (d) to (a) and (e) to (c); Amended July 1, 2017)

CHAPTER 6

CIVIL DEPARTMENT

APPENDIX A

SUPERIOR COURT OF CALIFORNIA, COUNTY OF MONTEREY

TRIAL MANAGEMENT REPORT AND BRIEF

A. FORMAT OF REPORT

The "Trial Management Report" and "Brief" shall provide the information requested below. The Report shall be prepared according to California legal format and shall contain the full case caption. The Report shall be typewritten or computer printed on pleading paper. Failure to file a Report as required or provide all requested information may result in exclusion or limitation of evidence, monetary sanctions, dismissal of the case, striking of pleadings, or entry of a default judgment.

All information requested below must be provided or its absence explained. Attachments may be used to provide additional information or to state the positions of each of the parties.

All discovery must be completed prior to trial. Delays will not be granted for the purpose of conducting further discovery except on a showing of good cause, to include, but not be limited to, a showing of why discovery could not reasonably have been completed prior to trial.

The Trial Management Report and Brief shall include the following information.

B. ATTORNEY AND CASE INFORMATION

- Case Name:
- Trial Attorneys:
- Plaintiff:
- Telephone:
- Defendant:
- Telephone:
- Additional Parties:

C. SUMMARY OF THE NATURE OF THE CASE

The Report shall include a summary of the allegations and supporting facts as contended by each party. It is anticipated that the trial court shall use this information to acquaint itself with the competing allegations and contentions, the contested factual issues, and to inform the jury as to the nature of the proceedings. The summary shall be non-argumentative and concise.

D. STATEMENT OF ISSUES, CAUSES OF ACTIONS, AND DEFENSES

The Report shall include a listing of specific causes of action and defenses as contained in the pleadings.

E. TRIAL BRIEFS, PRETRIAL MOTIONS, AND MOTIONS IN LIMINE

The attorneys shall file all trial briefs, as necessary, with the Trial Management Report and Brief. In addition, the Report shall include a list of all requests for judicial notice, pretrial motions, motions in limine, and appropriate points and authorities.

F. DISCOVERY

Each party shall indicate whether discovery is completed. If discovery is not completed, the Report shall indicate why discovery has not been completed and shall specify the specific areas yet to be completed.

G. STIPULATIONS

Each party shall list agreed upon stipulations and any matter to which they are willing to stipulate.

H. EXHIBITS

The Report shall include a list of all proposed exhibits. Each party shall file a declaration indicating any objections to the exhibits of the opposing parties with a brief statement of reasons. Failure to object to an exhibit shall be deemed a waiver of all objections thereto, and the exhibit may be entered into evidence without further argument. Objections to and editing of medical records shall be accomplished prior to trial, unless otherwise ordered by the court. All proposed exhibits shall be pre-marked and exchanged and/or reviewed between the parties. Unless otherwise designated by the trial judge, the Plaintiff/Petitioner will mark his or her exhibits using numbers and the Defendant/Respondent will use letters. Exhibits which are not pre-marked and exchanged shall not be admitted in evidence except on a showing of good cause, to include, but not be limited to, a declaration as to why said exhibit was not so marked and exchanged.

Any and all exhibits (including any demonstrative evidence, charts, posters, etc.) which are to be viewed by the jury before deliberations shall be identified. These exhibits shall be made available for review. If permitted by the court, it shall be the duty of counsel to arrange for sufficient copies for each juror, enlargement, or viewing by overhead projector.

It is the responsibility of the parties to obtain and make available all equipment necessary to view any demonstrative evidence. Necessary equipment shall be available, set up, and approved by the court.

All exhibits and other materials offered in evidence or otherwise presented at civil trials, including transcripts of depositions and administrative records, will be returned at the conclusion of trial to the custody of the offering party. The custodial party must maintain all exhibits and other materials in the same condition as received from the clerk until 60 days after a final judgment or dismissal of the entire case is entered.

I. DISCOVERY MATERIALS

The Report shall include a list of all depositions intended to be used during trial and any objections thereto. Original, signed depositions to be used during the trial shall be lodged with

the courtroom clerk, on the first day of trial. Procedures for presenting the materials during the trial, shall be established by the court.

J. VIDEO DEPOSITIONS

Parties shall indicate in the Report the intended use of any video depositions. The parties shall review video depositions prior to the preparation of the Trial Management Report and Brief. Objections shall be identified in the Report. The party intending to use a video deposition shall be responsible for editing of any further objections sustained by the court. The court shall be provided with an original, signed written transcript of the video deposition.

K. WITNESSES

Each party shall prepare a list of witnesses and the general nature of their testimony [e.g., percipient witness, character witness, expert witness on damages, etc.]. No witness, except a witness for purposes of impeachment, who has not been designated as a witness in the list above shall be allowed to testify except on a showing of good cause, to include, but not be limited to, a showing of why that witness was not so designated. Any witness needing any special assistance shall be identified [e.g., interpreter, disabled, etc.].

All witnesses are expected to be available as needed for trial. Any special scheduling problems shall be noted.

L. VOIR DIRE

The Report shall indicate the subject areas which the parties wish the court to inquire into and those subject areas which the parties request to ask questions about themselves. Requests for a juror questionnaire or in camera questioning of a juror as to particular matters shall be indicated in the Report and a copy of the proposed questionnaire attached to the Report.

M. JURY INSTRUCTIONS

All proposed instructions shall be lodged with the court with the Report. CACI 200 must be completed and modified as it pertains to the particular case. All proposed instructions shall be submitted in duplicate. One (1) copy shall be prepared on plain paper, separate from argument or authorities, and shall not indicate by whom the instructions are presented. At the close of evidence, the trial court will conduct a hearing on instructions to determine the final instructions to be given to the jury.

N. VERDICT FORMS

Proposed verdict forms shall be filed with the Report. The verdict forms shall be prepared on plain pleading paper and shall not indicate by whom the verdict forms are presented. The trial court will conduct a hearing to determine the final form of verdict.

O. OTHER REQUESTS: [list all additional requests]

(APPENDIX A: Adopted October 1, 1998; Amended January 1, 2003; Repealed July 1, 2010; Appendix C re-titled appendix A July 1, 2010; Amended July 1, 2012, Amended July 1, 2016)

CHAPTER 6

CIVIL DEPARTMENT

APPENDIX F

MONTEREY COUNTY COURT-DIRECTED MEDIATION PROGRAM

MEDIATION AND CONFIDENTIALITY AGREEMENT

This Mediation and Confidentiality Agreement is dated _____, and entered into by and between the undersigned parties and _____, Attorney at Law, who will serve in the capacity of mediator pursuant to this agreement.

Applicable Law - This mediation shall be subject to the terms and conditions of California Evidence Code sections 1115 – 1128, and the terms and conditions of the Monterey County Court-Directed Mediation Program Rules, both of which are incorporated herein by reference as though fully set forth in this mediation agreement,

Confidentiality - All statements made in preparation of or during the course of this mediation are privileged settlement discussions, are made without prejudice to any party's legal position, and are undiscoverable and inadmissible for any purpose in any legal, administrative, or other proceeding.

The privileged character of any information is not altered by disclosure to _____, the mediator. Disclosure of any statements made to the mediator in confidence, records, reports or other documents received or prepared by the mediator cannot be compelled. The mediator shall not be compelled to disclose or testify in any proceeding of any kind.

Mediator's Services – The attorney-mediator's services are offered to the parties on a *pro bono* (no fee) basis for preparation time and two hours of mediation service. See Attachment A for a complete description of *voluntary* fee options after expiration of *pro bono* services.

Signed before the commencement of the mediation by each of the persons whose signatures appear below:

Date:

_____
Insert Name of Attorney, Mediator

Date:

Print Name of Party (1):_____

Signature of Party (1): _____

Print Name of Party (1) Attorney: _____

Signature of Party (1) Attorney: _____
Date:

Print Name of Party (2):_____

Signature of Party (2): _____

Print Name of Party (2) Attorney: _____

Signature of Party (2) Attorney: _____

Date:

Print Name of Party (3):_____

Signature of Party (3): _____

Print Name of Party (3) Attorney: _____

Signature of Party (3) Attorney: _____

Date:

Print Name of Party (4):_____

Signature of Party (4): _____

Print Name of Party (4) Attorney: _____

Signature of Party (4) Attorney: _____

(APPENDIX F: Adopted January 1, 2006)

CHAPTER 6

CIVIL DEPARTMENT
MEDIATION AGREEMENT

ATTACHMENT "A"

PRO BONO SERVICES AND VOLUNTARY FEE STRUCTURE

MONTEREY COUNTY COURT-DIRECTED MEDIATION PROGRAM

The "Mediation Agreement" between (among) the parties and their legal representatives incorporates this Attachment A as an integral component of the Mediation Agreement.

I. PRO BONO MEDIATION – The attorney-mediator is a member of the Monterey County Court-Directed Mediation Program and offers his/her mediation services for no cost subject to the following terms and conditions:

1. Preparation time and Scheduling: Volunteer attorney-mediator will offer his/her time necessary to the preparation of, scheduling, and coordination with the parties and their representatives prior to the commencement of the scheduled mediation session(s) as a component of his/her participation in the court-directed program;

2. Mediation Session: Volunteer attorney-mediator offers two (2) hours of his/her time as volunteer attorney-mediator in working with the parties to reach a voluntary settlement (agreement) in their case. The two (2) hours will commence after the parties have signed the Mediation Agreement and at the time of the mediator's opening statement. The two (2) hours will include any necessary breaks, caucuses, recesses, or other intermittent breaks from the formal mediation session but will not include meal breaks or recess involving a rescheduling of the mediation. The mediator shall maintain accurate time records and those time records shall be determinative in the calculation of accrued mediation time.

J. VOLUNTARY FEE OPTION - At the expiration of the first two (2) hours of accumulated mediation time, the attorney-mediator may offer to continue the mediation at the rate of $200/hour to be shared equally by the parties (unless otherwise negotiated to the agreement of all parties and incorporated as a component of the signed mediation agreement). The election of this option is VOLUNTARY and no party shall be compelled to continue with paid mediation unless subject to the parties' voluntary and signed commitment to such fee schedule.

1. Voluntary Waiver by Attorney-Mediator - The volunteer attorney-mediator may waive the imposition of voluntary fee at his/her discretion and subject to the agreement of the parties to continue in the mediation process. This voluntary waiver is subject to the will of the attorney-mediator and may be offered for a finite and defined period of time (e.g., one (1) more hour, two (2) more hours, etc.).

2. After Six hours of Voluntary Compensation at $200/Hour - After six (6) hours of attorney-mediation compensation at the $200/hour level that has been agreed to by the parties and their attorneys, the attorney-mediator may at his/her discretion offer to

continue the mediation at his/her regular hourly fee subject to the *voluntary* agreement of the parties.

Coordination of Payment of Agreed to Fees After Expiration of Pro-Bono Services. Should the parties elect to continue with mediation after the expiration of the *pro bono* preparation and two (2) hour mediation, all such financial agreements shall be recorded by the attorney-mediator in the Mediation Agreement or amendment thereto signed by the parties and their attorneys including the volunteer attorney-mediator. Payments shall be made directly to the attorney-mediator, and the court will not oversee the collection of payments. The court, at its discretion, may postpone trial setting in a case that does not settle in mediation pending full payment of agreed to attorney-mediator fees that remain unpaid.

(ATTACHMENT A: Adopted January 1, 2006)

CHAPTER 6

CIVIL DEPARTMENT

APPENDIX H

STIPULATION AND ORDER VACATING AND RESETTING DATES; CERTIFICATE OF CONTINUING MEDIATION

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY

_____, Plaintiff(s), v. _____, Defendant(s).	Case No. M_____ **STIPULATION AND ORDER VACATING AND RESETTING DATES; CERTIFICATE OF CONTINUING MEDIATION**

WHEREAS, the initial mediation session in the above-uncaptioned matter has been held in accordance with the Court-Directed Mediation Program rules; and

WHEREAS, the parties wish to have a further mediation session in accordance with those rules, and to vacate dates now set to allow that to occur;

IT IS HEREBY STIPULATED, by and between the parties through their respective counsel of record, that the

( ) Case Management Conference date of _____

( ) Trial date of _____

( ) Settlement Conference date of _____

shall be vacated and reset to a date approximately ____ days thereafter.

Dated: _____

_____ _____

Attorney for Plaintiff Attorney for Defendant

MEDIATOR CERTIFICATION

I HEREBY CERTIFY that a mediation session was held as set forth above, that the parties have expressed the wish to have a further mediation session, and that I have agreed to hold such a further session.

Dated: _____ _____
Mediator

ORDER

Upon the stipulation of the parties, IT IS HEREBY ORDERED that the dates set forth above are vacated, and that the

( ) Case Management Conference is reset to _____

( ) Trial date is reset to _____

( ) Settlement Conference is reset to _____

Dated: _____ _____

Judge of the Superior Court

(APPENDIX H: Adopted January 1, 2007)