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Case Management Conferences

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I. INTRODUCTION

§40.1 A. Scope of Chapter

This chapter discusses judicial case management under the Trial Court Delay Reduction Act (Govt C §§68600–68620), which applies to all actions and proceedings in superior court in each county (Govt C §68605.5), except juvenile, probate, and domestic relations cases (Govt C §68608(a)). Cases may also be exempted by local rule. See, *e.g.*, Los Angeles Ct R 7.2(b).

It discusses differential case management rules (see §§40.5–40.16), procedures for assignment to a case management plan (see §§40.17–40.35), special rules for the management of complex cases (see §§40.36–40.46), the case management conference (see §§40.47–40.58), the case management statement and order (see §§40.59–40.70), settlement conferences (see §§40.71–40.87), final status conference (see §40.88), and sanctions (see §40.89). For forms, see §§40.90–40.93.

B. Governing Law

§40.2 1. Statutes

Case management is governed by the Trial Court Delay Reduction Act (Govt C §§68600–68620), rules of court (see §40.3), and local rules (see §40.4).

- Title of act. Govt C §68600.
- Standards for timely disposition. Govt C §68603.
- Statistics on compliance with standards for timely disposition. Govt C §68604.
- Application of article. Govt C §68605.5.
- Judicial responsibilities. Govt C §68607.
- Effect of challenge under CCP §170.6. Govt C §68607.5.
- Exempt cases; sanctions for noncompliance. Govt C §68608.
- Uninsured motorist cases. Govt C §68609.5.
- Programs for training judges. Govt C §68610.
- Judicial development of procedures, standards, and policies. Govt C §68612.
- Funding of programs. Govt C §68613.

- Judicial council’s contracting out for performance of duties. Govt C §68615.
- Procedure and time limitations. Govt C §68616.
- Report to legislature re Centers for Complex Litigation. Govt C §68617.
- Delay reduction for limited civil cases. Govt C §68620.

Other statutes govern trial-setting preference. See, *e.g.*, CCP §§36(a) (aged, ill parties), 36(b) (party under age 14), 527(e) (preliminary injunction granted), 1062.3(a) (declaratory relief actions); see chap 35.

Other procedures govern case management before trial. Consolidation (procedure to combine separately filed lawsuits that involve common question of law or fact) is governed by CCP §1048(a). See chap 43. Severance or bifurcation (procedure that enables the court to divide lawsuit into one or more parts) is governed by CCP §1048(b). See chap 43. Coordination (procedure in which civil actions, pending in different courts, may be tried together) is governed by CCP §403. See chap 44.

§40.3 2. California Rules of Court

The Judicial Council has adopted rules under Govt C §68603(c) establishing a “case differentiation classification system.” See Cal Rules of Ct 204–214.

The Judicial Council has also adopted Cal Rules of Ct 372 (motion for discretionary dismissal) as part of the delay-reduction effort. Cal Rules of Ct 372(b); see CCP §§583.410(b), 583.420(a)(2)(B).

§40.4 3. Local Rules

Under the Trial Court Delay Reduction Act (Govt C §68600–68620), each court may have its own delay reduction case management rules. Govt C §68612. Many counties have promulgated local rules governing case management. See, *e.g.*, San Francisco Ct R 3.0–3.6 (civil case management); Los Angeles Ct R 7.0–7.20 (superior court delay reduction); San Diego Ct R 2.1.1–2.1.19 (case management); Orange Ct R 430–457 (case management); Santa Clara Ct R 1A–1E (differential civil case management system).

PRACTICE TIP™ Counsel will normally find it useful to contact the clerk of the particular court in which an action or proceeding may be, or has been, filed to learn that court’s delay-reduction rules. The rules are also available on the court’s website. A list

of superior court websites appears at www.courtinfo.ca.gov/courts/trial/courtlist.htm.

Plaintiff's attorney must review the rules before filing a complaint. A defendant's attorney must do so as soon as possible after service. An attorney who already has a set of local rules should check with the clerk's office to ensure that the set is current. The burden is clearly on the attorney to know the current rules.

The Judicial Council has preempted local rules "relating to pleadings, demurrers, ex parte applications, motions, discovery, provisional remedies, and form and format of papers" (Cal Rules of Ct 981.1(a)) and specifically excludes from preemption "local court rules adopted under the Trial Court Delay Reduction Act." Cal Rules of Ct 981.1(b)(iv). There may, however, be some gray areas. For example, it may be unclear whether a requirement that a party meet and confer with the other parties before filing a motion is a rule implementing delay reduction goals or a rule relating to motions. Attorneys should check for amendments to local rules and, when necessary to resolve a matter, ask the court whether a local rule has been reinterpreted in light of Cal Rules of Ct 981.1.

NOTE™ Local rules that manage complex litigation are not preempted by Cal Rules of Ct 981.1. See *Volkswagen of Am., Inc. v Superior Court* (2001) 94 CA4th 695, 703, 114 CR2d 541.

II. DIFFERENTIAL CASE MANAGEMENT RULES

§40.5 A. Purpose

The Judicial Council has adopted Cal Rules of Ct 204–210 for use by the courts to establish a case differentiation classification system based on the relative complexity of cases. These rules provide longer periods for the timely disposition of more complex cases. The rules may provide a presumption that all cases, when filed, shall be classified in the least complex category. Govt C §68603(c); see Cal Rules of Ct App Div I, §2. See, e.g., San Francisco Ct R 3.1 (cases assigned to Plan 1 on filing unless request for reassignment is made).

The California Rules of Court are to be construed and administered to secure the fair, timely, and efficient disposition of every civil case. The rules are to be applied in a fair, practical, and flexible manner so as to achieve the ends of justice. Cal Rules of Ct 204.

§40.6 B. Effect of Local Practice

Each court must adopt local rules on differential case management as provided consistent with Cal Rules of Ct 212 (case management conference, meet-and-confer requirement, case management order) and Cal Rules of Ct App Div I, §2. Cal Rules of Ct 206. These rules vary, and the attorney must become completely familiar with the local delay reduction rules of any court in which he or she has cases pending. See, e.g., *Moyal v Lanphear* (1989) 208 CA3d 491, 499, 256 CR 296 (attorney has professional responsibility to be familiar with local court management rules). See §40.4 (local court rules).

C. Court's Role in Case Management

§40.7 1. Monitoring Case Progress

Courts now must take an active role in monitoring case progress and ensuring that attorneys take all steps necessary to prepare a case for trial or an informed settlement, including all discovery, as early as possible. Judges have the responsibility to eliminate delay in the progress and ultimate resolution of litigation, to assume and maintain control over the pace of litigation, to actively manage the processing of litigation from commencement to disposition, and to compel attorneys and litigants to prepare and resolve all litigation without delay, from the filing of the first document invoking court jurisdiction to final disposition of the action. Govt C §68607. See also Cal Rules of Ct App Div I, §2.

The judges of the program shall, consistent with the policies of trial court delay reduction:

- Actively monitor, supervise, and control the movement of all cases assigned to the program from the time of filing of the first document invoking court jurisdiction through final disposition. Govt C §68607(a).
- Seek to meet the standards for timely disposition adopted under Govt C §68603. Govt C §68607(b).
- Establish procedures for early identification of cases within the program that may be protracted and for giving those cases special administrative and judicial attention as appropriate, including special assignment. Govt C §68607(c).
- Establish procedures for early identification and timely and appropriate handling of cases within the program that may be amenable to settlement or other disposition techniques. Govt C §68607(d).

- Adopt a trial-setting policy that, to the maximum extent possible, schedules a trial date within the time standards adopted under Govt C §68603 and that schedules a sufficient number of cases to ensure efficient use of judicial time while minimizing resetting caused by overscheduling. Govt C §68607(e).
- Commence trials on the date scheduled. Govt C §68607(f).
- Adopt and utilize a firm, consistent policy against continuances, to the maximum extent possible and reasonable, in all stages of the litigation. Govt C §68607(g). On continuances generally, see chap 42.

§40.8 2. Internal Court Management Procedures

Each trial court must perform the following (Cal Rules of Ct 204.2):

- Maintain a calendar and case flow management system, which will ensure that a sufficient number of cases are set for trial, based on the court's experience, so that all departments will be occupied with judicial business;
- Adopt for judges and court personnel an internal operations manual of policies and procedures necessary for efficient operation and management of the court;
- Maintain and periodically review for accuracy written local court procedures, policies, and operating practices not contained in local rules for quick, accurate, and complete reference; and
- Ensure that calendaring functions are performed as directed by the court and that personnel rendering direct and immediate service to the court are within its administrative control to the maximum extent consistent with the existing organizational structures.

D. Time Standards for Disposing of Cases

§40.9 1. Guidelines for Disposing of Case

The Judicial Council states that the goal of each trial court should be to process general civil cases so that all cases are disposed of within two years after their filing. Cal Rules of Ct App Div I, §2.1(d). Each trial court should dispose of at least as many civil cases as are filed each year and, if necessary to meet the case-processing standards in Cal Rules of Ct App Div I, §2.1(d), dispose of more cases than are filed. As the court disposes of inactive cases, it should identify active cases that may require judicial attention. Cal Rules of Ct App Div I, §2.1(e).

More specifically, the goal is to manage general civil cases, except those exempt under Cal Rules of Ct App Div I, §2.1(g), so that they meet the following case disposition rules (Cal Rules of Ct App Div I, §2.1(f); see Cal Rules of Ct 208(b)):

- Unlimited civil cases (Cal Rules of Ct App Div I, §2.1(f)(1)):
 - 75 percent are disposed of within 12 months.
 - 85 percent are disposed of within 18 months; and
 - 100 percent are disposed of within 24 months.
- Limited civil cases (Cal Rules of Ct App Div I, §2.1(f)(2)):
 - 90 percent of the cases to be disposed of within 12 months;
 - 98 percent within 18 months; and
 - 100 percent within 24 months.

The goals in Cal Rules of Ct App Div I, §2.1(f)(1)–(2) are guidelines for the court’s disposition of all unlimited and limited civil cases filed in that court. In managing individual civil cases, the court must consider each case on its merits. To enable the fair and efficient resolution of civil cases, each case should be set for trial as soon as appropriate for that individual case consistent with Cal Rules of Ct 212(j). Cal Rules of Ct App Div I, §2.1(f)(3).

These recommended time standards are intended to guide the trial courts in applying the policies and principles of §2 of the Standards of Judicial Administration. They are administrative, justice-oriented guidelines to be used in the management of the courts. They are intended to improve the administration of justice by encouraging prompt disposition of all matters coming before the courts. The standards establish goals for all cases filed and are not meant to create deadlines for individual cases. Through its case management practices, a court may achieve or exceed the goals stated in these standards for the overall disposition of cases. The standards should be applied in a fair, practical, and flexible manner. They are not to be used as the basis for sanctions against any court or judge. Cal Rules of Ct App Div I, §2.1(b).

The exceptions to this rules are:

- Exceptional civil cases, *i.e.*, a case that meets the criteria set forth in Cal Rules of Ct 210 and 1800. Cal Rules of Ct App Div I, §2.1(g).
- Small claims cases (90 percent disposed of within 75 days after filing; 100 percent disposed of within 95 days after filing). Govt C §68620(b); Cal Rules of Ct App Div I, §2.1(h).

- Unlawful detainer (90 percent disposed of within 30 days after filing; 100 percent disposed of within 45 days after filing). Govt C §68620(b); Cal Rules of Ct App Div I, §2.1(i).

PRACTICE TIP™ The target date for disposing of a case varies among courts and, to some extent, by case type and complexity, but courts usually try to ensure that cases will be ready to begin trial within one year after filing. See §40.13. In some courts, judges plan on a trial between 18 and 24 months after filing when they believe that a trial will be required to dispose of the case, with the judgment about whether a trial will be required made approximately four to six months after filing. In any event, counsel with cases subject to a trial court delay reduction program cannot approach their trial preparation in a relaxed manner and assuming that trial is years away.

Each court has a general schedule with one or more points (*e.g.*, return of summons, filing of at-issue memorandum, holding of first status conference), measured after the date of filing of the complaint, by which specified phases of case preparation are to have been completed or events are to have taken place.

Firm trial dates are a key feature of delay-reduction programs. The goal for all trial reduction cases is to start trial on the first assigned trial date. A firm trial date, under which the attorney need prepare for trial only once, may be viewed as a major benefit attorneys receive to compensate them for the court's assumption of control over the pace of litigation.

The point at which a trial date is selected varies considerably among courts and individual cases. A firm policy against continuances is also basic to delay-reduction programs. See Govt C §68607(g) discussed at §40.7.

§40.10 2. General Civil Cases Defined; Exemptions

The Trial Court Delay Reduction Act (Govt C §§68600–68620) applies to all actions and proceedings in all trial courts; “general civil case” means all civil cases (Cal Rules of Ct App Div I, §2.1(f)), except the following (Govt C §68605.5):

- Probate. Govt C §68608(a).
- Family law, juvenile proceedings. Govt C §60608(a).
- Small claims. Govt C §68620(b); Cal Rules of Ct App Div I, §2.1(h).

- Unlawful detainer. Govt C §68620(b); Cal Rules of Ct App Div I, §2.1(i).
- Civil cases that involve exceptional circumstances or will require continuing review. Cal Rules of Ct App Div I, §2.1(g).
- Cases assigned to a judge or judges for all purposes. Govt C §68608(a).
- Cases exempted by local rule. See, *e.g.*, Los Angeles Ct R 7.2(b).

Each court must adopt a case management and calendaring system for general civil cases that will advance the goals of Cal Rules of Ct App Div I, §2. Cal Rules of Ct 204.1. Some courts have adopted local variations in establishing time standards for disposition of cases, although these standards are often superseded by statewide case management rules. See Cal Rules of Ct 204–210. See also Cal Rules of Ct 981.1.

§40.11 3. Cases Removed From Court’s Control

If a case is removed from the court’s control, the period of time until the case is restored to court control should be excluded from the case disposition time standards. The matters that remove a case from the court’s control for the purposes of this section include (Cal Rules of Ct App Div I, §2.1(n)(1)):

- The filing of a notice of conditional settlement under Cal Rules of Ct 225;
- An automatic stay resulting from the filing of an action in a federal bankruptcy court;
- The removal of the case to federal court;
- An order of a federal court or higher state court staying the case;
- An order staying the case based on proceedings in a court of equal standing in another jurisdiction;
- The pendency of contractual arbitration under CCP §1281.4;
- The pendency of attorney fee arbitration under Bus & Prof C §6201;
- A stay by the reporting court for active military duty or incarceration; and
- For 180 days, the exemption for uninsured motorist cases under Cal Rules of Ct 207(c).

E. Differentiation of Cases to Achieve Goals

§40.12 1. Evaluation and Assignment

The court must evaluate each case on its own merits as provided in Cal Rules of Ct 210 under procedures adopted by local court rules. After evaluation, the court must (Cal Rules of Ct 209(a)):

- Assign the case to the case management program for review under Cal Rules of Ct 212 for disposition under the case disposition time goals in Cal Rules of Ct 209(b) (see §40.13);
- Exempt the case as an exceptional case under Cal Rules of Ct 209(c) (see §40.14) from the case disposition time goals specified in Cal Rules of Ct 208(b) and monitor it with the goal of disposing of it within 3 years (see §40.9); or
- Assign the case to a local case management plan for disposition within 6 to 9 months after filing (Cal Rules of Ct 209(d); see §40.15).

§40.13 2. Case Management Plans

Civil cases assigned to the case management program for review under Cal Rules of Ct 212 should be managed so as to achieve the following goals (Cal Rules of Ct 209(b)):

- **Unlimited civil cases.** The goal of each trial court should be to manage unlimited civil cases from filing so that (Cal Rules of Ct 209(b)(1)):
 - 75 percent are disposed of within 12 months.
 - 85 percent are disposed of within 18 months; and
 - 100 percent are disposed of within 24 months.
- **Limited civil cases.** The goal of each trial court should be to manage limited civil cases from filing so that (Cal Rules of Ct 209(b)(2)):
 - 90 percent are disposed of within 12 months;
 - 98 percent are disposed of within 18 months; and
 - 100 percent are disposed of within 24 months.

These goals are guidelines for the court's disposition of all unlimited and limited civil cases filed in that court. Cal Rules of Ct 209(b)(3). For example, a paint manufacturer brought into construction litigation as cross-defendant for equitable indemnity 14 months after filing of complaint was entitled to its requested 6-month continuance to give it adequate time to do sufficient discovery to

prepare and schedule a timely summary judgment motion even though the 2-year limit of the delay reduction rules was thereby exceeded, because the rules must give way to the statutory right to bring summary judgment motion. *Polibrid Coatings, Inc. v Superior Court* (2003) 112 CA4th 920, 923, 6 CR3d 7.

In managing individual civil cases, the court must consider each case on its merits. To enable the fair and efficient resolution of civil cases, each case should be set for trial as soon as appropriate for that individual case consistent with Cal Rules of Ct 212(j). Cal Rules of Ct 209(b)(3).

There is no sanction or penalty for the court or parties if disposition does not occur, either by settlement or trial, within a specified period after filing. The Judicial Council time standards are guidelines to be used in court management and are not intended as a basis for sanctions. Cal Rules of Ct Appendix Div I, §2.1(b).

§40.14 3. Exemption of Exceptional Cases

The court may in the interest of justice exempt a general civil case from the case disposition time goals of Cal Rules of Ct 208(b) if it finds that 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 Cal Rules of Ct 210 and 1800. Cal Rules of Ct 209(c)(1).

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 its timely disposition consistent with the exceptional circumstances, with the goal of disposing of the case within 3 years. Cal Rules of Ct 209(c)(2).

§40.15 4. Local Case Management Plans

For expedited case disposition, the court may by local rule adopt a case management plan that establishes a goal for disposing of appropriate cases within 6 to 9 months after filing. The plan must establish a procedure to identify the cases to be assigned to the plan. Cal Rules of Ct 209(d)(1). The plan must be used only for uncomplicated cases amenable to early disposition that do not need a case management conference or review or similar event to guide the case to early resolution. Cal Rules of Ct 209(d)(2).

§40.16 F. Case Evaluation Factors

In applying Cal Rules of Ct 209, the court must estimate the maximum time that will reasonably be required to dispose of each

case in a just and effective manner. The court must consider the following factors and any other information the court deems relevant, understanding that no one factor or set of factors will be controlling and that cases may have unique characteristics not susceptible of precise definition (Cal Rules of Ct 210):

- Type and subject matter of the action;
- Number of causes of action or affirmative defenses alleged;
- Number of parties with separate interests;
- Number of cross-complaints and the subject matter;
- Complexity of issues, including issues of first impression;
- Difficulty in identifying, locating, and serving parties;
- Nature and extent of discovery anticipated;
- Number and location of percipient and expert witnesses;
- Estimated length of trial;
- Whether some or all issues can be arbitrated;
- Statutory priority for the issues;
- Likelihood of review by writ or appeal;
- Amount in controversy and the type of remedy sought, including measures of damages;
- Pendency of other actions or proceedings which may affect the case;
- Nature and extent of law and motion proceedings anticipated;
- Nature and extent of the injuries and damages;
- Pendency of underinsured claims; and
- Any other factor that would affect the time for disposition of the case.

III. PROCEDURES FOR ASSIGNMENT TO CASE MANAGEMENT PLAN

§40.17 A. Case Assignment Procedure

Cases are assigned to a case management plan according to local practice. Each court must adopt a calendaring system for general civil cases that will advance the delay reduction rules. Cal Rules of Ct 204.1–204.2. Courts are usually “master calendar” or “direct (or independent) calendar” courts. In master calendar courts, cases are assigned to trial to a court department that is ready and able to hear the case, usually on the day the case is ready for trial. *Grant v Superior*

Court (2001) 90 CA4th 518, 524, 108 CR2d 825. The presiding judge may, however, on the noticed motion of a party or on the court's motion, order the assignment of any case to one judge for all or such limited purposes as will promote the efficient administration of justice. Cal Rules of Ct 213.

Most other courts, such as those in the Central District of Los Angeles, are "direct calendar" courts, that is, they follow the federal system in assigning one judge for all purposes including trial. *Zilog, Inc. v Superior Court* (2001) 86 CA4th 1309, 1320, 104 CR2d 173; see, e.g., Los Angeles Ct R 7.3(i). For example, in the Central District of Los Angeles, a case is randomly assigned to an I/C (individual calendar) judge in a manner that ensures that the parties and attorneys will not be able to anticipate any case assignment. The name of the judge is designated by the clerk on the summons and original complaint; the clerk also assigns a status conference date and attaches a status conference questionnaire and a notice of case assignment. It is the duty of each plaintiff (and cross-complainant) to serve a copy of the notice, the status conference questionnaire, and the date of the status conference along with the complaint (and cross-complaint). Los Angeles Ct R 7.1(b), 7.3(b)–(c). The courts in San Diego County issue a notice of case assignment, which includes the name, physical location, and department of the assigned judge, if any. It is the duty of the plaintiff to serve all defendants with a copy of the notice of case assignment. San Diego Ct R 2.1.3.

The case will also be assigned to a case differential plan; *i.e.*, it will be evaluated and assigned to the case management program for review under Cal Rules of Ct 212 for disposition under the case disposition time goals in Cal Rules of Ct 209(b), it will be exempted as an exceptional case (see Cal Rules of Ct 209(c)), or it will be assigned to a local case management plan (Cal Rules of Ct 209(d)). Cal Rules of Ct 209(a); see §40.13.

Procedures may vary according to local rule, although some procedures appear to be the same in all counties, such as the use of the mandatory Civil Case Cover Sheet (Judicial Council Form CM-010) (see §40.90), the Case Questionnaire (Judicial Council Form 982(a)(21)) in limited civil cases (see §40.92), and the Case Management Statement (Judicial Council Form CM-110) (see §40.93). These procedures, as well as examples of local court procedures, are discussed below.

B. Filing and Service

1. Documents to Be Filed With Complaint and Summons

§40.18 a. Civil Case Cover Sheet

The first paper filed in a civil action or proceeding, except those filed in small claims or under the Probate, Family, or Welfare and Institutions Codes, must be accompanied by the Civil Case Cover Sheet (Judicial Council Form CM-010). Cal Rules of Ct 201.8(a)–(b). A fileable version of the Judicial Council form is available on the Judicial Council’s website at www.courtinfo.ca.gov.

The type of action must be designated on the cover sheet. See, *e.g.*, San Francisco Ct R 3.1(B). If a party provides a defective or incomplete cover sheet at the time the party’s first paper is submitted for filing, the court clerk must file the paper. Failure of a party or a party’s counsel to file a cover sheet as required by this rule may subject that party, its counsel, or both, to sanctions under Cal Rules of Ct 227. Cal Rules of Ct 201(c). For form, see §40.90. On sanctions, see §40.89.

NOTE™ Some local rules formerly required “case information sheets,” and a court could refuse to accept a case for filing if the information sheet was not included. See *Hartford Acc. & Indem. Co. v Gonzalez* (1994) 31 CA4th 51, 36 CR2d 769 (upholding former Ventura Ct R 3.10). However, local forms now seem to be superseded by the Judicial Council form of Civil Case Cover Sheet, adopted for mandatory use, effective January 1, 2000.

Local court rules may require additional cover sheets. Los Angeles County requires that a local form, titled Civil Case Cover Sheet Addendum and Statement of Location (Los Angeles Form CIV-109), be attached and submitted. See Los Angeles Ct R 7.3(c). The form is available on the court’s website at www.lasuperiorcourt.org and is reproduced in §40.91.

§40.19 b. Case Questionnaire

In limited civil cases (cases under \$25,000), the plaintiff must serve a completed form of mandatory Case Questionnaire (Judicial Council Form 982(a)(21)) with the complaint. See, *e.g.*, San Francisco Ct R 3.4(B). See §40.92. A fileable version of the Judicial Council form is available on the Judicial Council’s website at www.courtinfo.ca.gov.

Local rules, such as those in Los Angeles, may use a form of status conference questionnaire, which the clerk attaches to the summons

and complaint when it is filed. These questionnaires appear to be used in both limited and unlimited civil cases. See Los Angeles Ct R 7.3(c).

§40.20 c. Time for Filing

Delay reduction rules shall not require shorter time periods than service of the complaint within 60 days after filing. Govt C §68616(a); Cal Rules of Ct 201.7(b). See, *e.g.*, San Francisco Ct R 3.3(A) (compliance with Cal Rules of Ct 201.7(e) required); San Diego Ct R 2.1.5 (requiring service and filing of proof of service within 60 calendar days after filing). Exceptions, for longer periods of time, (1) may be granted as authorized by local rule, and (2) shall be granted on a showing that service could not reasonably be achieved within the time required and with the exercise of due diligence consistent with the amount in controversy. Govt C §68616(a); Cal Rules of Ct 201.7(b).

§40.21 d. Unnamed Doe Defendants

Unnamed (Doe) defendants shall not be dismissed before the conclusion of the introduction of evidence at trial, except on the parties' stipulation or motion. Govt C §68616(h).

§40.22 e. Cross-Complaints

Cross-complaints must be served and a proof of service filed within 30 days after the filing date unless an appearance is made within the 30 days. Cal Rules of Ct 201.7(c).

§40.23 f. Improper Refiling of Case

Local rules often provide that it is not permissible to dismiss and refile a case for the purpose of obtaining a different judge. See, *e.g.*, Los Angeles Ct R 7.9(d)–(e); Orange Ct R 436.

2. Responsive Pleadings

§40.24 a. Time for Response

Service of responsive pleadings within 30 days after service of the complaint. The parties may stipulate to an additional 15 days. Exceptions, for longer periods of time, may be granted as authorized by local rule. Govt C §68616(b); see Cal Rules of Ct 201.7(d). See also, *e.g.*, San Francisco Ct R 3.3(B).

§40.25 b. Stipulated Single Continuance Policy

Within 30 days after service of the responsive pleadings, the parties may, by stipulation filed with the court, agree to a single continuance not to exceed 30 days. Govt C §68616(d). It was the legislature's intent that these stipulations not detract from the courts' efforts to comply with the standards of timely disposition. To this end, the Judicial Council shall develop statistics that distinguish between cases involving, and not involving, these stipulations. Govt C §68616(d).

§40.26 3. Other Papers

Time for service of notice or other paper under CCP §§1005 and 1013 and time to plead after service of summons under CCP §412.20 shall not be shortened except as provided in those sections. Govt C §68616(c).

§40.27 C. Assignment of Related Cases

Local rules may govern the assignment of related cases. In Los Angeles County, a case may be ordered related to another case, including a probate or family law case, when it appears that the cases (Los Angeles Ct R 7.3(f)(1)):

- Arise from the same or substantially identical transactions, happenings, or events.
- Require a determination of the same or substantially identical questions of law and/or fact.
- Are likely for other good reasons to require substantial duplication of labor if heard by different judges.
- Are the same or substantially similar to a prior case in superior court that has been dismissed, either with or without prejudice.

For example, in Los Angeles County, counsel must file a notice of related case within 15 days after becoming aware that the cases are related, and there are court procedures for determination and case assignment. See Los Angeles Ct R 7.3(f)(2)–(5).

D. Coordination, Consolidation, and Severance

§40.28 1. Coordination

Coordination is a procedure in which civil actions, pending in different courts, that share a common question of law or fact may be consolidated by a motion to transfer in noncomplex cases (CCP §403)

or by a petition for coordination in complex cases (CCP §404). Local case management rules often govern the procedures for coordination. See, *e.g.*, Los Angeles Ct R 7.3(h). On coordination, see chap 44.

§40.29 2. Consolidation

Consolidation is a procedure that allows, and in some instances requires, the court to combine separately filed lawsuits that involve a common question of law or fact. See CCP §1048(a). It may be governed by local case management rules. See, *e.g.*, Los Angeles Ct R 7.3(g). On consolidation, see chap 43.

§40.30 3. Severance or Bifurcation

Severance or bifurcation is a procedure that enables the court to divide a lawsuit into one or more parts, to resolve the parts separately, and to determine the order in which the parts will be resolved. CCP §1048(b). Bifurcation is a subject for discussion at the case management conference (Cal Rules of Ct 212(e)(10)) and may be governed by local rules. On bifurcation, see chap 43.

§40.31 E. Discovery

The Trial Court Delay Reduction Act (Govt C §§68600–68620) provides that CCP §§2016.010–2036.050 shall govern discovery, except in arbitration proceedings. Govt C §68616(f).

§40.32 F. Peremptory Challenges

Despite CCP §170.6, in direct calendar courts, challenges under that section shall be exercised within 15 days after the party's first appearance. Master calendar courts shall be governed solely by §170.6. Govt C §68616(i); *Grant v Superior Court* (2001) 90 CA4th 518, 524, 108 CR2d 825.

Local rules also govern the manner of challenge, which may differ according to whether the judge is a master calendar or independent calendar judge. See, *e.g.*, Los Angeles Ct R 7.5(d).

§40.33 G. Case Removed to Federal Court

Local case management rules may govern the removal of cases to federal court. In Los Angeles County, for example, if a case is removed to federal court, the court will order a date, no earlier than 90 days after the date of removal, by which counsel shall file a Notice of Status of Removed Case. If the case has not been remanded to the trial

court by that time, it will be recorded as completed without the need to conduct a further status conference. Los Angeles Ct R 7.8. See also Orange Ct R 455.

§40.34 H. Diagnostic Questions

The following questions may be helpful to attorneys approaching a case that is subject to procedures implementing the Trial Court Delay Reduction Act (Govt C §§68600–68620):

Plaintiffs

- 1. Which court or courts are proper forums?**
- 2. Do you have a copy of current local rules for each such court? If not, or if uncertain, call the clerk's office to obtain one, or consult the county court's website. A list of the superior court websites is available at www.courtinfo.ca.gov/courts/trial/courtlist.htm.**
- 3. What is the projected time to trial under the rules? Is there a longer period allowed by rule or practice?**
- 4. Do you have a reasonable likelihood of preparing this case for trial within the time period allowed by the rules?**
- 5. Are the facts or issues sufficiently complex or the discovery problems sufficiently great that you might obtain a longer time period to trial?**
- 6. Does the court require a cover sheet with the complaint? If so, be sure to obtain and complete the form before filing the complaint.**
- 7. When are service of process and return of process required?**
- 8. When is any challenge to a judge required?**

Defendants

- 1. When is the answer due?**
- 2. Do you have the current local rules? If not, or if uncertain, call the clerk's office right away.**
- 3. What is the projected time to trial under the rules? Is there a longer period allowed by rule or practice?**
- 4. Do you have a reasonable likelihood of preparing this case for trial within the time period allowed by the rules?**

5. Are the facts or issues sufficiently complex or the discovery problems sufficiently great that you might obtain a longer time period to trial?
6. Does the court require a cover sheet with the answer? If so, be sure to obtain and complete the form before filing the answer.
7. When is any challenge to a judge required?
8. Can the case be settled before filing an answer?

§40.35 I. Suggestions for Handling Delay Reduction Cases

- Ensure that your staff knows which cases are being managed by the court under a trial court delay reduction plan and which ones are exempt.
- Use a different-colored file jacket for exempt cases.
- Starting at the outset of the case, calendar all dates for filings and events as early as possible. Put the dates on the front or the inside cover of the case file also.
- Place a reminder on your desk, in the case file, and on office calendars a specified number of days (*e.g.*, 7, 10, or 14) before any date for a filing or event.
- Based on available information, identify possible deponents as early as possible and establish a tentative schedule (*e.g.*, depose X in third month after filing and Y in fourth month) to ensure that all discovery can be completed within the time period allowed.
- Calendar dates for submitting other discovery, *e.g.*, interrogatories, requests for admission.
- Identify potential experts as early as possible.

IV. SPECIAL RULES FOR MANAGEMENT OF COMPLEX CASES

§40.36 A. Definition

A “complex case” is an action that requires exceptional judicial management to avoid placing unnecessary burdens on the court or the litigants and to expedite the case, keep costs reasonable, and promote effective decision making by the court, the parties, and counsel. Cal Rules of Ct 1800(a).

NOTE™ Local rules that manage complex litigation are not preempted by Cal Rules of Ct 981.1. See *Volkswagen of Am., Inc. v Superior Court* (2001) 94 CA4th 695, 703, 114 CR2d 541.

§40.37 1. Factors

In deciding whether an action is a complex case under Cal Rules of Ct 1800(a), the court shall consider, among other things, whether the action is likely to involve (Cal Rules of Ct 1800(b)):

- Numerous pretrial motions raising difficult or novel legal issues that will be time-consuming to resolve;
- Management of a large number of witnesses or a substantial amount of documentary evidence;
- Management of a large number of separately represented parties;
- Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court; or
- Substantial postjudgment judicial supervision.

§40.38 2. Provisional Designation

Except as provided in Cal Rules of Ct 1800(d) (court's discretion; see §40.39), an action is provisionally a complex case if it involves one or more of the following types of claims (Cal Rules of Ct 1800(c)):

- Antitrust or trade regulation claims;
- Construction defect claims involving many parties or structures;
- Securities claims or investment losses involving many parties;
- Environmental or toxic tort claims involving many parties;
- Claims involving mass torts;
- Claims involving class actions; or
- Insurance coverage claims arising from any of the claims listed immediately above.

§40.39 3. Court's Discretion

Despite Cal Rules of Ct 1800(c) (provisional designation; see §40.38), an action is not provisionally complex if the court has significant experience in resolving like claims involving similar facts and the management of those claims has become routine. A court may declare by local rule that certain types of cases are or are not provisionally complex under this rule. Cal Rules of Ct 1800(d).

§40.40 B. Complex Case Designation

A plaintiff may designate an action a complex case by filing and serving with the initial complaint the Civil Case Cover Sheet (Judicial Council Form CM-010) marked to indicate that the action is a complex case. Cal Rules of Ct 1810. For form, see §40.90.

C. Complex Case Counterdesignations

§40.41 1. Noncomplex Counterdesignation

If a Civil Case Cover Sheet (Judicial Council Form CM-010) designating an action as a complex case has been filed and served and the court has not previously declared the action to be a complex case, a defendant may file and serve no later than its first appearance a counter Civil Case Cover Sheet designating the action as not a complex case. For form, see §40.90. The court must decide, with or without a hearing, whether the action is a complex case within 30 days after the filing of the counterdesignation. Cal Rules of Ct 1811(a).

§40.42 2. Complex Counterdesignation

A defendant may file and serve no later than its first appearance a counter Civil Case Cover Sheet (Judicial Council Form 982.2(b)(1)) designating the action as a complex case. The court must decide, with or without a hearing, whether the action is a complex case within 30 days after the filing of the counterdesignation. Cal Rules of Ct 1811(b). For form, see §40.90.

§40.43 3. Joint Complex Designation

A defendant may join the plaintiff in designating an action as a complex case. Cal Rules of Ct 1811(c).

D. Action by Court

§40.44 1. Decision on Complex Designation

Except as provided in Cal Rules of Ct 1811 (complex case counterdesignations), if a Civil Case Cover Sheet (Judicial Council Form CM-010) (see §40.90) designating an action as a complex case has been filed and served, the court must decide as soon as reasonably practicable, with or without a hearing, whether the action is a complex case. Cal Rules of Ct 1812(a).

§40.45 2. Court's Continuing Power

With or without a hearing, the court may decide on its own motion, or on a noticed motion by any party, that a civil action is a complex case or that an action previously declared to be a complex case is not a complex case. Cal Rules of Ct 1812(b).

§40.46 E. Electronic Service

The court may provide in a case management order that documents filed electronically in a central electronic depository available to all parties are deemed served on all parties. Cal Rules of Ct 1830.

V. CASE MANAGEMENT CONFERENCE

§40.47 A. Background

In the past, most California superior courts routinely held trial-setting, pretrial, arbitration status, and status conferences. The Trial Court Delay Reduction Act (Govt C §§68600–68620) significantly changed these practices. Counties have adopted delay reduction rules consolidating the trial setting, pretrial, arbitration, and status conferences into a single conference. Local rules control its timing, purposes, and procedures. Govt C §68612.

There is no uniformity in the terminology chosen for this one comprehensive conference. Most counties and Cal Rules of Ct 212(b) call it the “case management conference” (San Francisco Ct R 3.4; Los Angeles Ct R 7.9; San Diego Ct R 2.1.9). For purposes of this discussion, it will be referred to as the case management conference.

§40.48 B. Initial Case Management Review; Exemptions

In each case, the court must set an initial case management conference to review the case. Cal Rules of Ct 212(b)(1). This rule applies to every general civil case except complex cases and cases exempt under Cal Rules of Ct 207(c)–(d) (uninsured motorist cases; cases included in petition for coordination), Cal Rules of Ct 209(c)–(d) (exceptional cases; uncomplicated cases), Cal Rules of Ct 214 (management of short cause cases), and Cal Rules of Ct 243.8 (False Claim Act cases). Cal Rules of Ct 212(a).

The court may order, on the stipulation of all parties or the court's own motion, that a case is a short cause case exempted from case management review and set the case for trial. Cal Rules of Ct 214(b). A short cause case is a civil case in which the time estimated for trial by all parties or the court is 5 hours or less. All other cases are long

cause cases. Cal Rules of Ct 214(a). If a short cause case is not completely tried within 5 hours, the judge may declare a mistrial or, in the judge's discretion, may complete the trial. In a mistrial, the case will be treated as a long cause case and must be promptly set for either a new trial or for a case management conference. Cal Rules of Ct 214(c).

§40.49 C. Referral to Arbitration

No case may be referred to arbitration prior to 210 days after the filing of the complaint, exclusive of the stipulated period provided for in Govt C §68616(d). No rule adopted under this article may contravene CCP §§638–639. Govt C §68616(g). If parties agree to use an alternative dispute resolution (ADR) process, they must jointly complete the ADR stipulation form provided for under Cal Rules of Ct 201.9 and file it with the court. Cal Rules of Ct 212(h).

In courts having a judicial arbitration program under CCP §1141.11, the court at the time of the case management conference or review must ascertain whether the case is suitable for judicial arbitration. Cal Rules of Ct 212(d). Local rules may also govern referral to arbitration. See, *e.g.*, Los Angeles Ct R 7.9(c) (court shall refer all appropriate cases to judicial arbitration or mediation).

On judicial arbitration, see chap 37.

§40.50 D. Subjects Considered at Case Management Conference

At the conference, the court must review the case comprehensively and decide whether to assign the case to an alternative dispute resolution process, whether to set the case for trial, and the other matters stated in Cal Rules of Ct 212. Cal Rules of Ct 212(b)(1). The initial case management conference should generally be the first case management event conducted by court order in each case, except for orders to show cause. Cal Rules of Ct 212(b)(1).

At a case management conference the parties must address, if applicable, and the court may take appropriate action with respect to, the following (Cal Rules of Ct 212(e); see San Francisco Ct R 3.4; Los Angeles Ct R 7.9(a)):

- Whether there are any related cases (see, *e.g.*, Los Angeles Ct R 7.3(f));
- Whether all parties named in the complaint or cross-complaint have been served, appeared, or been dismissed;

- Whether any additional parties may be added or the pleadings may be amended;
- Whether, if a cause is a limited civil case, the economic litigation procedures under CCP §§90–100 will apply to it or whether the party intends to bring a motion to exempt the case from these procedures;
- Whether any other matters (*e.g.*, the bankruptcy of a party) may affect the court’s jurisdiction or processing of the case;
- Whether the parties have stipulated to, or the case should be referred to, judicial arbitration or any other form of Alternative Dispute Resolution (ADR) and, if so, the date by which the ADR must be completed (see, *e.g.*, Los Angeles Ct R 7.9(c));
- Whether an early settlement conference should be scheduled and, if so, on what date (see Cal Rules of Ct 222);
- Whether discovery has been completed and, if not, the date by which it will be completed;
- What discovery issues are anticipated;
- Whether the case should be bifurcated or a hearing should be set for a motion to bifurcate under CCP §598 (see CCP §1048(b); see chap 43);
- Whether there are any cross-complaints that are not ready to be set for trial and, if so, whether they should be severed;
- Whether the case is entitled to any statutory preference and, if so, the statute granting the preference (see, *e.g.*, CCP §§36(a) (aged, ill parties), 36(b) (party under age 14), 527(e) (preliminary injunction granted), 1062.3(a) (declaratory relief actions));
- Whether a jury trial is demanded, and, if so, the identity of each party requesting a jury trial;
- If the trial date has not been previously set, the date by which the case will be ready for trial and the available trial dates;

NOTE™ A jury trial must be demanded when the case is first set for trial (if set on notice or stipulation) or within 5 days after notice of setting (if, as is usually the case, the matter is set without notice or stipulation). CCP §631(d)(4); see chap 41.

- The estimated length of trial;
- The nature of the injuries;
- The amount of damages, including any special or punitive damages;
- Any additional relief sought;

- Whether any insurance coverage issues may affect resolution of the case; and
- Any other matters that should be considered by the court or addressed in the case management order.

§40.51 E. Meet-and-Confer Requirement

Unless the court orders another time period, no later than 30 calendar days before the date set for the case management conference, the parties must meet and confer, in person or by telephone, to consider each issue identified in Cal Rules of Ct 212(e) (subjects to be considered at case management conference; see §40.50) and, in addition, to consider the following (Cal Rules of Ct 212(f); see, *e.g.*, Los Angeles Ct R 7.9(b)(1)):

- Resolving any discovery disputes and setting a discovery schedule;
- Identifying and, if possible, informally resolving any anticipated motions;
- Identifying the facts and issues in the case that are uncontested and may be the subject of stipulation;
- Identifying the facts and issues in the case that are in dispute;
- Determining whether the issues can be narrowed by eliminating any claims or defenses by means of a motion or otherwise;
- Possible settlement;
- Identifying the dates on which all parties and their attorneys are available or not available for trial, including the reasons for unavailability; and
- Other relevant matters.

Local rules may set different time requirements for the meet-and-confer. See, *e.g.*, Orange Ct R 441 (20 days after service of responsive pleading). The rules may also require the filing of a meet-and-confer statement. See, *e.g.*, Orange Ct R 441 (joint meet-and-confer statement required to be filed within 30 days after service of the responsive pleading).

§40.52 F. Setting the Conference; Notice

Except in complex cases, the court may not require a status conference sooner than 30 days after service of the first responsive pleadings. Govt C §68616(e). In every general civil case except complex cases and those cases exempted (see §40.48), the court must

review the case no later than 180 days after the filing of the initial complaint. Cal Rules of Ct 212(a).

Notice of the date of the case management conference must be given no later than 45 days before the conference, unless the court orders otherwise. The court may provide by local rule for the time and manner of giving notice to the parties. Cal Rules of Ct 212(b)(2).

The attorney must, however, consult local rules to ascertain when the case management conference will be set. In some counties, the timing of the conference is controlled by the filing of the complaint. For example, in Los Angeles Superior Court, the first case management conference is held no later than 180 days after the complaint is filed. Los Angeles Ct R 7.9(a).

Procedures for notice of the case management conference vary, depending on the manner in which the conference date is set. For example, in San Francisco Superior Court the county clerk designates a status conference date on the face of the complaint when it is filed. The plaintiff is responsible for notifying all defendants of this date. San Francisco Ct R 3.4(A). Notice thus can be served with the complaint.

G. Attending Case Management Conference

§40.53 1. Who Must Attend

At the case management conference, counsel for each party and each self-represented party must appear personally or, if permitted under Cal Rules of Ct 298(c)(2), by telephone; must be familiar with the case; and must be prepared to discuss and commit the party's position on the issues list in Cal Rules of Ct 212(e)–(f) (subjects to be considered at case management conference and at meet-and-confer). Cal Rules of Ct 212(b)(3).

The attorney should consult local rules to learn whether any additional parties must attend the case management conference. See, *e.g.*, San Diego Ct R 2.1.9 (parties familiar with case and possessing authority to enter into stipulations must be present).

Telephone appearances are not allowed for the case management conference, unless the court, by local rule or written local policy, permits telephone appearances at those conferences. Cal Rules of Ct 298(c)(2).

§40.54 2. Familiarity With Case

The attorney who attends the case management conference must be familiar with the case. See Cal Rules of Ct 212(b)(1).

§40.55 3. Order Without Appearance

The case management order may, however, be made without an appearance of the parties or attorneys. If, based on its review of the written submissions of the parties and such other information as is available, the court determines that appearances at the conference are not necessary, the court may issue a case management order and notify the parties that no appearance is required. Cal Rules of Ct 212(b)(4).

§40.56 4. Excuse From Attendance in Limited Civil Cases

In all general civil cases, except those exempted under Cal Rules of Ct 212(a) (see §40.48), the court must review the case and issue a case management order under Cal Rules of Ct 212, but by local rule the court may provide that counsel and self-represented parties are not to attend a case management conference in limited civil cases, unless ordered to do so by the court. Cal Rules of Ct 212(b)(5). See, *e.g.*, Los Angeles Ct R 7.9(d)(1).

§40.57 H. Additional Case Management Conference

The court on its own motion may order, or a party or parties may request, that an additional case management conference be held at any time. A party should be required to appear at an additional conference only if an appearance is necessary for the effective management of the case. In determining whether to hold an additional conference, the court must consider each case individually on its own merits. Cal Rules of Ct 212(c).

§40.58 I. Conducting the Conference

The case management conference is conducted in the manner provided by local rule. Cal Rules of Ct 212(i). Generally, the subjects in Cal Rules of Ct 212(e) are considered. See §40.50. For example, in Orange County plaintiff's counsel shall arrange the case management conference (called the "issue conference") at a mutually agreeable time and location, and the parties shall (Orange Ct R 450):

- Exchange exhibits and inspect photos and diagrams (to be submitted on the day of trial), excluding those contemplated to be used for impeachment or rebuttal.
- Stipulate to all facts amenable to stipulation.

- Prepare a joint statement of the case.
- Prepare a joint witness list, including impeachment or rebuttal witnesses.
- Prepare a joint list of controverted issues. If all the parties fail to agree to an issue as controverted or uncontroverted, then the issue is controverted (required for both jury and non-jury trials).
- Exchange all motions in limine and other pretrial motions.
- Prepare voir dire questions for the court to include in its voir dire (jury trials only).
- Execute the statement of compliance.

VI. CASE MANAGEMENT STATEMENT AND ORDER

§40.59 A. Background: Former At-Issue Memorandum

Under the procedures that were used before implementation of the delay reduction rules, courts had the option of making an at-issue memorandum (or a joint at-issue memorandum) a prerequisite to placing the case on the civil active list. Former Cal Rules of Ct 209(a) (repealed effective July 1, 2002). The at-issue memorandum served a variety of purposes for the court in calendar management. Its primary purpose is to inform the court that all essential parties have been served or have appeared in the action and that the case is at issue as to those parties. The memorandum also informed the court whether the case was entitled to setting priority, whether a pretrial conference or a jury is demanded, and the estimated time for trial.

The rule governing the at-issue memorandum (former Cal Rules of Ct 209) was repealed effective July 1, 2002, and on or after that date, the at-issue memorandum is replaced by the case management statement, governed by Cal Rules of Ct 212. See §§40.60–40.70.

B. Case Management Statement

§40.60 1. Service and Filing

No later than 15 calendar days before the date set for the case management conference or review, each party must file a case management statement and serve it on all other parties in the case. Cal Rules of Ct 212(g)(1).

§40.61 2. Use of Judicial Council Form

The parties must use the mandatory Case Management Statement (Judicial Council Form CM-110). See §40.93. All applicable items on the form must be completed. In lieu of each party's filing a separate case management statement, any two or more persons may file a joint statement. Cal Rules of Ct 212(g)(2).

§40.62 3. Effect of Local Rules

Local rules may also govern the case management statement. See, *e.g.*, San Francisco Ct R 3.4(B) (case management statement must comply with Cal Rules of Ct 212(f)–(h)); Los Angeles Ct R 7.9(b)(2) (each party must file Case Management Statement (Judicial Council Form CM-110) and serve it on all parties in the case no later than 15 days before the date set for case management conference); San Diego Ct R 2.9.1.(B) (case management statement must be completed and timely filed). Some counties, for example, require the case management statement to be joint and filed at least 5 days before the case management conference. Orange Ct R 445.

For a form of case management statement, see §40.93.

§40.63 4. Content of Case Management Statement

The Case Management Statement (Judicial Council Form CM-110) (see §40.93) requests the following information:

- The case title and number.
- Whether the statement is submitted by one party or jointly.
- When the complaint and cross-complaint, if any, were filed.
- Whether all essential parties have been served with process, have appeared, or been dismissed, and which additional parties may be added.
- A description of the case.
- Whether a jury is demanded.
- The estimated date for trial.
- The estimated length of the trial.
- The names, addresses, and telephone numbers of the attorneys for the parties and of any parties appearing without counsel.
- Whether the case is entitled to preference.
- Whether the parties have agreed to, or the case has gone to, alternative dispute resolution.

- Whether the parties are willing to participate in an early settlement conference.
- Information on any insurance carriers involved in the case.
- Whether any matters, such as pending bankruptcy, might affect the court's jurisdiction in processing the case.
- Whether there are any related cases or the parties intend to file a motion to consolidate or coordinate.
- Whether the parties intend to file a motion to bifurcate specific issues or causes of action.
- Whether the parties expect to file any motions before trial.
- The status of discovery.
- Whether economic litigation procedures for limited civil cases (CCP §§90–98) apply to the case.
- Whether additional matters should be considered or determined at the case management conference.
- Whether the meet-and-confer requirement has been met and whether the parties reached agreement on any matters.
- The number of previous case management orders.

§40.64 5. Effect of Failure to Request Jury Trial

It may be risky for a plaintiff's attorney to fail to demand a jury in the case management statement. Although the at-issue memorandum is no longer used (former Cal Rules of Ct 209 was repealed, effective Jan. 1, 2002), the California Supreme Court has held that party's failure to demand a jury trial in an at-issue memorandum does not result in a waiver of the right to a jury trial. *Mutual Bldg. & Loan Ass'n v Corum* (1934) 220 C 282, 30 P2d 509. A more recent appellate case, however, has held that, although the failure to request a jury in an at-issue memorandum did not in itself constitute a waiver of the right to a jury trial under former CCP §631(2) (now CCP §631(a)(2)), a party who has answered no in an at-issue memorandum, in response to the question of whether a jury is demanded, has consented in writing to a waiver of the right under that section. *March v Pettis* (1977) 66 CA3d 473, 476, 136 CR 3. In that case, the defendants filed a countermemorandum in which a jury was demanded, but they later waived their right to a jury, and the plaintiff demanded a jury trial and offered to tender jury fees. Relief from a waiver by written consent under former CCP §631(2) was not an absolute right, and the trial court did not abuse its discretion by

denying the plaintiff a jury trial. *March v Pettis, supra*. See also *Taylor v Union Pac. R.R.* (1976) 16 C3d 893, 130 CR 23.

PRACTICE TIP™ Plaintiff's counsel should be cautious about failing to demand a jury trial when one is desired, on the assumption that (1) the defendant will probably demand one (and therefore will be responsible for depositing the jury fees), or (2) similar to the facts in *March*, if the defendant demands a jury trial but later waives it, the court will always entertain the plaintiff's demand for a jury at that time. Thus, an attorney whose client wishes to have a jury trial is well advised to demand one in his or her case management statement.

§40.65 C. Responsive Statement

Under the current delay reduction rules, each party must file and serve a case management statement on all other parties in the case. See Cal Rules of Ct 212(g)(1). Conflicts are resolved by the court at the case management conference. Cal Rules of Ct 212(e). Any two parties may, however, file a joint statement. Cal Rules of Ct 212(g)(2); see also Orange Ct R 445 (requiring joint case management statement).

Under the rules that existed before delay reduction, an attorney served with the former at-issue memorandum would immediately scrutinize it and, if he or she disagreed with any part, filed and served a countermemorandum within 10 days after service of the memorandum or within 5 days after service in an unlawful detainer proceeding (former Cal Rules of Ct 209(d) (repealed July 1, 2002)).

§40.66 1. Motion to Strike

It is unclear whether a motion to strike can be used under the civil trial court management rules in cases using a case management statement. Cal Rules of Ct 204–214.

NOTE™ Before implementation of the delay reduction rules, when an attorney disagreed with a statement in the former at-issue memorandum that the case is at issue as to all essential parties or that the case is entitled to setting priority, he or she might file, in addition to a countermemorandum, a motion to strike the at-issue memorandum. Although no statute or court rule expressly authorized this motion, a court could entertain it in the exercise of its inherent power to control its proceedings. Motions to strike were often made when a plaintiff added a new defendant, either by a Doe amendment or by serving a previously named defendant, after the at-issue memorandum was filed. Motions to

strike were also made when a defendant filed a cross-complaint naming new cross-defendants after the at-issue memorandum was filed. The motion, if granted, removed the case from the civil active list and had the effect of postponing the trial date. The party seeking to set the case for trial had to then file and serve a new at-issue memorandum and, unless a motion to advance was granted, the case would be placed at the end of the civil active list.

§40.67 2. Motion for Advisory Jury

Unless a jury trial is a matter of right (in which event the demand should be made in the at-issue memorandum or counter memorandum), former Cal Rules of Ct 377 (repealed Jan. 1, 2003) required that a party desiring a jury trial, when the right to a jury trial is not guaranteed by law, shall file and serve a noticed motion after the issue is joined and before or at the time of filing the former at-issue memorandum, or within 5 days after service of the memorandum by any other party. The Advisory Committee Comment to former Rule 377 states that the rule was repealed because it was obsolete and contained unduly burdensome procedures. The comment further states that repeal of the rule is not intended to prevent a party from requesting an advisory jury. In an appropriate case, a party may request, and the court in its discretion may approve, having an advisory jury.

§40.68 D. Case Management Order

The court must enter a case management order setting a schedule for subsequent proceedings and otherwise providing for the management of the case. The order should include such provisions as may be appropriate, including (Cal Rules of Ct 212(i)):

- Referral of the case to judicial arbitration or some other form of alternative dispute resolution (ADR);
- A date for completion of the arbitration process or other form of ADR process if the case has been referred to such a process;
- If a trial date has not previously been set, a date certain for trial if the case is ready to be set for trial;
- Whether the trial will be a jury trial or a nonjury trial;
- The identity of each party demanding a jury trial;
- The estimated length of the trial;

- Whether all parties necessary to the disposition of the case have been served or have appeared;
- The dismissal or severance of the unserved or nonappearing defendants from the action;
- The names and addresses of the attorneys who will try the case;
- The date, time, and place for a mandatory settlement conference as provided in Cal Rules of Ct 222;
- The date, time, and place for the final case management conference before trial if such a conference is required by the court or the judge assigned to the case;
- The date, time, and place of any further case management conferences or review; and
- Any additional orders that may be appropriate, including orders on matters listed in Cal Rules of Court 212(e) (case management conference; see §40.50) or 212(f) (meet and confer; see §40.51).

The order issued after the case management conference or review controls the subsequent course of action or proceeding unless it is modified by a subsequent order. Cal Rules of Ct 212(k).

A case management order requiring unilateral disclosure of identity, curriculum vitae, and opinion with regard to each medical expert who would support plaintiffs' claims was not proper exercise of trial court's power to manage complex litigation. *Hernandez v Superior Court* (2003) 112 CA4th 285, 296, 4 CR3d 883.

§40.69 E. Setting Trial Date

In setting a case for trial, the court, at the initial case management conference or any other proceeding at which the case is set for trial, must consider all relevant facts and circumstances. These may include (Cal Rules of Ct 212(j)):

- The type and subject matter of the action to be tried.
- Whether the case has statutory priority.
- The number of causes of action, cross-actions, and affirmative defenses that will be tried.
- Whether any significant amendments to the pleadings have been made recently or are likely to be made before trial.
- Whether the plaintiff intends to bring a motion to amend the complaint to seek punitive damages under CCP §425.13.
- The number of parties with separate interests who will be involved in the trial.

- The complexity of the issues to be tried, including issues of first impression.
- Any difficulties in identifying, locating, or serving parties.
- Whether all parties have been served and, if so, the date on which they were served.
- Whether all parties have appeared in the action and, if so, the date on which they appeared.
- How long the attorneys who will try the case have been involved in the action.
- The trial date or dates proposed by the parties and their attorneys.
- The professional and personal schedules of the parties and their attorneys, including any conflicts with previously assigned trial dates or other significant events.
- The amount of discovery, if any, that remains to be conducted in the case.
- The nature and extent of law and motion proceedings anticipated, including whether any motions for summary judgment will be filed.
- Whether any other actions or proceedings that are pending may affect the case.
- The amount in controversy and the type of remedy sought.
- The nature and extent of the injuries or damages, including whether these are ready for determination.
- The court's trial calendar, including the pendency of other trial dates.
- Whether the trial will be a jury or a nonjury trial.
- The anticipated length of trial.
- The number, availability, and locations of witnesses, including those who reside outside the county, state, or country.
- Whether there have been any previous continuances of the trial or delays in setting the case for trial.
- The achievement of a fair, timely, and efficient disposition of the case.
- Any other factor that would significantly affect the determination of the appropriate date of trial.

§40.70 F. Checklist: Procedure for Case Management Statement

All Parties

- ___ Determine and calendar any deadline for filing case management statement or any other status report or statement required by local rules (see Cal Rules of Ct 212(g)(1) (no later than 15 calendar days before the date set for the case management conference)
- ___ Determine whether every essential party has (1) been served with process or appeared and (2) filed answer to complaint or cross-complaint naming party
- ___ No later than 30 days before the case management conference, meet and confer with all other parties regarding issues listed in Cal Rules of Ct 212(e)–(f) (Cal Rules of Ct 212(f))
- ___ Prepare Case Management Statement (Judicial Council Form CM-110) (see §40.93)
- ___ File case management statement and serve on all other parties

VII. COURT SETTLEMENT CONFERENCES

A. Mandatory Settlement Conference

§40.71 1. Authority and Purpose

The mandatory settlement conference is governed by Cal Rules of Ct 222 and local rules. It has become the most important of all pretrial conferences and plays a major role in keeping superior court trial calendars within manageable limits. A large percentage of cases settle at this point because the parties are able to engage in a free-ranging discussion in the presence of a judge who will *not* be the trial judge, assuring the parties that honest communications with the judge about the weaknesses of their case will not prejudice them for trial. The judge also plays an invaluable role as a neutral person with experience on the jury value of the asserted claims and defenses, and the probabilities of their success at trial.

§40.72 2. Procedure to Set

The court may set a mandatory settlement conference on its own motion or at the request of any party. See Cal Rules of Ct 222(a); Los Angeles Ct R 7.9(d). Most superior courts have adopted local rules for scheduling mandatory settlement conferences. For example, in San Francisco, the mandatory settlement conference must be set within 3 weeks before the date set for trial. San Francisco Ct R 5.0(C). These rules have the legal effect of procedural statutes, and the court may

impose sanctions on anyone who fails to comply with the rules, or fails to participate in good faith in any conference, unless good cause is shown. On sanctions, see §40.89.

The date and time of an early settlement conference may be set at the case management conference. See Cal Rules of Ct 212(e)(7). See §40.50.

3. Settlement Conference Statements

§40.73 a. Requirements

Each party must submit to the court and serve on every other party a mandatory settlement conference statement containing a good faith settlement demand and an itemization of economic and noneconomic damages at least 5 court days before the date set for the settlement conference. Cal Rules of Ct 222(c). Each statement must discuss in detail all the facts and law pertinent to liability and damages as to that party and comply with any additional requirements imposed by local rule. Cal Rules of Ct 222(c).

Many counties require each party to file a written settlement conference statement and impose additional requirements. See, *e.g.*, Los Angeles Ct R 7.9(e). In Los Angeles, for example, the settlement conference statement must contain a concise statement of the material facts of the case and the factual and legal contentions in dispute. Los Angeles Ct R 7.9(e). The statement must also identify all parties and their capacities in the action and cite authorities that support legal propositions important in resolving the case. Los Angeles Ct R 7.9(e).

In San Francisco, superior court settlement conference statements must include, *e.g.* (1) a written factual statement of the case and all relevant legal issues and contentions; (2) the most recent medical reports; (3) a summary of injuries and residuals and a statement of economic and noneconomic damages; (4) the names, addresses, and specialties of expert witnesses who will be called; (5) an evaluation of the percentage of liability attributed to each defendant for purposes of allocation of noneconomic damages; and (6) a statement setting forth the latest demands and offers between the parties. At the conclusion of the conference, the settlement statement and other material furnished to the court must not be made part of the clerk's file. San Francisco Ct R 5.0(G).

PRACTICE TIP™ Counsel may attach copies of reports, photographs, or other pertinent documents to a settlement conference statement. Consult local court rules for the specific information and documentation to bring to the settlement conference.

§40.74 b. Example for Personal Injury Case

EXAMPLE™ In a personal injury case, a two-to-three page statement might contain the following information:

- Names and ages of plaintiff(s) and defendant(s);
- Date, time, and location of accident;
- Nature of case, *e.g.*, auto v auto, auto v pedestrian, slip and fall, construction, medical malpractice;
- Weather, traffic, and visibility;
- Type, year, and condition of plaintiff's and defendant's vehicles;
- Nature and estimated amount of property damage;
- Brief statement of facts;
- Diagram of accident scene;
- Plaintiff's liability theories;
- Defendant's theories and affirmative defenses;
- Names of independent witnesses;
- Brief summary of plaintiff's injuries and present residuals;
- Amount of past and future medical expenses, and other special damages;
- Prior or subsequent accidents or medical condition;
- Defense medical report;
- Loss of wages or income, including description of the type of employment or business, specific dates of unemployment, and projected future losses;
- Estimated percentage of comparative fault;
- Verdict range;
 - Amount of demand, and offer.

In a personal injury action, the special damages should be up-to-date, and listed, totaled, and categorized separately as medical and related expenses (including hospitalization, ambulance charges, and drugs), and loss of earnings. The attorney should also organize in a separate file and bring to the conference all medical reports and records, depositions (with key passages marked), photographs, books, records, diagrams, maps, bills, contracts, and other documents pertinent to settlement of the case.

4. Attendance at Conference

§40.75 a. Attorneys

Trial counsel must attend the settlement conference. Cal Rules of Ct 222(b). Counsels' good faith participation is a requisite in a successful settlement conference. The attorneys must be there not merely to learn more about their adversary's case, but with a willingness to consider points made by the settlement judge and opposing counsel. Sanctions may be imposed on attorneys who fail to appear at a settlement conference or participate in good faith. Cal Rules of Ct 222, 227. On sanctions, see §40.89.

NOTE™ Some local rules require that the settlement conference be attended by the trial attorney. See, *e.g.*, San Francisco Ct R 5.0(E). When an attorney has associated another attorney to try the case, both should attend the conference.

§40.76 b. Attorney Familiarity With Case

Various local rules require that the trial attorney who attends the conference be intimately familiar with all available evidence on both liability and damages and be prepared to discuss the case in depth. In Los Angeles, for example, attorneys for all parties appearing in the action shall attend the conference and be "intimately familiar" with the pertinent available evidence involving both liability and damages. The attorney shall be prepared to discuss the case in depth and, except for good cause shown, shall be the attorney who will try the case. See Los Angeles Ct R 7.9(d)(3). These requirements should be met even when not explicitly mandated by local rules.

If the conference is held within three weeks before trial, preparation will be facilitated by the likelihood that the trial attorneys have issued subpoenas, interviewed witnesses, prepared trial briefs, researched jury instructions, and otherwise become familiar with the facts and applicable law. By the time of the conference, all counsel should have discussed their respective evaluations with their clients and principals, and obtained appropriate settlement authority.

PRACTICE TIP™ Attorneys preparing to appear before a judge with unfamiliar settlement conference procedures may ask other attorneys regarding the manner in which the particular judge is likely to conduct the conference.

Some local rules require the parties to convey settlement demands and offers before the conference. See, *e.g.*, San Francisco Ct R 5.0(G).

§40.77 c. Parties, Representatives of Insurers and Other Entities

The parties and persons with full authority to settle the case must personally attend the conference, unless excused by the court for good cause. If any consent to settle is required for any reason, the party with consensual authority must be personally present at the conference. See Cal Rules of Ct 222(b). See also San Francisco Ct R 5.0(E); Los Angeles Ct R 7.9(d)(1). In Los Angeles, the following must also be present: (1) the litigants unless consent of a particular litigant is not required for settlement, (2) an authorized representative of any insurance company that has coverage involved in the case, and (3) an authorized representative of a corporation or other business or government entity that is a litigant. These persons shall have the full authority to make decisions or negotiate concerning the settlement of the case. Los Angeles Ct R 7.9(d)(1). Lienholders are required to attend the conference or be available by telephone. Los Angeles Ct R 7.9(d)(4).

§40.78 d. Telephone Appearance

Telephone appearances are not allowed for the settlement conference unless the court permits telephone appearances at those conferences. Cal Rules of Ct 298(c)(1).

§40.79 e. Excuses From Attendance

Local rules may also govern other attendance matters, such as those excused from attendance. See, *e.g.*, Los Angeles Ct R 7.9(d)(2). When courts evaluate requests to be excused from the mandatory settlement conference, they tend to construe the term “good cause” as it is used in Cal Rules of Ct 222(b).

PRACTICE TIP™ The attorney should check with the clerk of the judge who is assigned to the settlement conference to determine the judge’s view of “good cause” before submitting a request to be excused from attendance.

Local rules generally require that such requests be in writing. See, *e.g.*, Los Angeles Ct R 7.9(d)(2) (request to be excused must be by written stipulation or ex parte application). The attorney should also check with the clerk of the settlement conference judge before the date of the settlement conference to ascertain whether the request to be excused has been granted. Most local rules provide that parties excused from personal attendance must still be available for telephone

communication during the conference. See, *e.g.*, Los Angeles Ct R 7.9(d)(2).

§40.80 5. Continuances

Some local rules provide that a settlement conference may be continued at the discretion of the judge to whom it has been assigned. See, *e.g.*, Santa Clara Ct R 5(D) (party requesting continuance must appear *ex parte* and show good cause why settlement conference should be continued). But see Govt C §68607(g) (court should adopt firm, consistent policy against continuances). Local rules should be consulted, inasmuch as they differ from county to county.

PRACTICE TIP™ In general, a court will not grant a continuance absent an affirmative showing of good cause, and counsel must request any continuance by noticed motion with supporting declarations, even if the parties have agreed or stipulated to the continuance. Courts may ask attorneys to give mandatory settlement conferences reasonable priority over other court engagements.

6. Conduct of Conference

§40.81 a. Judge's Role

Settlement conferences are generally conducted by a judge and attorneys in chambers while the parties wait in the courtroom. Ordinarily, the judge will, on counsel's request:

- Confer with counsel collectively about the case. Then, depending on the circumstances of the case, the judge may confer separately with counsel for the respective parties or groups of parties and may, in certain circumstances, confer directly with the litigants.
- Make an independent evaluation of the case and offer an opinion on probabilities regarding trial results to counsel as appropriate in the circumstances.
- Cause the terms of a settlement and the express consent of the litigants, as well as counsel, to the settlement to be placed on the record, and retain jurisdiction under CCP §664.6 to enforce the settlement.

The judge is not empowered to compel litigants to settle the case, but can direct attorneys and parties to negotiate between themselves under reasonable conditions. *Wisniewski v Clary* (1975) 46 CA3d 499, 505, 120 CR 176. See also *People v Cimarusti* (1978) 81 CA3d 314, 146 CR 421 (abuse of discretion to refuse to set case for trial).

Furthermore, even if a judge is disqualified in the case or proceeding, he or she is permitted to perform limited judicial functions, including presiding over settlement conferences (CCP §170.4(a)(6)), without any statutory obligation of disclosure. *Adams v Commission on Judicial Performance* (1995) 10 C4th 866, 903, 42 CR2d 606.

JUDICIAL PERSPECTIVE™ An experienced, patient, and skillful settlement judge serves as a catalyst for settlement by creating a climate conducive to negotiation. Judges differ in the manner in which they conduct a settlement conference. Many begin by asking each attorney to summarize key facts and contentions. Some assume a more active role, asking probing questions, and pointing out respective strengths and weaknesses, and offering their own viewpoints as to verdict potential and settlement value. Most judges will meet separately with the attorneys for each side, and may require group or separate discussions until either settlement is reached, or the judge concludes that the case must go to trial.

PRACTICE TIP™ At times, the attorneys can agree on terms of settlement, but find that one or more of the parties do not agree. The judge can often be asked to assure the dissenting party that the proposed settlement is fair and in that party's best interests. With counsel's consent, the settlement judge can speak with the party directly.

Some judges conclude a successful settlement by having one of the attorneys read the terms of settlement into the court record. If this is done, the record should also show that the parties themselves understand and consent to the settlement's terms.

§40.82 b. Presentation by Plaintiff's Attorney

The judge may ask plaintiff's counsel to begin the settlement conference by summarizing the facts, theories of recovery, and basis for the relief sought. The summary should be precise and factually accurate, but it may state facts and contentions in the light most favorable to the client. Plaintiff's counsel may then be asked to state the latest and lowest demand, which need not be the minimum offer acceptable to the client. Some judges will ask plaintiff's attorney privately to state the minimum amount acceptable to the client, or whether the attorney has good "client control." The attorney should respond to these questions without disclosing confidential information or undermining his or her ability to obtain the best possible recovery for the client.

§40.83 c. Presentation by Defendant's Attorney

Defendant's attorney should be prepared to summarize facts and contentions as seen by the defense, including a concise discussion of pleaded affirmative defenses. Counsel may point out any misleading factual statements in plaintiff's counsel's summary of the case. Defense counsel should anticipate being asked the limits of the settlement authority given by the defendant or insurer, but any response should protect the client's bargaining position. Often the defense attorney will ask the judge to excuse plaintiff's counsel during discussions of settlement authority.

PRACTICE TIP™ When a plaintiff has sued more than one defendant, defense counsel should consider ways to present a united front against the plaintiff, with provision for a separate resolution of differences between defendants. For example, a preliminary agreement that one defendant will pay 60 percent of the settlement, and another will pay 40 percent, permits defendants to concentrate settlement conference discussion on reducing the plaintiff's demand.

§40.84 7. Duty to Notify Court of Settlement

If an entire case is settled or otherwise disposed of, the plaintiff must immediately file written notice of the settlement or other disposition with the court and serve the notice on any arbitrator or other court-connected ADR neutral involved in the case. The plaintiff must also immediately give oral notice to all of the above if a hearing, conference, or trial is imminent. Cal Rules of Ct 225(a). Local rules often have procedures for filing written notice with the court and notifying any ADR neutrals. See, *e.g.*, Los Angeles Ct R 7.9(f); San Diego Ct R 2.2.4(A).

The plaintiff must also file a request for dismissal within 45 days after settlement, and there are additional requirements for conditional settlement. See Cal Rules of Ct 225(b)–(c). In addition, if the party required to file the dismissal does not do so, the court must dismiss the entire case after it receives notice of settlement unless good cause is shown why the case should not be dismissed. Cal Rules of Ct 225(b). The same dismissal requirement is imposed for conditional settlements. Cal Rules of Ct 225(c). On notifying the court of settlement, see §46.37.

§40.85 8. Sanctions for Failure to Attend or Participate

Various monetary and procedural sanctions are authorized by CCP §575.2 and Cal Rules of Ct 227(b). Failure to attend a settlement conference or to participate in good faith constitutes an unlawful interference with court proceedings. CCP §575.2. In addition, Cal Rules of Ct 227(b) permits reasonable sanctions for failure to comply with the rules of court. The court may order the person at fault to pay the opposing party's reasonable expenses and attorney fees incurred in connection with the sanctions motion or order to show cause. Cal Rules of Ct 227(d). On sanctions, see §40.89.

Local rules may have their own provisions on sanctions. See, e.g., Los Angeles Ct R 7.13 (sanctions for failure or refusal to comply with local rules). If local rules require the attendance of a representative of an insurer of a party, the settlement conference judge may impose sanctions against that carrier, and, if appropriate, against the insured's attorneys for the carrier's failure to attend. *City of El Monte v Takei* (1984) 158 CA3d 244, 204 CR 559. Striking an answer and entering a default, however, is rarely, if ever, appropriate, even for failure to attend a settlement conference. *Evarone v Twentieth Century Hosts, Inc.* (1979) 98 CA3d 90, 159 CR 294.

§40.86 B. Voluntary Settlement Conference

The courts generally encourage counsel who desire to settle a case early in the proceeding to schedule a voluntary settlement conference before a judge. Such conferences often prove fruitful from the standpoint of obtaining an independent evaluation of verdict value and settlement potential.

Some courts by local rule permit voluntary or "specially set" settlement conferences. For example, in San Francisco, a party to a civil proceeding may apply ex parte to the presiding judge for a specially set settlement conference by filing an ex parte application that shall include proof of service on all counsel and/or self-represented parties. A response to the application may be filed by opposing counsel and/or a self-represented party within two court days after being served with the application. San Francisco Ct R 5.0(D). In addition, an "early" settlement conference can be set at the case management conference. See Cal Rules of Ct 212(e)(7).

§40.87 C. Informal Chambers Conference

The final opportunity for the court and the attorneys to meet before trial to narrow the issues and attempt settlement of the case is at an

informal chambers conference immediately before the trial. The informal conference is entirely a creature of local rule and custom and is not to be confused with other pretrial conferences. The primary shortcoming of the informal conference is that, because it does not occur until immediately before trial, pretrial preparation time has already been invested and all attendant expense incurred.

In Los Angeles County, the trial judge may request counsel to explore settlement further but is urged not to engage in settlement discussions unless all counsel and parties agree on the record to discussions with the judge and to waive any right to assert a disqualification based on the judge's participation. Los Angeles Ct R 8.21. If a settlement is reached, its terms and the consent of the parties and counsel should be stated on the record. Los Angeles Ct R 8.21.

§40.88 VIII. FINAL STATUS CONFERENCE

Many jurisdictions require counsel to attend a final status conference (sometimes known as a trial management conference) a few days before trial. See, *e.g.*, Los Angeles Ct R 7.9(h) (to be held not more than 10 days before trial date). The date for this conference is typically set at the same time the trial date is set. The purpose of the conference is to narrow the issues and organize the case for trial. Local rules must be consulted to ascertain the conference's procedural requirements for a particular court.

Before the final status conference, some courts require counsel to meet and confer about exhibits, jury instructions, and witness lists. See, *e.g.*, Los Angeles Ct R 7.9(h). Counsel may also be expected to discuss which issues are contested and which are not. In some jurisdictions, counsel must file with the court a joint exhibit list, a joint witness list, jury instructions, a list of disputed and undisputed issues, and a statement of the case before the final status conference. In addition, some courts require counsel to exchange motions in limine before the conference and be prepared to argue them at the conference. See, *e.g.*, Los Angeles Ct R 7.9(h).

§40.89 IX. SANCTIONS

The Trial Court Delay Reduction Act (Govt C §§68600–68620) encourages judges to impose sanctions—including dismissing actions or striking pleadings if it appears that less severe sanctions would be ineffective—to achieve its purposes. Govt C §68608(b).

The court may impose sanctions for failure to comply with local rules promulgated under CCP §575.1 for the supervision and management of actions. CCP §575.2. In addition, superior courts have

the authority under Cal Rules of Ct 227 to impose monetary sanctions to an aggrieved party or the court, or both, based on a failure to comply with the applicable rules, unless good cause is shown. But see *Trans-Action Commercial Investors, Ltd. v Firmaterr, Inc.* (1997) 60 CA4th 352, 70 CR2d 449 (terms of Cal Rules of Ct 227(d) exceed rule-making authority of Judicial Council in permitting court to impose attorney fees as sanction “in addition to any other sanction permitted by law”).

Most local rules provide for sanctions as well. For example, in Los Angeles, the rules provide that the court may impose appropriate sanctions for failure or refusal to comply with (1) the delay reduction rules, (2) any order made under the rules, or (3) the time standards or deadlines set by the rules. Los Angeles Ct R 7.13. These sanctions may be imposed on the party, the party’s counsel, or both. Los Angeles Ct R 7.13.

PRACTICE TIP™ Attorneys have the responsibility to comply with the time requirements for filings and events set forth in local rules or to justify in writing a failure to do so. A party that neither complies nor provides justification will be served with an order to show cause why he or she should not be sanctioned, financially or in some other way. The sanction is usually a monetary one, but it may, in extreme instances, take the form of the dismissal of a complaint or the striking of a defense. See CCP §575.2; Govt C §68608(b); Cal Rules of Ct 227.

A court may not dismiss an action for noncompliance with local court rules implementing the Trial Court Delay Reduction Act (Govt C §§68600–68620) if noncompliance is the fault of counsel, not the litigant. *Garcia v McCutchen* (1997) 16 C4th 469, 66 CR2d 319. Code of Civil Procedure §575.2(b) also prohibits dismissal as a sanction when noncompliance with local court rules is counsel’s fault.

X. FORMS

\$40.90

A. Form: Civil Case Cover Sheet (Judicial Council Form CM-010)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):		CM-010 FOR COURT USE ONLY						
TELEPHONE NO.: _____ FAX NO.: _____								
ATTORNEY FOR (Name): SUPERIOR COURT OF CALIFORNIA, COUNTY OF								
STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:								
CASE NAME:		CASE NUMBER:						
CIVIL CASE COVER SHEET <input type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)	<input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 181.1)						
<i>Items 1-5 below must be completed (see instructions on page 2).</i>		JUDGE: DEPT: _____						
<p>1. Check one box below for the case type that best describes this case:</p> <table style="width: 100%; font-size: x-small;"> <tr> <td style="vertical-align: top; width: 33%;"> Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PIP/DWD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PIP/DWD (23) Non-PIP/DWD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PIP/DWD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15) </td> <td style="vertical-align: top; width: 33%;"> Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asses forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39) </td> <td style="vertical-align: top; width: 33%;"> Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 1800-1812) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43) </td> </tr> </table>			Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PIP/DWD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PIP/DWD (23) Non-PIP/DWD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PIP/DWD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asses forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. 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<p>2. This case <input type="checkbox"/> is <input type="checkbox"/> is not complex under rule 1800 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:</p> <table style="width: 100%; font-size: x-small;"> <tr> <td>a. <input type="checkbox"/> Large number of separately represented parties</td> <td>d. <input type="checkbox"/> Large number of witnesses</td> </tr> <tr> <td>b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve</td> <td>e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court</td> </tr> <tr> <td>c. <input type="checkbox"/> Substantial amount of documentary evidence</td> <td>f. <input type="checkbox"/> Substantial postjudgment judicial supervision</td> </tr> </table>			a. <input type="checkbox"/> Large number of separately represented parties	d. <input type="checkbox"/> Large number of witnesses	b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve	e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court	c. <input type="checkbox"/> Substantial amount of documentary evidence	f. <input type="checkbox"/> Substantial postjudgment judicial supervision
a. <input type="checkbox"/> Large number of separately represented parties	d. <input type="checkbox"/> Large number of witnesses							
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve	e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court							
c. <input type="checkbox"/> Substantial amount of documentary evidence	f. <input type="checkbox"/> Substantial postjudgment judicial supervision							
<p>3. Type of remedies sought (check all that apply): a. <input type="checkbox"/> monetary b. <input type="checkbox"/> nonmonetary; declaratory or injunctive relief c. <input type="checkbox"/> punitive</p>								
<p>4. Number of causes of action (specify): _____</p>								
<p>5. This case <input type="checkbox"/> is <input type="checkbox"/> is not a class action suit.</p>								
<p>6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)</p>								
Date: _____								
(TYPE OR PRINT NAME)	(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)							
NOTICE								
<ul style="list-style-type: none"> • Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 201.8.) Failure to file may result in sanctions. • File this cover sheet in addition to any cover sheet required by local court rule. • If this case is complex under rule 1800 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding. • Unless this is a complex case, this cover sheet will be used for statistical purposes only. 								
Form Adopted for Mandatory Use Judicial Council of California CM-010 (Rev. January 1, 2006)	CIVIL CASE COVER SHEET	Page 1 of 2 Cal. Rules of Court, rules 201.8, 1800-1812; Standards of Judicial Administration, § 19 www.courtinfo.ca.gov						

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers

If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 5 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. You do not need to submit a cover sheet with amended papers. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 201.8(c) and 227 of the California Rules of Court.

To Parties in Complex Cases

In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 1800 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

<p>Auto Tort Auto (22)—Personal Injury/Property Damage/Wrongful Death Uninsured Motorist (46) <i>(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)</i></p> <p>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort Asbestos (04) Asbestos Property Damage Asbestos Personal Injury/Wrongful Death Product Liability <i>(not asbestos or toxic/environmental)</i> (24) Medical Malpractice (45) Medical Malpractice—Physicians & Surgeons Other Professional Health Care Malpractice Other PI/PD/WD (23) Premises Liability (e.g., slip and fall) Intentional Bodily Injury/PD/WD (e.g., assault, vandalism) Intentional Infliction of Emotional Distress Negligent Infliction of Emotional Distress Other PI/PD/WD</p> <p>Non-PI/PD/WD (Other) Tort Business Tort/Unfair Business Practice (07) Civil Rights (e.g., discrimination, false arrest) <i>(not civil harassment)</i> (08) Defamation (e.g., slander, libel) (13) Fraud (16) Intellectual Property (19) Professional Negligence (25) Legal Malpractice Other Professional Malpractice <i>(not medical or legal)</i> Other Non-PI/PD/WD Tort (35)</p> <p>Employment Wrongful Termination (36) Other Employment (15)</p>	<p>Contract Breach of Contract/Warranty (06) Breach of Rental Lease Contract <i>(not unlawful detainer or wrongful eviction)</i> Contract/Warranty Breach—Seller Plaintiff <i>(not fraud or negligence)</i> Negligent Breach of Contract/Warranty Other Breach of Contract/Warranty Collections (e.g., money owed, open book accounts) (09) Collection Case—Seller Plaintiff Other Promissory Note/Collections Case Insurance Coverage <i>(not provisionally complex)</i> (18) Auto Subrogation Other Coverage Other Contract (37) Contractual Fraud Other Contract Dispute</p> <p>Real Property Eminent Domain/Inverse Condemnation (14) Wrongful Eviction (33) Other Real Property (e.g., quiet title) (26) Writ of Possession of Real Property Mortgage Foreclosure Quiet Title Other Real Property <i>(not eminent domain, landlord/tenant, or foreclosure)</i></p> <p>Unlawful Detainer Commercial (31) Residential (32) Drugs <i>(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)</i></p> <p>Judicial Review Asset Forfeiture (05) Petition Re: Arbitration Award (11) Writ of Mandate (02) Writ—Administrative Mandamus Writ—Mandamus on Limited Court Case Matter Writ—Other Limited Court Case Review Review Other Judicial Review (39) Review of Health Officer Order Notice of Appeal—Labor Commissioner Appeals</p>	<p>Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 1800–1812) Antitrust/Trade Regulation (03) Construction Defect (10) Claims Involving Mass Tort (40) Securities Litigation (28) Environmental/Toxic Tort (30) Insurance Coverage Claims <i>(arising from provisionally complex case type listed above)</i> (41)</p> <p>Enforcement of Judgment Enforcement of Judgment (20) Abstract of Judgment (Out of County) Confession of Judgment <i>(non-domestic relations)</i> Sister State Judgment Administrative Agency Award <i>(not unpaid taxes)</i> Petition/Certification of Entry of Judgment on Unpaid Taxes Other Enforcement of Judgment Case</p> <p>Miscellaneous Civil Complaint RICO (27) Other Complaint <i>(not specified above)</i> (42) Declaratory Relief Only Injunctive Relief Only <i>(non-harassment)</i> Mechanics Lien Other Commercial Complaint Case <i>(non-tort/non-complex)</i> Other Civil Complaint <i>(non-tort/non-complex)</i></p> <p>Miscellaneous Civil Petition Partnership and Corporate Governance (21) Other Petition <i>(not specified above)</i> (43) Civil Harassment Workplace Violence Elder/Dependent Adult Abuse Election Contest Petition for Name Change Petition for Relief from Late Claim Other Civil Petition</p>
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Comment: This is the mandatory form of Civil Case Cover Sheet (Judicial Council Form CM-010). It must accompany the first paper filed in a civil action or proceeding, except those filed in small claims or under the Probate, Family, or Welfare and Institutions Codes. Cal Rules of Ct 201.8(a)–(b). A fileable version of the Judicial Council form is available on the Judicial Council's website at www.courtinfo.ca.gov. On the civil case cover sheet, see §40.18.

In Los Angeles, the Civil Case Cover Sheet Addendum and Statement of Location (Los Angeles County Form CIV-109) must be attached to this form. See §40.91.

§40.91

B. Form: Civil Case Cover Sheet Addendum and Statement of Location (Los Angeles County Form CIV-109)

SHORT TITLE:	CASE NUMBER
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CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION (CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)

This form is required pursuant to LASC Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? • YES CLASS ACTION? • YES LIMITED CASE? • YES TIME ESTIMATED FOR TRIAL _____ • HOURS/ • DAYS.

Item II. Select the correct district and courthouse location (4 steps – If you checked "Limited Case", skip to Item III, Pg. 4):

Step 1: After first completing the Civil Case Cover Sheet Form, find the main civil case cover sheet heading for your case in the left margin below, and, to the right in Column A, the Civil Case Cover Sheet case type you selected.

Step 2: Check one Superior Court type of action in Column B below which best describes the nature of this case.

Step 3: In Column C, circle the reason for the court location choice that applies to the type of action you have checked.

For any exception to the court location, see Los Angeles Superior Court Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (see Column C below)

- Class Actions must be filed in the County Courthouse, Central District.
- May be filed in Central (Other county, or no Bodily Injury/Property Damage).
- Location where cause of action arose.
- Location where bodily injury, death or damage occurred.
- Location where performance required or defendant resides.
- Location of property or permanently garaged vehicle.
- Location where petitioner resides.
- Location wherein defendant/respondent functions wholly.
- Location where one or more of the parties reside.
- Location of Labor Commissioner Office.

Step 4: Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	• *A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	• *A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1., 2., 4.
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	• *A6070 Asbestos Property Damage • *A7221 Asbestos - Personal Injury/Wrongful Death	2. 2.
	Product Liability (24)	• *A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	• *A7210 Medical Malpractice - Physicians & Surgeons • *A7240 Other Professional Health Care Malpractice	1., 2., 4. 1., 2., 4.
Non-Personal Injury/Property Damage/Wrongful Death Tort	Other Personal Injury Property Damage Wrongful Death (23)	• *A7250 Premises Liability (e.g., slip and fall) • *A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.) • *A7270 Intentional Infliction of Emotional Distress • *A7220 Other Personal Injury/Property Damage/Wrongful Death	1., 2., 4. 1., 2., 4. 1., 2., 3. 1., 2., 4.
	Business Tort (07)	• *A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 2., 3.
	Civil Rights (08)	• *A6005 Civil Rights/Discrimination	1., 2., 3.
	Defamation (13)	• *A6010 Defamation (slander/libel)	1., 2., 3.
	Fraud (16)	• *A6013 Fraud (no contract)	1., 2., 3.
	Intellectual Property (19)	• *A6016 Intellectual Property	2., 3.

Non-Personal Injury/Property Damage/
Wrongful Death Tort (Cont'd.)

Employment

Contract

Real Property

Judicial Review Unlawful Detainer

SHORT TITLE:	CASE NUMBER
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A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons -See Step 3 Above
Professional Negligence (25)	<ul style="list-style-type: none"> • *A6017 Legal Malpractice • *A6050 Other Professional Malpractice (not medical or legal) 	1., 2., 3. 1., 2., 3.
Other (35)	<ul style="list-style-type: none"> • *A6025 Other Non-Personal Injury/Property Damage tort 	2., 3.
Wrongful Termination (36)	<ul style="list-style-type: none"> • *A6037 Wrongful Termination 	1., 2., 3.
Other Employment (15)	<ul style="list-style-type: none"> • *A6024 Other Employment Complaint Case • *A6109 Labor Commissioner Appeals 	1., 2., 3. 10.
Breach of Contract/ Warranty (not insurance) (06)	<ul style="list-style-type: none"> • *A6004 Breach of Rental/Lease Contract (not Unlawful Detainer or wrongful eviction) • *A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) • *A6019 Negligent Breach of Contract/Warranty (no fraud) • *A6028 Other Breach of Contract/Warranty (not fraud or negligence) 	2., 5. 2., 5. 1., 2., 5. 1., 2., 5.
Collections (09)	<ul style="list-style-type: none"> • *A6002 Collections Case-Seller Plaintiff • *A6012 Other Promissory Note/Collections Case 	2., 5., 6. 2., 5.
Insurance Coverage (16)	<ul style="list-style-type: none"> • *A6015 Insurance Coverage (not complex) 	1., 2., 5., 8.
Other Contract (37)	<ul style="list-style-type: none"> • *A6009 Contractual Fraud • *A6031 Tortious Interference • *A6027 Other Contract Dispute(not breach/insurance/fraud/negligence) 	1., 2., 3., 5. 1., 2., 3., 5. 1., 2., 3., 8.
Eminent Domain/Inverse Condemnation (14)	<ul style="list-style-type: none"> • *A7300 Eminent Domain/Condemnation Number of parcels _____ 	2.
Wrongful Eviction (33)	<ul style="list-style-type: none"> • *A6023 Wrongful Eviction Case 	2., 6.
Other Real Property (26)	<ul style="list-style-type: none"> • *A6018 Mortgage Foreclosure • *A6032 Quiet Title • *A6060 Other Real Property(not eminent domain, landlord/tenant, foreclosure) 	2., 6. 2., 6. 2., 6.
Unlawful Detainer- Commercial (31)	<ul style="list-style-type: none"> • *A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction) 	2., 6.
Unlawful Detainer- Residential (32)	<ul style="list-style-type: none"> • *A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction) 	2., 6.
Unlawful Detainer- Drugs (38)	<ul style="list-style-type: none"> • *A6022 Unlawful Detainer-Drugs 	2., 6.
Asset Forfeiture (05)	<ul style="list-style-type: none"> • *A6108 Asset Forfeiture Case 	2., 6.
Petition re Arbitration (11)	<ul style="list-style-type: none"> • *A6115 Petition to Compel/Confirm/Vacate Arbitration 	2., 5.

SHORT TITLE:	CASE NUMBER
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Judicial Review (Cont'd.)

Provisionally Complex Litigation

Enforcement of Judgment

Miscellaneous Civil Complaints

Miscellaneous Civil Petitions

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Writ of Mandate (02)	<ul style="list-style-type: none"> • *A6151 Writ - Administrative Mandamus • *A6152 Writ - Mandamus on Limited Court Case Matter • *A6153 Writ - Other Limited Court Case Review 	2., 8. 2. 2.
Other Judicial Review (39)	<ul style="list-style-type: none"> • *A6150 Other Writ /Judicial Review 	2., 8.
Antitrust/Trade Regulation (03)	<ul style="list-style-type: none"> • *A6003 Antitrust/Trade Regulation 	1., 2., 8.
Construction Defect (10)	<ul style="list-style-type: none"> • *A6007 Construction defect 	1., 2., 3.
Claims Involving Mass Tort (40)	<ul style="list-style-type: none"> • *A6006 Claims Involving Mass Tort 	1., 2., 8.
Securities Litigation (28)	<ul style="list-style-type: none"> • *A6035 Securities Litigation Case 	1., 2., 8.
Toxic Tort Environmental (30)	<ul style="list-style-type: none"> • *A6036 Toxic Tort/Environmental 	1., 2., 3., 8.
Insurance Coverage Claims from Complex Case (41)	<ul style="list-style-type: none"> • *A6014 Insurance Coverage/Subrogation (complex case only) 	1., 2., 5., 8.
Enforcement of Judgment (20)	<ul style="list-style-type: none"> • *A6141 Sister State Judgment • *A6160 Abstract of Judgment • *A6107 Confession of Judgment (non-domestic relations) • *A6140 Administrative Agency Award (not unpaid taxes) • *A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax • *A6112 Other Enforcement of Judgment Case 	2., 9. 2., 6. 2., 9. 2., 8. 2., 8. 2., 8., 9.
RICO (27)	<ul style="list-style-type: none"> • *A6033 Racketeering (RICO) Case 	1., 2., 8.
Other Complaints (Not Specified Above) (42)	<ul style="list-style-type: none"> • *A6030 Declaratory Relief Only • *A6040 Injunctive Relief Only (not domestic/harassment) • *A6011 Other Commercial Complaint Case (non-tort/non-complex) • *A6000 Other Civil Complaint (non-tort/non-complex) 	1., 2., 8. 2., 8. 1., 2., 8. 1., 2., 8.
Partnership Corporation Governance(21)	<ul style="list-style-type: none"> • *A6113 Partnership and Corporate Governance Case 	2., 8.
Other Petitions (Not Specified Above) (43)	<ul style="list-style-type: none"> • *A6121 Civil Harassment • *A6123 Workplace Harassment • *A6124 Elder/Dependent Adult Abuse Case • *A6190 Election Contest • *A6110 Petition for Change of Name • *A6170 Petition for Relief from Late Claim Law • *A6100 Other Civil Petition 	2., 3., 9. 2., 3., 9. 2., 3., 9. 2. 2., 7. 2., 3., 4., 8. 2., 9.

SHORT TITLE:	CASE NUMBER
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Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

REASON: CHECK THE NUMBER UNDER COLUMN C WHICH APPLIES IN THIS CASE • 1. 2. 3. 4. 5. 6. 7. 8. 9. 10.		ADDRESS:
CITY:	STATE:	ZIP CODE:

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the _____ courthouse in the _____ District of the Los Angeles Superior Court (Code Civ. Proc., § 392 et seq., and LASC Local Rule 2.0, subds. (b), (c) and (d)).

Dated: _____ (SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet form JC 982.2(b)(1).
4. Complete Addendum to Civil Case Cover Sheet form CIV 109 _____ (eff. Date).
5. Payment in full of the filing fee, unless fees have been waived.
6. Signed order appointing the Guardian ad Litem, JC form 982(a)(27), if the plaintiff or petitioner is a minor under 18 years of age, or if required by Court.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

Comment: This is the Civil Case Cover Sheet Addendum and Statement of Location (Los Angeles County Form CIV-109) that is required by Los Angeles County. See Los Angeles Ct R 7.3(c). It should be attached to the mandatory Civil Case Cover Sheet (Judicial Council Form CM-010). See §40.90. The form is available on the court's website at www.lasuperiorcourt.org, under Civil, Forms. On the civil case cover sheet, see §40.18.

§40.92 C. Form: Case Questionnaire—For Limited Civil Cases (Under \$25,000) (Judicial Council Form 982(a)(21))

**DO NOT FILE WITH THE COURT
THIS IS NOT AN ANSWER OR RESPONSE TO THE COMPLAINT** 982(a)(21)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF	
PLAINTIFF (Name): _____	CASE NUMBER: _____
DEFENDANT (Name): _____	
CASE QUESTIONNAIRE—FOR LIMITED CIVIL CASES (Under \$25,000)	

REQUESTING PARTY (Name): _____

RESPONDING PARTY (Name): _____

—INSTRUCTIONS—

- A.** The purpose of the case questionnaire is to help the parties settle their differences without spending a lot of money. This is accomplished by exchanging information about the case early in the lawsuit. The exchange of case questionnaires may be started only by a plaintiff (or cross-complainant) in a limited civil case. The case questionnaire is optional, and if plaintiff (or cross-complainant) exercises the option, only this form may be used.
- B. Instructions for plaintiffs (and cross-complainants)**
1. Under Code of Civil Procedure section 93, a plaintiff (or cross-complainant) *may* serve a *completed* case questionnaire and a blank questionnaire *with a complaint (or cross-complaint)*.
 2. This is the only way you can require defendants (or cross-defendants) to serve you with a completed case questionnaire.
- C. Instructions for defendants (and cross-defendants)**
1. If you have been served with a completed case questionnaire by a plaintiff (or cross-complainant), then you *must* fill in the blank case questionnaire. Your completed case questionnaire must be served on that same plaintiff (or cross-complainant) *with your answer to the complaint (or cross-complaint)*.
 2. **THIS IS NOT AN ANSWER OR RESPONSE TO THE COMPLAINT.**
- D. Instructions for all parties**
1. **ALL QUESTIONS REFER TO THE INCIDENT OR AGREEMENT IN THIS LAWSUIT ONLY.**
 2. Answer each question. If a question is not applicable, answer "NA."
 3. Your answers are not limited to your personal knowledge, but you are required to furnish information available to you or to anyone acting on your behalf, whether you are a plaintiff, defendant, cross-complainant, or cross-defendant.
 4. Type or *legibly* print your answer below each question. If you cannot completely answer a question in the space provided on the case questionnaire, check the "attachment" box and put the number of the question and the complete answer on an attached sheet of paper or form MC-025. You should *not* put part of an answer on the case questionnaire and part on the attachment. You may put more than one answer on each attached page.
 5. When you have completed the case questionnaire, sign the verification and serve the original.
 6. You may compel compliance with these requirements under Code of Civil Procedure section 93.
 7. **DO NOT FILE THIS CASE QUESTIONNAIRE WITH THE COURT.**

DO NOT FILE WITH THE COURT

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

—QUESTIONS—

1. FOR ALL CASES

a. State your name and street address.

b. State your current business name and street address, the type of business entity, and your title.

c. Describe in detail your claims or defenses and the facts on which they are based, giving relevant dates.

See attachment for answer number 1c.

d. State the name, street address, and telephone number of each person who has knowledge of facts relating to this lawsuit, and specify his or her area of knowledge.

See attachment for answer number 1d.

e. Describe each document or photograph that relates to the issues or facts. You are encouraged to attach a copy of each. For each that you have described but not attached, state the name, street address, and telephone number of each person who has it.

See attachment for answer number 1e.

DO NOT FILE WITH THE COURT

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

1. f. Describe each item of physical evidence that relates to the issues and facts; give its location; and state the name, street address, and telephone number of each person who has it.
- See attachment for answer number 1f.

- g. State the name and street address of each insurance company and the number of each policy that may cover you in whole or part for the damages claimed.
- See attachment for answer number 1g.

2. FOR PERSONAL INJURY OR PROPERTY DAMAGE CASES

- a. Describe each injury or illness that you received and your present complaints about each.
- See attachment for answer number 2a.

- b. State the name, street address, and telephone number of each physician, dentist, or other health care provider who treated or examined you; the type of treatment; the dates of treatment; and the charges by each to date.
- See attachment for answer number 2b.

- c. Itemize the medical expenses you anticipate in the future.
- See attachment for answer number 2c.

- d. Itemize your loss of income to date, give the name and street address of each source, and show how the loss is computed.
- See attachment for answer number 2d.

DO NOT FILE WITH THE COURT

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

2. e. Itemize the loss of income you anticipate in the future, give the name and street address of each source, and show how the loss is computed.

See attachment for answer number 2e.

- f. Itemize your property damage, and state the amount or attach an itemized bill or estimate.

See attachment for answer number 2f.

- g. Describe each other item of damage or cost that you claim, and state the amount.

See attachment for answer number 2g.

3. FOR CASES BASED ON AGREEMENTS

- a. In addition to your answer to 1e, state all the terms and give the date of any part of the agreement that is not in writing.

See attachment for answer number 3a.

- b. Describe each item of damage or cost you claim, state the amount, and show how it is computed.

See attachment for answer number 3b.

VERIFICATION

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

▶

(SIGNATURE)

Comment: This is the mandatory form of Case Questionnaire—For Limited Civil Cases (Under \$25,000) (Judicial Council Form 982(a)(21)) for use in limited civil cases (cases under \$25,000). The plaintiff must serve a completed version of this form with the complaint. See, *e.g.*, San Francisco Ct R 3.4(B). A fileable version of the Judicial Council form is available on the Judicial Council's website at www.courtinfo.ca.gov.

Local rules, such as those in Los Angeles, may use a form of status conference questionnaire, which the clerk attaches to the summons and complaint when filed. These questionnaires seem to be used in both limited and unlimited civil cases. See Los Angeles Ct R 7.3(c).

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

4. b. Provide a brief statement of the case, including any damages. *(If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)*

(If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. **Jury or nonjury trial**
 The party or parties request a jury trial a nonjury trial *(if more than one party, provide the name of each party requesting a jury trial):*

6. **Trial date**
 a. The trial has been set for *(date)*:
 b. No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain)*:

c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability)*:

7. **Estimated length of trial**
 The party or parties estimate that the trial will take *(check one)*:

- a. days *(specify number)*:
 b. hours *(short causes) (specify)*:

8. **Trial representation (to be answered for each party)**
 The party or parties will be represented at trial by the attorney or party listed in the caption by the following:

- a. Attorney:
 b. Firm:
 c. Address:
 d. Telephone number:
 e. Fax number:
 f. E-mail address:
 g. Party represented:
 Additional representation is described in Attachment 8.

9. **Preference**
 This case is entitled to preference *(specify code section)*:

10. **Alternative Dispute Resolution (ADR)**
 a. Counsel has has not provided the ADR information package identified in rule 201.9 to the client and has reviewed ADR options with the client.
 b. All parties have agreed to a form of ADR. ADR will be completed by *(date)*:
 c. The case has gone to an ADR process *(indicate status)*:

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

10. d. The party or parties are willing to participate in (*check all that apply*):
- (1) Mediation
 - (2) Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to close 15 days before arbitration under Cal. Rules of Court, rule 1612)
 - (3) Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to remain open until 30 days before trial; order required under Cal. Rules of Court, rule 1612)
 - (4) Binding judicial arbitration
 - (5) Binding private arbitration
 - (6) Neutral case evaluation
 - (7) Other (*specify*):
- e. This matter is subject to mandatory judicial arbitration because the amount in controversy does not exceed the statutory limit.
- f. Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.
- g. This case is exempt from judicial arbitration under rule 1601(b) of the California Rules of Court (*specify exemption*):

11. **Settlement conference**
 The party or parties are willing to participate in an early settlement conference (*specify when*):

12. **Insurance**
- a. Insurance carrier, if any, for party filing this statement (*name*):
 - b. Reservation of rights: Yes No
 - c. Coverage issues will significantly affect resolution of this case (*explain*):

13. **Jurisdiction**
 Indicate any matters that may affect the court's jurisdiction or processing of this case, and describe the status.
 Bankruptcy Other (*specify*):
 Status:

14. **Related cases, consolidation, and coordination**
- a. There are companion, underlying, or related cases.
 - (1) Name of case:
 - (2) Name of court:
 - (3) Case number:
 - (4) Status: Additional cases are described in Attachment 14a.
 - b. A motion to consolidate coordinate will be filed by (*name party*):

15. **Bifurcation**
 The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

16. **Other motions**
 The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

17. Discovery

- a. The party or parties have completed all discovery.
b. The following discovery will be completed by the date specified (*describe all anticipated discovery*):

<u>Party</u>	<u>Description</u>	<u>Date</u>
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- c. The following discovery issues are anticipated (*specify*):

18. Economic Litigation

- a. This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90 through 98 will apply to this case.
b. This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (*if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case*):

19. Other issues

- The party or parties request that the following additional matters be considered or determined at the case management conference (*specify*):

20. Meet and confer

- a. The party or parties have met and conferred with all parties on all subjects required by rule 212 of the California Rules of Court (*if not, explain*):

b. After meeting and conferring as required by rule 212 of the California Rules of Court, the parties agree on the following (*specify*):

21. Case management orders

Previous case management orders in this case are (*check one*): none attached as Attachment 21.

22. Total number of pages attached (*if any*): _____

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and ADR, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date:

(TYPE OR PRINT NAME)	▶	(SIGNATURE OF PARTY OR ATTORNEY)
(TYPE OR PRINT NAME)	▶	(SIGNATURE OF PARTY OR ATTORNEY)

Additional signatures are attached

Comment: This is the mandatory Case Management Statement (Judicial Council Form CM-110). No later than 15 calendar days before the date set for the case management conference or review, each party must file a case management statement and serve it on all other parties in the case. Cal Rules of Ct 212(g)(1). On the case management statement, see §§40.60–40.70.