

**DIVISION II:
CIVIL**

**CHAPTER 1
GENERAL POLICIES AND PROCEDURES**

Rule 2.1.1

Policy

It is the policy of the courts to manage all cases in accordance with the Standards of Judicial Administration, Appendix to the California Rules of Court. Nothing in the Appendix prevents the courts from issuing an exception order based on a specific finding that the interests of justice require a modification of the routine processes as prescribed. However, no procedure or deadline established by these rules or order of the court may be modified, extended or avoided by stipulation or agreement of the parties, except as permitted by Government Code section 68616, unless approved by the court in advance of the date sought to be altered.

(Adopted 1/1/1998; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2010)

Rule 2.1.2

Filing and Service of Papers

Unless specifically directed otherwise, all papers must be filed in the civil business office of the appropriate division.

A. Forms. Photocopies or computer generated duplicates of Judicial Council and court forms may be used only if the copies are clear, legible, easily readable, the same color as the original, and submitted on the same type of paper (e.g., NCR).

B. Conformed Copies. The court will conform only one copy of each original submitted for filing. If conformed copies are to be returned by mail or messenger, a stamped, self-addressed envelope or messenger slip must be included.

C. Proofs of Service. Proofs of service must be signed by the person who actually accomplished the service. Where forms of service involve more than one component, declarations must be signed by each person completing a component. For example, substituted service of summons is often accomplished by one person doing the substituted service in the field while another completes the service by mailing the copies to the named defendant. In that case, declarations must be signed by each.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2009)

Rule 2.1.3

Case Assignment

At the time an action is filed, it will be assigned either to the master calendar or to a judge for all purposes. A Notice of Case Assignment, which includes the name, physical location, and department of the assigned judge, if any, and a Stipulation to Use of Alternative Dispute Resolution Process form may be generated at the time the case is filed. It is mandatory that the plaintiff or cross-complainant serve all defendants with a copy of the Notice of Case Assignment and other documents as set out in rule 2.1.5. If a case is filed which involves essentially the same issues as one assigned to a specific judge, or is refiled following a dismissal or other disposition, the newly filed case will be assigned to the originally assigned judge.

All construction defect cases in the county will be assigned to one of the designated construction defect departments in the Central Division. Any pre-litigation petition brought to the court pursuant to Civil Code section 1375, subdivision (n), will be assigned a case number and assigned to a designated construction defect department in the Central Division. Any construction defect complaint filed after completion of the pre-litigation requirements of Civil Code section 1375 et seq., will be assigned the same case number as any pre-litigation case number existing for the action.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2003; Rev. 1/1/2004; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2010)

Rule 2.1.4

Reserved for Future Use

(Del. 1/1/2008)

Rule 2.1.5

Service of Complaint

Except for Collection Cases filed under California Rules of Court, rule 3.740, within 60 days of the filing of the complaint, a Certificate of Service must be filed with the court, unless a Certificate of Progress has been filed indicating why service has not been effected on all parties and what is being done to effect service. A general appearance by, or entry of default against one or more defendants, does not dispense with plaintiff's obligation to file a Certificate of Service. Compliance with this rule may be reviewed at the initial case management conference.

To qualify for other than personal service of a complaint and summons under Code of Civil Procedure section 415.20 et seq., personal service must be attempted on at least three different days at three different times of day. All attempts cannot be in the a.m. nor all in the p.m. At least one of the three attempts must be before 8 a.m. or after 5:30 p.m., and at least one of the three attempts must be between the hours of 8 a.m. and 5:30 p.m. or on Saturday or Sunday at any time. If service is attempted at a business address, all three attempts may be made during the normal business hours of that business.

If service by publication or some other method of service requiring leave of court cannot be completed within 60 days of the filing of the complaint, the last paragraph of the proposed order permitting such service must contain a blank space for the court to specify the date by which a proof of service and/or a Certificate of Service must be filed. A Certificate of Progress does not need to be filed in this instance.

The following must be served with the complaint:

A. The Notice of Case Assignment (rule 2.1.3);

B. A notice of the amount of special and general damages if the complaint seeks to recover damages for personal injury or wrongful death;

C. A notice of the amount of punitive damages sought; and

D. ADR information materials (not applicable to collection cases).

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2003; Renum. 1/1/2006; Rev. 1/1/2010)

Rule 2.1.6

Defendant's Appearance

Unless a special appearance is made, each defendant served must generally appear (as defined in Code Civ. Proc., § 1014) within the time required by the Code of Civil Procedure, or within 15 days thereafter if the parties have stipulated to extend that time.

If a defendant is unable to make a timely general appearance, a Certificate of Inability to Respond must be filed and served stating why a responsive pleading could not be filed. The filing of a Certificate of Inability to Respond constitutes a general appearance for purposes of these rules.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 7/1/2003; Rev 1/1/2005; Renum. 1/1/2006)

Rule 2.1.7

Request for Entry of Default

If a defendant does not make a general appearance within the time provided by statute, or makes an unsuccessful motion to quash, stay, or dismiss the action on the grounds of inconvenient forum or improper court, and thereafter fails to plead within the time provided by statute or in these rules, the plaintiff must request entry of default forthwith. Original and copy for conforming needs to be submitted.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2010)

Rule 2.1.8

Default Judgment

Applications for default judgment should be submitted on declarations pursuant to Code of Civil Procedure section 585, subdivision (d) and include Judgment check list form SDSC CIV 98 or 99. See the Civil forms area of the court's web site for the most recent version (<http://www.sdcourt.ca.gov/pls/portal/url/page/sdcourt/generalinformation/forms/civilforms>). The court will notify the parties if an oral prove-up hearing or additional documentary evidence is required. (See rule 2.5.11, Default Attorney Fee Schedule.)

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2003; Renum. 1/1/2006; Rev. 1/1/2009; Rev. 1/1/2010)

Rule 2.1.9

Case Management Conference

The court expects the complaint and any cross-complaints will be served, all answers filed or defaults entered, and any challenges to the pleadings heard by the time of the initial case management conference.

A. Scheduling and Notice. Civil cases (excluding unlawful detainers) may, in the court's discretion, be set for a case management conference approximately 150 days after the complaint is filed. The court will give notice of the case management conference to all parties. Further, parties must serve by mail within 10 days of the date of the notice a copy of such notice on all parties who have been brought into the action who were not included in the court's proof of service. Proofs of such service must be filed simultaneously with the court and accompanied by a declaration stating the name of the party served; the name, address and phone number of the party's counsel of record, if any; and the nature and status of the party's involvement in the case.

Case management conferences will also be set by the court in all cases transferred from another court, reclassified pursuant to the Code of Civil Procedure, or stayed as provided in rule 2.1.13, and in unlawful detainer actions in which the defendant has filed an answer and the court has been notified that possession is no longer in issue.

It is the policy of the court to hold the case management conference on the date originally set. Continuances may be requested ex parte with a declaration showing good cause why the conference should be continued. However, if a disposition as to all parties has been filed with the court at least five court days prior to the hearing date, the case will be taken off calendar and no appearances will be required.

This rule remains in effect after July 1, 2002, notwithstanding California Rules of Court, rule 3.20, by the authority granted in California Rules of Court, rule 3.722, to the effect that "[t]he court may provide by local rule for the time and manner of giving notice of the parties."

B. Preparation for Conference. The primary focus of the initial case management conference will be to determine the status of the case to ensure compliance with the policy as stated in rule 2.1.1 and to determine if alternative dispute resolution would be appropriate.

A Case Management Statement must be completed by each party and timely filed with the court. Parties will not be required to complete a Case Management Statement for subsequent conferences unless ordered to do so by the court.

Parties completely familiar with the case and possessing authority to enter into stipulations must be present or appear pursuant to California Rules of Court, rule 3.670, at the case management conference and must be fully prepared to discuss any issues addressed by a Case Management Statement and all other matters specified in the notice of hearing provided by the court. Any attorney making a special appearance for counsel of record must have actual knowledge of the facts and procedural history of the case. If a party is not fully prepared, the court may continue the hearing and impose sanctions against the offending party. If the hearing proceeds as scheduled, the orders made will not be subject to reconsideration due to a party's unfamiliarity with the case at the time of the hearing.

(Adopted 1/1/1998; Rev. 1/1/2001; Renum. 7/1/2001; Rev. 7/1/2002; Rev. 1/1/2003; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2009)

Rule 2.1.10

Cases "At Issue"

Cases may be deemed "at issue" when all parties are before the court and challenges to pleadings are complete, or the deadlines set by the court for the completion of these events have passed. This is usually determined by the court at the initial case management conference. Parties wishing an earlier determination and/or who seek referral to alternative dispute resolution, and/or who seek preferential trial setting may do so by ex parte request. No new parties may be substituted by "Doe" designation or added by amendment of pleadings after the case is deemed at issue, without leave of court.

Unless the court orders otherwise, all amendments to pleadings allowed after the case is at issue will be deemed filed and served on the date leave to amend is granted. If the amendment adds a new party, the new party must be served within 30 days of the date leave to amend was granted and the proof of service on the new party must be filed with the court. Upon the appearance of a new party, the case will remain at issue, unless otherwise ordered. If the new party is not timely served with process, the new party may be dismissed by the court and/or other sanctions may be imposed.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2003; Rev. 1/1/2005; Renum. 1/1/2006)

Rule 2.1.11

Expert Witnesses

The court will propose deadlines for the exchange of information concerning expert witnesses and their discoverable reports and writings in accordance with Code of Civil Procedure sections 2034.260 and 2034.270 at the case management conference. Although the demand requirement of that section may be

dispensed with at this hearing, all other provisions of Code of Civil Procedure section 2034.210 et seq. will be strictly enforced by the court.

Excessive expert fees are limiting access to the court and undermining the quality of justice. It is the policy of the court that, in addition to the criteria required to be considered in deciding motions brought pursuant to Code of Civil Procedure section 2034.470, the court will consider the ordinary and customary fees charged by similar experts for similar services within the relevant community.

Parties will be permitted to designate only those experts they in fact intend to call at trial. It is the policy of the court that parties are limited to one expert per field of expertise per side, pursuant to Evidence Code section 723, absent a court order to the contrary. The court will determine which parties constitute "a side" at trial, if necessary.

Expert testimony must not be used simply to advocate a particular position, and must be limited in scope in accordance with Evidence Code section 801, subdivision (a) to opinions on subjects which are sufficiently beyond common experience that an expert's opinion will assist the trier of fact.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001, Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2010)

Rule 2.1.12

Reserved for Future Use

(Adopted 1/1/1998; Rev. 1/1/1999; Rev. 1/1/2000; Renum. 7/1/2001; Rev. & Renum. 1/1/2006; Del. 1/1/2009)

Rule 2.1.13

Stays of Actions

If a party files a notice of stay in accordance with the California Rules of Court, the court may either stay the action or set the matter for hearing. At the time of that hearing, the court may propose dismissing the action without prejudice, and reserving jurisdiction to reinstate the case nunc pro tunc when the stay is no longer in effect. Alternatively, parties may stipulate to the dismissal of such cases without prejudice, expressly reserving the court's jurisdiction to set aside the dismissal and reinstate the case nunc pro tunc when the stay is no longer in effect. If the court stays the action without setting the matter for hearing, any party who claims to be exempt from the stay and who seeks to prosecute the action further must object by noticed motion in the stayed action.

Upon the expiration of the stay period, the court may extend the stay for good cause shown.

(Adopted 1/1/1998; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2011)

Rule 2.1.14

Structured/Conditional Settlements, Taking Matters Off Calendar

Upon conditional settlement of a case, parties must notify the court as follows:

A. The parties are required to give notice to the court whether the conditional settlement either 1) contains a stipulation to immediate dismissal with a reservation of jurisdiction to set aside the dismissal and enter judgment upon nonperformance or 2) does not contain such a stipulation and requires dismissal only after full performance of the settlement terms.

B. Removal of pending matters from the court calendar may be effected by telephone, in the discretion of the court, if:

1. There are no unrepresented litigants; and
2. All unserved parties or parties not participating in the settlement will be dismissed.

Trials may be taken off calendar by telephone if all of the above conditions are met and the dismissal of the entire action will be filed according to the terms of the settlement not more than 365 days after the date the original complaint was filed. Otherwise, the parties must appear ex parte.

(Adopted 1/1/1998; Renum. 7/1/2001; Rev. 1/1/2003; Rev. & Renum. 1/1/2006; Rev. 1/1/2007)

Rule 2.1.15

Trial Readiness Conference

A trial readiness conference will generally be scheduled four weeks before the trial date. The parties must meet prior to the scheduled hearing and attempt to resolve the case, or, if that is not possible, limit issues for trial. If the case is not settled in its entirety, all parties must prepare and sign a joint trial readiness conference report in the format set forth in the joint trial readiness conference report available on the Civil forms area of the court's web site:

<http://www.sdcourt.ca.gov/pls/portal/url/page/sdcourt/generalinformation/forms/civilforms>. Separate reports will not be accepted. Failure to disclose and identify all trial exhibits and witnesses intended to be

called at trial and all other items required by the report may, in the court's discretion, result in exclusion or restriction of use at trial. The completed report must be presented to the judge at the scheduled conference. No part of the joint trial readiness conference report is to be received into evidence against any party in later proceedings.

Parties completely familiar with the case and possessing authority to enter into stipulations must be present at the scheduled hearing. Orders made will be binding on the parties and will not be subject to reconsideration due to an attorney's unfamiliarity with the case at the time of the hearing. The parties must be prepared to discuss any unusual evidentiary or legal issues anticipated during the trial and all remaining matters believed by any party to be appropriate for stipulation.

During the trial readiness conference, the court will review with counsel and sign or issue the advance trial review order setting forth specific trial preparation requirements of the trial department. (Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Renum. 1/1/2006; Rev. 1/1/2009)

Rule 2.1.16

Jury Instructions

On the scheduled trial date, the parties must submit the full text of proposed jury instructions to the court. Jury instructions must be gender neutral and double spaced on plain paper. They may include instruction numbers but the mere submission of a list of instruction numbers is not acceptable. Authority may be included on copies of special instructions submitted to the court, but should not appear on the originals.

(Adopted 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006)

Rule 2.1.17

Juror Questionnaire

If juror questionnaires are proposed by counsel, the questionnaires must be accompanied by a Juror Questionnaire Cover Sheet which must be provided by the court.

(Adopted 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006)

Rule 2.1.18

Motions in Limine

Motions in limine must be limited in scope in accordance with *Clemens v. American Warranty Corp.* (1978) 193 Cal.App.3d 444, 451: e.g., evidentiary issues where attempts to "unring the bell" would be unduly prejudicial or futile. Unless otherwise directed by the court, counsel must file and serve motions in limine and opposition thereto five court days and two court days respectively prior to trial call. The following motions in limine will be deemed granted at the time of the trial readiness conference if applicable:

- A. Motion excluding evidence of collateral source;
- B. Motion excluding evidence of or mention of insurance coverage;
- C. Motion excluding experts not designated pursuant to Code of Civil Procedure section 2034.300

and

- D. Motion excluding offers to settle and/or settlement discussions.

Written motions should not be submitted on the above issues.

(Adopted 1/1/2000; Renum. 7/1/2001, Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2010)

Rule 2.1.19

A. Calendaring Hearing

Any party, or attorney for a party, who desires to have any demurrer, motion, or order to show cause set for hearing must contact the calendar clerk for the judge assigned to the case to reserve a hearing date.

B. Tentative Ruling Policy

Prior to the hearing, any civil department may issue a tentative ruling in a law and motion matter, in the sole discretion of the assigned judge. The tentative ruling will be issued in conformance with the tentative ruling procedures set forth in California Rules of Court, rule 3.1308. If a tentative ruling is issued the day before the date set for hearing, this court follows rule 3.1308 and no notice of intent to appear is required to appear for argument. The tentative ruling may direct the parties to appear for oral argument and may specify the issues on which the court wishes the parties to provide further argument. The tentative ruling may be obtained by calling the court tentative ruling number for the court branch the case is pending in, or by navigating to the court's website.

This rule does not preclude posting a tentative ruling the day of the hearing pursuant to rule 3.1308(b), nor does it mandate a tentative ruling be issued on all law and motion matters.

The tentative ruling numbers are as follows:

Central: 619-450-7381

North: 760-201-8400

East: 619-456-4492

South: 619-746-6275

(Rev. 7/1/2004; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2009; Rev. 1/1/2011)