CHAPTER 4. ACCELLERATED CIVIL TRIAL RULES

4.1 Objectives

It is the policy of the court in accordance with the Trial Court Delay Reduction Act to bring civil actions to disposition by settlement or other means as expeditiously as possible and within reasonable guidelines established by the court. The court should enforce these rules consistent with the principle that any elapsed time, other than reasonably required for pleadings, investigation, discovery and court events, is unacceptable and should be eliminated. *(Stds. Jud. Admin. Sec. 2)*

Eff. Jan. 1, 1999. As amended, eff. Jan. 1, 2003

4.2 ACT Rules

a. All general civil cases shall be subject to the Accelerated Civil Trial (ACT) Rules set forth in this chapter and the applicable provisions of the California Rules of Court (CRC).

b. As used in this chapter "general civil case" means all civil cases except:

Probate, guardianship, conservatorship, family law (including proceedings under the Family Law Act, Uniform Parentage Act, and Uniform Child Custody Jurisdiction Act; freedom from parental custody and control; proceedings and adoption proceedings), juvenile court proceedings, unlawful detainer proceedings and "other civil petitions" as defined by the judicial Branch Statistical Information Data Collection Standards. *(S: #207(b))*

c. To allow for the arbitration of claims, the ACT rules do not apply to a case designated by the court as an uninsured motorist case until 180 days after designation. *(S: Rule 207 c)*

Eff. Jan. 1, 1999. As amended, eff. Jan. 1, 2003

4.3 Disposition

All general civil cases shall be classified as Plan 1 cases unless the court, on its own order or on noticed motion, reclassifies a case as a Plan 2 or 3 case or exempts a case from ACT rules pursuant to CRC 209(d). All cases should be tried or otherwise disposed of within the following time limits measured from the date on which the action was first filed:

Class 1 cases	Twelve months
Class 2 cases	Eighteen months
Class 3 cases	Twenty-four months

The classification in cases is intended to meet the criteria established by the Judicial Council of California Standards of Judicial Administration 2.1. These standards provide for concluding ninety percent of all cases in one year, ninety-eight percent within eighteen months and one hundred

percent within twenty-four months of the filing of the complaint.

Eff. Jan. 1, 1999. As amended, eff. Jan. 1, 2003

4.4 Service of Process / Filing of Responsive Pleadings

a. **Applicability:** This rule applies to the service of pleadings in general civil cases except for unlawful detainer actions, proceedings under the Family Code, and other proceedings for which different service requirements are prescribed by law. *(S: # 201.7 a)*

b. **Service of Complaint:** The complaint, summons and Notice of Case Management Conference (see ACT Rule 4.5 (a)) must be served on all named defendants and proofs of service on those defendants must be filed within 60 days after the filing of the complaint. When the complaint is amended to add a defendant, the added defendant must be served and the corresponding proof of service must be filed within 30 days after the filing of the amended complaint. *(S: #201.7 b)*

c. **Service of cross-complaint:** A cross-complaint against a party who has appeared in the action must be accompanied by proof of service of the cross-complaint at the time it is filed. If the cross-complaint adds new parties, the cross-complaint must be served on all parties and the proof of service on the new parties must be filed within 30 days of the filing of the cross-complaint. No cross complaint may be filed by a defendant after the date that defendant's answer had been filed without leave of the court granted upon noticed motion and a hearing. *(S: #201.7 b and CCP 428.5)*

d. **Timing of Responsive Pleadings:** The parties may stipulate without leave of the court to a single 15 day extension beyond the 30 day time period prescribed for the response after service of the initial complaint. Any further extension shall require the filing of a request for extension of time to respond which sets forth a factual basis as to why a responsive pleading cannot, with due diligence, be filed. Upon filing the request for extension, the court may: (1) grant an extension of time for the filing of a response to a specified date; (2) deny the request; or, (3) set and conduct a hearing to set a date for compliance with this rule. In the event the court denies the request for extension, the court will set a date for the filing of a response. *(S: #201.7 d)*

e. **Modification of Timing; Order Extending Time:** the court, on its own motion or on application, may extend or otherwise modify the times provided in subsections (b) through (d). An application for a court order extending the time for serving a party must be filed before the time for service has elapsed. The application must be accompanied by a declaration showing why service has not been

effected, documenting the efforts that have been made to effect service and specifying the date by which service is proposed to be effected. *(S: #201.7 e)*

f. **Due Diligence Statement:** The plaintiff and/or cross-complainant shall file a due diligence statement promptly upon service and the filing of answers by all defendants and/or cross-complainants and identified fictitiously named defendants and/or cross-defendants. The statement shall be filed no later than 60 days after the filing of the complaint or cross-complaint.

g. **Failure to Serve:** Unless the court has granted an order extending the time to serve a complaint or cross-complaint, the failure to serve and file pleadings as required under the ACT rules may result in an Order to Show Cause re Contempt being issued as to why monetary and other sanctions should not be imposed. *(S:#201.7 f)*

h. **Request for Entry of Default***:* If a responsive pleading is not filed within the time limits specified in the Act Rules and no extension of time has been granted, within 10 days after the time for service has elapsed the plaintiff or cross-complainant must file a request for entry of default. Failure to timely file the request may result in the issuance of an Order to Show Cause re Contempt being issued as to why sanctions should not be imposed. *(S:#201.7 g)*

i. **Default Judgment:** When a default is entered, the party who requested the entruy of the default must obtain a default judgment against the defaulting party within 45 days after the entry of the default, unless the court has granted an extension of time. Failure to obtain the default judgment against a defaulting party or to request an extension of time to apply for a default judgment may result in an Order to Show Cause re Contempt being issued as to why sanctions should not be imposed. *(S:#201.7 h)*

j. **Order to Show Cause re Contempt:** When the court issues an Order to Show Cause re contempt under the ACT Rules, responsive papers to the Order must be served and filed no less than 5 calendar days before the hearing. The responsive papers shall be either (1) those documents necessary to establish compliance with the identified ACT Rule or (2) a compliance statement explaining the reason for the failure to comply with identified ACT Rule and a proposed schedule the action required for full compliance. *(S:#201.7I)*

Eff. Jan. 1, 1999. As amended, Eff. Jan. 1, 2003.

4.5 Case Management

a. **Notice of Case management Conference:** At the time of filing of all general civil cases, the clerk shall immediately assign a

date for the initial case management conference which shall be approximately 150 days after the filing of the case. The plaintiff shall thereafter prepare a Notice of Case Management Conference, in the form set forth, and shall cause the Notice to be served on all defendants at the same time and in the same manner as the summons and complaint or petition and shall file a proof of service in compliance with ACT Rule 4.4 (b).

b. **Case Management Statement:** No later than 30 calendar days before the date set for the initial Case Management Conference, all parties must meet and confer, in person or by telephone, to consider each of the issues identified in CRC 212(e) and (f). No later than 15 calendar days before the date set for the initial Case Management Conference, each party must file and serve on all other parties a Case Management Statement on the form approved by the California Judicial Council (form CM-110). (See Appendix to this Chapter 4) All applicable items on the form must be completed. In lieu of each party filing a separate Case Management Statement, any two or more parties may file a joint statement under this rule. Each party shall attach to its Case Management Statement the trial attorney's availability calendar for the fourth, fifth and sixth months following the month in which the Statement is filed. (See Appendix to this Chapter 4) *S:#212(e), (f) and (g))*

c. **Case Management Conference:** Counsel for each party and each self-represented party must appear personally unless allowed by the court to appear by telephone pursuant to CRC 298 c (2), must be familiar with the case and prepared to discuss and commit to the party's position on each of the issues listed in CRC 212 (e) and (f). At its option, the court may issue a written waiver of personal attendance at the Case Management Conference and issue a Case Management Order based solely on the Case Management Statements. *(S:#212 b)*

d. **Case Management Order:** Following the Case Management Conference, the court shall issue a written Case Management Order setting a schedule for subsequent proceedings and otherwise providing for the management of the case. The order may include a directive on any matter listed in CRC 212 i. The order issued after the Case Management Conference or review will control the subsequent course of the action or proceeding unless it is modified by a subsequent order. *(S:#212 i and j)*

Eff. Jan. 1, 1999. As amended, eff. Jan. 1, 2003

4.6 Designation Statement

All actions subject to these rules shall be deemed to be a Class 1 cases unless otherwise requested in a designation statement by counsel or any party appearing without counsel and thereafter ordered by the court.

a. Each party who requests than an action be designated other than a Class 1 case shall file a designation statement at any time after the action is commenced but in no event later than the time of filing the Case Management Statement.

b. The designation statement shall set forth all information required therein describing the nature and complexity of the substantive and procedural issues, discovery, law and motion and any other factors effecting designation of the case.

c. After a designation statement has been filed all other parties who have appeared in the action may file within ten (10) days of service of the statement a Designation Statement. If a party fails to file a designation statement in response to that of another party, the court will assume that the party not filing agrees with the designation statements filed by other parties.

d. The designation statement shall be reviewed by the court or its staff. In the event of disagreement between the parties as to the designation of the action the court shall either issue its order designating the class of the case or it may order a hearing on the question of designation after which it shall issue its order designating the class of the case.

e. The court may at any time, on motion of a party, or on its own motion, modify the designation of any action.

f. The burden is on the party or parties proposing a higher classification to show good cause supporting the higher classification. The following characteristics will be evaluated:

1. Type of action and subject matter.

2. Number of causes of action or affirmative defenses alleged.

3. Number of parties.

4. Number of cross-complaints, type and subject matter.

5. Complexity of substantive and procedural issues including issues of first impression.

6. Difficulty of location and/or serving adverse parties.

7. Nature and extent of discovery procedures and list of witnesses.

8. Number of expert witnesses and location of anticipated discovery.

9. Estimated length of trial or successive trials.

10. Whether some or all issues can be arbitrated.

11. Statutory priority for trail as to some or all issues.

12. Likelihood of intermediate appellate writ proceedings.

13. Amount in controversy and the type of remedy sought, including the measure of damage.

14. Pendency of other actions or proceedings which may effect the case.

15. Nature and extent of law and motion procedures.

16. The nature and extent of injuries and damages.

17. The pendency of underinsured claims.

18. Any other factor that would affect the time for disposition of the case.

Eff. Jan. 1, 1999, As amended, Eff. Jan. 1, 2003

4.7 Short Cause Civil Cases

Short cause matters are those actions wherein a jury trial has not been requested and the trial time is estimated at five (5) hours or less. All other civil cases are long cause cases. The court may order, upon the stipulation of all parties or the court's own motion, that a case is a short cause case exempted from the requirements of case management review and set the case for trial. The court may, despite the short cause nature of the case, order that the case be subject to a settlement conference, pretrial conference, or alternative dispute resolution. Further, the court may, upon review of the case management conference questionnaire, determine that a case is a short cause case and may vacate the order for the case management conference and set the matter directly for trial on the short cause calendar. If a short cause case is not completely tried within five (5) hours, the judge may declare a mistrial or, in the judge's discretion, may complete the trial. In the event of a mistrial, the case will be treated as a long cause case and must promptly be set either for a new trial or for a case management conference. *(S:#214)*

To obtain an earlier or short cause trial date the parties are encouraged to submit an appropriate form of stipulation and order together with a completed case management conference questionnaire at any other time

after the case is at issue.

Effective January 1, 1999 As amended, eff. Jan. 1, 2003.

4.8 Arbitration and Alternative Dispute Resolution

a. Election of Plaintiff. Plaintiffs are encouraged to elect to arbitrate in appropriate cases pursuant to CRC 1600(a) before the case management conference. The election, along with case management conference questionnaires of each party, must be filed at least five (5) calendar days before the case management conference.

b. Stipulation to Arbitrate. Parties may stipulate to arbitration in appropriate cases prior to the case management conference. A written stipulation to arbitrate will be deemed to be without a limit as to the amount of the award unless it expressly states otherwise.

c. Mandatory Arbitration. Pursuant to CRC1600(b)(d)(e) the court may, despite the lack of a stipulation, order that appropriate cases be submitted to arbitration.

a. **Request for Trial.** If any party has, within a timely fashion, requested that trial be set following arbitration pursuant to CRC 1616, the court shall preside over the mandatory settlement conference pretrial and trial dates originally set.

Eff. January 1, 1999

4.9 Settlement Conferences

Any long cause case and any short cause case, at the discretion of the court, shall be set for a judicially supervised mandatory settlement conference conducted pursuant to Chapter 6 of these rules.

Eff. January 1, 1999.

4.10 Attorney's Compliance Statement

At any time the court issues an order to show cause for failure to comply with any of these rules, the party to whom the order is directed shall file a compliance statement with the court not later than five (5) court days before the date set for the hearing for the order to show cause. The compliance statement shall include a description of the action taken in the case to date, any action that should have been taken under these rules but has not, and the reasons for failure to take such action. The statement shall include a proposed schedule of future action and the dates by which such action must be completed.

Whenever a compliance statement is required, the party required to file such statement shall expect to have monetary sanctions imposed.

Whenever a compliance statement is required, the court will issue an order approving a schedule for future action and requiring adherence thereto.

Eff. Jan. 1., 1999.

4.11 Notification of Settlement or Stay

a. **Notice of Settlement:** If a 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 involved in the case. The plaintiff must also give oral notice to all of the above if a hearing, trial or conference is imminent.

b. **Dismissal of Case:** Except as provided in subsection c, the plaintiff must file a request for dismissal within 45 days after the date of the notice of settlement. If the request is not timely filed, the court must dismiss the case 45 days after it receives notice of settlement unless good cause is shown why the case should not be dismissed.

c. **Conditional Settlement:** If the settlement agreement conditions the dismissal upon the satisfactory completion of specified terms, the notice of conditional settlement must specify the date by which the dismissal is to be filed. If the plaintiff does not file a request for dismissal within 45 days after the dismissal date specified in the notice, the court must dismiss the case unless good cause is shown why the case should not be dismissed.

d. **Notification of Stay:** A party who has requested or caused a stay must immediately file a notice of the stay and attach a copy of the order or other document showing that the proceedings are stayed. If the person who requested or caused the stay has not appeared, the plaintiff must immediately file a notice of the stay and attach a copy of the order or other document showing that the proceedings are stayed. When a stay is vacated or no longer in effect, the party who filed the notice of stay must immediately file a notice that the stay is vacated or is no longer in effect.

Eff. Jan. 1, 1999. As amended, eff. Jan. 1, 2003

4.12 Trial Setting, Settlement Conferences and Pretrial Conferences

Trial setting, settlement conference and pretrial conferences shall be pursuant to Chapter 3, 4, 5, and 6 of these rules.

Eff. Jan. 1, 1999

4.13 Failure to Comply with Local Rules or Order of the Court

In the event of any failure to comply with the Superior Court of Mendocino County rules of court, the California Rules of Court or any order of the

court related thereto, the court may impose upon the offending party, attorney, or both, sanctions which may include, but are not limited to, requiring the filing of an attorney's compliance statement, attorney's case schedule, monetary sanctions, attorney's fees, expenses, striking pleadings, entering the default of any party, dismissal of the action, and/or contempt, and any other sanctions authorized by Government Code section 68609(d).

Eff,. Jan. 1,1999. As amended, eff. Jan. 1, 2003

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