

Emergency Rules Related to COVID-19

ORIGINAL LOCAL RULE

Rule 411.1 Trial Setting Conference – Suspended and Superseded by Emergency Rule 1.1 (See Appendix I)

A trial setting conference will be held in all unlimited civil and complex cases filed before January 1, 2016 in lieu of a case management conference.

The date of the trial setting conference shall be set by the clerk at the time of the filing of the initial complaint. The date fixed will be a Court date in the twenty-sixth (26th) week from the filing of the complaint.

The purpose of this conference will be to establish which parties have been served and have appeared, to determine the status of discovery and deal with pre-trial issues and to set a trial date.

An At-Issue Memorandum may be filed and served no later than 15 days prior to the date of the Trial Setting Conference. (Eff. May 6, 2013. Amended, eff. January 1, 2014 and January 1, 2017. Suspended and superseded by Emergency Rule 1.1, eff. May 21, 2020.)

Emergency Rule 1.1 - Initial Trial Setting Conference

An initial trial setting conference will be held in all unlimited and limited civil cases filed before and after January 1, 2020 in lieu of a case management conference. This initial trial setting conference will be held in chambers, without the appearance of the parties, except for good cause shown.

The date of the trial setting conference shall be set by the clerk at the time of the filing of the initial complaint. The date fixed will be a court date on or before the twenty-sixth (26th) week from the filing of the complaint.

The purpose of this conference is to review the case and consider the factors in Rule of Court 3.727.

The parties shall file and serve, no later than 15 days prior to the Initial Trial Setting Conference an Initial Trial Setting Conference Statement (local form #13-09001-360). Following the court's in chambers review, the court will issue and serve a Trial Setting Conference Minute Order and set further court dates.

Prior to the date of the initial trial setting conference, the court may entertain a written stipulation by all appearing parties to continue the initial trial setting conference if filed at least 30 days prior to the conference.

Complex cases shall be governed by Local Rule 412.

This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the court, whichever occurs first.

NEW LOCAL RULE

Emergency Rule 1.2 - Further Trial Setting Conferences [NEW]

The court may set further trial setting conferences following the initial trial setting conference. In that event, an At Issue Memorandum shall be filed and served no later than 15 days prior to the trial setting conference.

All future trial setting conferences shall be attended by remote appearance only by attorneys of record, except for good cause shown. Self-represented parties may appear in person, by court-call or in the discretion of each judge, through telephone appearance in the department, if scheduled at least 48 hours prior to the date of the hearing.

This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the court, whichever occurs first.

ORIGINAL LOCAL RULE

Rule 411.2 Trial Readiness Conference – Suspended and Superseded by Emergency Rule 1.3 (See Appendix I)

A trial readiness conference shall be held in all unlimited civil and complex cases. The date of the trial readiness conference may be set by the Court at the time of the Trial Setting Conference.

The purpose of this conference is to finalize trial preparation and allow the trial of the case to proceed in a more expeditious manner. On the date set by the Court, the parties and trial counsel shall appear and submit to the Court, unless otherwise directed by the Court, the following documents: 1) any oppositions to motions in limine; 2) proposed jury instructions; 3) proposed verdict forms; 4) witness and exhibit lists; 5) a statement of any stipulated facts; 6) proposed voir dire questions and/or questionnaires; and 7) a short statement of the case to be read to the jury, if applicable. Documents should be jointly submitted. If the parties cannot agree to jointly submitted proposed documents, each party can submit individual documents. If a party reasonably believes a witness's name or an exhibit should be confidential until used in trial, he/she shall so indicate to the Judge in camera.

Trial readiness conferences may be held, at the court's discretion, by video-conferencing.

All motions in limine shall be in writing and filed with service completed at least 8 days before the conference.

All motions in limine shall comply with Local Rule 415.

(Former Rule 411. Eff. July 1, 1998. Amended, January 1, 2005 and January 1, 2007. Renumbered as Rule 411.2 and amended, eff. May 6, 2013. Amended, eff. July 1, 2015 and January 1, 2017. Suspended and superseded by Emergency Rule 1.3, eff. May 21, 2020.)

Emergency Rule 1.3 – Trial Readiness Conference

A trial readiness conference shall be held in all unlimited and limited civil and complex cases. The date of the trial readiness conference may be set by the Court at the time of the Trial Setting Conference.

The purpose of this conference is to finalize trial preparation and allow the trial of the case to proceed in a more expeditious manner. On the date set by the Court, the parties and trial counsel shall appear and submit to the Court, unless otherwise directed by the Court, the following documents: 1) any oppositions to motions in limine; 2) proposed jury instructions; 3) proposed verdict forms; 4) witness and exhibit lists; 5) a statement of any stipulated facts; 6) proposed voir dire questions and/or questionnaires; and 7) a short statement of the case to be read to the jury, if applicable. Documents should be jointly submitted. If the parties cannot agree to jointly submitted proposed documents, each party can submit individual documents. If a party reasonably believes a witness's name or an exhibit should be confidential until used in trial, he/she shall so indicate to the Judge in camera.

Trial readiness conferences may be held, at the court's discretion, by video-conferencing, if available.

All motions in limine shall be in writing and filed with service completed at least 8 days before the conference.

All motions in limine shall comply with Local Rule 415.

This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the court, whichever occurs first.

ORIGINAL LOCAL RULE

RULE 416 DUTY OF COUNSEL AS TO TRIAL DATE ASSIGNED – Suspended and Superseded by Emergency Rule 2 (See Appendix I)

After a trial date has been assigned, it shall be the duty of counsel to inform the assigned Judge and all opposing counsel of any fact tending to indicate that the case may not proceed to trial on the date to which it has been assigned. In the event of settlement, counsel, or parties appearing in person, shall immediately notify the Court thereof. Failure to do so may be cause for imposition of sanctions. (Eff. July 1, 1998. Suspended and superseded by Emergency Rule 2, eff. May 21, 2020.)

Emergency Rule 2 - DUTY OF COUNSEL AS TO TRIAL DATE ASSIGNED

After a trial date has been assigned, it shall be the duty of counsel to inform the assigned Judge and all opposing counsel of any fact tending to indicate that the case may not proceed to trial on the date to which it has been assigned. The court will entertain, by written stipulation and without ex parte application, a written stipulation by all parties to continue the first set trial date if filed at least 15 days prior to the trial date.

In the event of settlement, the parties shall immediately notify the Court thereof and file and serve a Notice of Settlement. Failure to do so may be cause for imposition of sanctions. Upon filing the Notice of Settlement the Court shall set an OSC Re Dismissal at least 90 days away. The Court extends the time for filing a dismissal for an additional 45 days from the time provided in California Rules of Court, Rule 3.1385(b) and (c). In the event that the case is unable to be dismissed within 90 days of the filing of the Notice of Settlement, Plaintiff shall comply with California Rules of Court, Rule 3.1385(e) and the Court will continue the case without personal appearance.

This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the court, whichever occurs first.

ORIGINAL LOCAL RULE

RULE 418 CONTINUANCES – Suspended and Superseded by Emergency Rule 3 (See Appendix I)

The Court adopts California Rule of Court, Rule 3.1332, with respect to requests for continuances. (Former Rule 361, eff. May 27, 1982. Renumbered as Rule 418, eff. July 1, 1998. As amended, eff. January 1, 2017. Suspended and superseded by Emergency Rule 3, eff. May 21, 2020.)

EMERGENCY RULE 3 - CONTINUANCES

The Court adopts California Rule of Court, Rule 3.1332, with respect to requests for continuances. Notwithstanding Rule 3.1332(b), the court will entertain, by written stipulation and without motion or ex parte application, a written stipulation by all parties to continue the first set trial date.

This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the court, whichever occurs first.

ORIGINAL LOCAL RULE

RULE 420 CASES REMOVED TO OTHER COURTS – Suspended and Superseded by Emergency Rule 4 (See Appendix I)

In the event that a case is removed to any federal court or transferred to a superior court in another county, the Court will set a status conference for a date, not earlier than 90 days from the date of removal or transfer. Counsel may file a Notice of Status of Removed Case with the court in lieu of appearing at the status conference. The Notice of Status of Removed Case must be filed no later than 10 days prior to the date of the case management or trial setting conference.

The Court will, upon receipt of the Notice, set an OSC hearing on the status of removal. At the OSC hearing, the Court will determine the status of the case. If it is determined that the case remains pending in federal court or a superior court in another county, no further status conference or other hearing in this Court will be set. Superior Court of California, County of San Bernardino.

If a case is remanded from federal court or returned from a superior court in another county, the plaintiff shall notify the Court of the remand or return and request a case management conference date. The plaintiff shall notify the Court of any action by the federal court that resolves the case or of any pertinent orders or rulings entered in the federal action.

If a case is removed to bankruptcy court, the Court will continue the status conference for 90 to 180 days at the Court's discretion. The plaintiff shall notify the Court of any action by the bankruptcy court that resolves the case. Any request for a stay must comply with California Rules of Court, Rule 3.650. (Eff., July 1, 2003. Amended, eff. January 1, 2012. As amended, eff. January 1, 2017. Suspended and superseded by Emergency Rule 4, eff. May 21, 2020.)

EMERGENCY RULE 4 - CASES REMOVED TO OTHER COURTS

In the event that a case is removed to any federal court or transferred to a superior court in another county, counsel may file a Notice of Status of Removed Case with the court in lieu of appearing at the any court hearing. The Notice of Status of Removed Case must be filed and served no later than 15 days prior to the date of the case management or trial setting conference.

The Court will, upon receipt of the Notice, set an OSC hearing on the status of removal, not earlier than 365 days from the date of removal or transfer. At the OSC hearing, the Court will determine the status of the case. If it is determined that the case remains pending in federal court or a superior court in another county, no further status conference or other hearing in this Court will be set, and the case will be dispositioned by the Court. If a case is remanded from federal court or returned from a superior court in another county, the plaintiff shall notify the Court of the remand or return and request a case management conference date. The plaintiff shall notify the Court of any action by the federal court that resolves the case or of any pertinent orders or rulings entered in the federal action.

If a case is removed to bankruptcy court, the debtor shall promptly file a Notice of Stay and the Court will set a status of bankruptcy OSC for 180 days at the Court's discretion. The parties shall notify the Court of any action by the bankruptcy court that resolves the case. Any request for a stay must comply with California Rules of Court, Rule 3.650.

This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the court, whichever occurs first.

NEW LOCAL RULE

EMERGENCY RULE 5 – COURT APPEARANCES (See Appendix I) [NEW]

The following court hearings shall be heard by remote appearance (court call or video conferencing, if available) unless good cause is shown:

1. OSC re service of Complaint/Cross-Complaint.
2. OSC re dismissals.
3. OSC re sanctions.
4. Further Trial Setting Conferences.
5. Status of Bankruptcy OSCs.

6. ORAPS where no proof of service is filed at least 10 days prior to the ORAP.
7. Ex parte applications.
8. Status of arbitrations.
9. Claim of Exemptions.
10. Name Changes.

Self-represented parties may appear in person, by court-call or, in the discretion of each judge, through telephone appearance in the department, if scheduled at least 48 hours prior to the date of the hearing.

This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the court, whichever occurs first.

NEW LOCAL RULE

EMERGENCY RULE 6 – SERVICE OF COMPLAINT, CROSS-COMPLAINT, RESPONSE AND ENTRY OF DEFAULT (See Appendix I) [NEW]

The time periods provided in California Rules of Court, Rule 3.110 are extended by an additional thirty (30) days.

The time period provided by Rules of Court, Rule 3.20 is extended to 30 days.

This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the court, whichever occurs first.

ORIGINAL LOCAL RULE

RULE 560 MOTIONS REMOVED FROM CALENDAR – Suspended and Superseded by Emergency Rule 7 (See Appendix I)

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

EMERGENCY RULE 7 - MOTIONS REMOVED FROM CALENDAR

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

In the Court's discretion, the Court may, on its own motion, take off calendar the following motions:

1. Motions that are not supported by a declaration establishing that an in person or telephonic meet and confer or other required meet and confer occurred or is deficient.
2. Motions for summary judgment/adjudication where a Separate Statement is not filed or is deficient or where all exhibits are not included.
3. Motions/ORAPS where a proof of service has not been filed at least ten days before the examination.

This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the court, whichever occurs first.

NEW LOCAL RULE

EMERGENCY RULE 8 - TENTATIVE RULINGS (See Appendix I) [NEW]

Effective January 21, 2021

- (a) A judicial officer may provide tentative rulings. A tentative ruling on a law and motion matter may be obtained by accessing the court's website at <https://sb-court.org> after 3:00 p.m. on the court day before the hearing, or by telephoning the court's Administrative Assistants at the numbers below.
- (b) Any party who wishes to orally argue the motion may appear on the date and time set for hearing, pursuant to *California Rules of Court*, Rule 3.1308 (a) (2) and Rule 3.1306. Failure to appear shall be deemed a waiver of oral argument. All posted tentative rulings shall become the final ruling of the Court on the scheduled hearing date if no party appears. Should a hearing be held the Court may, in its discretion, modify or affirm the tentative ruling and advise the parties of its ruling at the hearing or by further Order.
- (c) If the parties wish to submit on the tentative ruling, no appearance will be necessary if the department's judicial assistant is notified by 4:00 p.m. the day before the hearing. The tentative will then become the final ruling.
- (d) The Court will not entertain a request for continuance unless stipulated to by all parties and no further papers may be filed once the tentative ruling has been posted.
- (e) The party prevailing on the motion shall serve all parties with written notice of the court's ruling.

(f) Telephone numbers assigned to the civil courtrooms are as follows:

For departments S16, S26, S32: (909) 521-3085

For departments S17, S29, S30: (909) 708-8853

For departments S22, S27: (909) 521-3447

For departments S23, S24: (909) 521-3297

For departments S25, S28, S31, S33: (909) 708-8756

This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the court, whichever occurs first.

APPENDIX I

Emergency Rules Related to COVID-19

Emergency Rule 1 - Initial Trial Setting Conference

An initial trial setting conference will be held in all unlimited and limited civil cases filed before and after January 1, 2020 in lieu of a case management conference. This initial trial setting conference will be held in chambers, without the appearance of the parties, except for good cause shown.

The date of the trial setting conference shall be set by the clerk at the time of the filing of the initial complaint. The date fixed will be a court date on or before the twenty-sixth (26th) week from the filing of the complaint.

The purpose of this conference is to review the case and consider the factors in Rule of Court 3.727.

The parties shall file and serve, no later than 15 days prior to the Initial Trial Setting Conference an Initial Trial Setting Conference Statement (local form #13-09001-360). Following the court's in chambers review, the court will issue and serve a Trial Setting Conference Minute Order and set further court dates.

Prior to the date of the initial trial setting conference, the court may entertain a written stipulation by all appearing parties to continue the initial trial setting conference if filed at least 30 days prior to the conference.

Complex cases shall be governed by Local Rule 412.

This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the court, whichever occurs first.

Emergency Rule 1.2 - Further Trial Setting Conferences

The court may set further trial setting conferences following the initial trial setting conference. In that event, an At Issue Memorandum shall be filed and served no later than 15 days prior to the trial setting conference.

All future trial setting conferences shall be attended by remote appearance only by attorneys of record, except for good cause shown. Self-represented parties may appear in person, by court-call or in the discretion of each judge, through telephone appearance in the department, if scheduled at least 48 hours prior to the date of the hearing.

This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the court, whichever occurs first.

Emergency Rule 1.3 – Trial Readiness Conference

A trial readiness conference shall be held in all unlimited and limited civil and complex cases. The date of the trial readiness conference may be set by the Court at the time of the Trial Setting Conference.

The purpose of this conference is to finalize trial preparation and allow the trial of the case to proceed in a more expeditious manner. On the date set by the Court, the parties and trial counsel shall appear and submit to the Court, unless otherwise directed by the Court, the following documents: 1) any oppositions to motions in limine; 2) proposed jury instructions; 3) proposed verdict forms; 4) witness and exhibit lists; 5) a statement of any stipulated facts; 6) proposed voir dire questions and/or questionnaires; and 7) a short statement of the case to be read to the jury, if applicable. Documents should be jointly submitted. If the parties cannot agree to jointly submitted proposed documents, each party can submit individual documents. If a party reasonably believes a witness's name or an exhibit should be confidential until used in trial, he/she shall so indicate to the Judge in camera.

Trial readiness conferences may be held, at the court's discretion, by video-conferencing, if available.

All motions in limine shall be in writing and filed with service completed at least 8 days before the conference.

All motions in limine shall comply with Local Rule 415.

This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the court, whichever occurs first.

Emergency Rule 2 – Duty Of Counsel As To Trial Date Assigned

After a trial date has been assigned, it shall be the duty of counsel to inform the assigned Judge and all opposing counsel of any fact tending to indicate that the case may not proceed to trial on the date to which it has been assigned. The court will entertain, by written stipulation and without ex parte application, a written stipulation by all parties to continue the first set trial date if filed at least 15 days prior to the trial date.

In the event of settlement, the parties shall immediately notify the Court thereof and file and serve a Notice of Settlement. Failure to do so may be cause for imposition of sanctions. Upon filing the Notice of Settlement the Court shall set an OSC Re Dismissal at least 90 days away. The Court extends the time for filing a dismissal for an additional 45 days from the time provided in California Rules of Court, Rule 3.1385(b) and (c). In the event that the case is unable to be dismissed within 90 days of the filing

of the Notice of Settlement, Plaintiff shall comply with California Rules of Court, Rule 3.1385(e) and the Court will continue the case without personal appearance.

This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the court, whichever occurs first.

Emergency Rule 3 - Continuances

The Court adopts California Rule of Court, Rule 3.1332, with respect to requests for continuances. Notwithstanding Rule 3.1332(b), the court will entertain, by written stipulation and without motion or ex parte application, a written stipulation by all parties to continue the first set trial date.

This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the court, whichever occurs first.

Emergency Rule 4 - Cases Removed To Other Courts

In the event that a case is removed to any federal court or transferred to a superior court in another county, counsel may file a Notice of Status of Removed Case with the court in lieu of appearing at the any court hearing. The Notice of Status of Removed Case must be filed and served no later than 15 days prior to the date of the case management or trial setting conference.

The Court will, upon receipt of the Notice, set an OSC hearing on the status of removal, not earlier than 365 days from the date of removal or transfer. At the OSC hearing, the Court will determine the status of the case. If it is determined that the case remains pending in federal court or a superior court in another county, no further status conference or other hearing in this Court will be set, and the case will be dispositioned by the Court. If a case is remanded from federal court or returned from a superior court in another county, the plaintiff shall notify the Court of the remand or return and request a case management conference date. The plaintiff shall notify the Court of any action by the federal court that resolves the case or of any pertinent orders or rulings entered in the federal action.

If a case is removed to bankruptcy court, the debtor shall promptly file a Notice of Stay and the Court will set a status of bankruptcy OSC for 180 days at the Court's discretion. The parties shall notify the Court of any action by the bankruptcy court that resolves the case. Any request for a stay must comply with California Rules of Court, Rule 3.650.

This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the court, whichever occurs first.

Emergency Rule 5 – Court Appearances

The following court hearings shall be heard by remote appearance (court call or video conferencing, if available) unless good cause is shown:

1. OSC re service of Complaint/Cross-Complaint.
2. OSC re dismissals.
3. OSC re sanctions.
4. Initial Trial Setting Conferences (except as provided in Local Rule 411.1).
5. Status of Bankruptcy OSCs.
6. ORAPS where no proof of service is filed at least 10 days prior to the ORAP.
7. Ex parte applications.
8. Status of arbitrations.
9. Claim of Exemptions.
10. Name Changes.

Self-represented parties may appear in person, by court-call or, in the discretion of each judge, through telephone appearance in the department, if scheduled at least 48 hours prior to the date of the hearing.

This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the court, whichever occurs first.

Emergency Rule 6 – Service Of Complaint, Cross-Complaint, Response And Entry Of Default

The time periods provided in California Rules of Court, Rule 3.110 are extended by an additional thirty (30) days.

The time period provided by Rules of Court, Rule 3.20 is extended to 30 days.

This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the court, whichever occurs first.

Emergency Rule 7 - Motions Removed From Calendar

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

In the Court's discretion, the Court may, on its own motion, take off calendar the following motions:

1. Motions that are not supported by a declaration establishing that an in person or telephonic meet and confer or other required meet and confer occurred or is deficient.
2. Motions for summary judgment/adjudication where a Separate Statement is not filed or is deficient or where all exhibits are not included.
3. Motions/ORAPS where a proof of service has not been filed at least ten days before the examination.

This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the court, whichever occurs first.

Emergency Rule 8 - Tentative Rulings

Effective January 21, 2021

- (a) A judicial officer may provide tentative rulings. A tentative ruling on a law and motion matter may be obtained by accessing the court's website at <https://sb-court.org> after 3:00 p.m. on the court day before the hearing, or by telephoning the court's Administrative Assistants at the numbers below.
- (b) Any party who wishes to orally argue the motion may appear in person or by CourtCall© on the date and time set for hearing, pursuant to *California Rules of Court*, Rule 3.1308 (a) (2) and Rule 3.1306. Failure to appear shall be deemed a waiver of oral argument. Absent a request to appear by the Court, all posted tentative rulings shall become the final ruling of the Court on the scheduled hearing date if no party appears. Should a hearing be held the Court may, in its discretion, modify or affirm the tentative ruling and advise the parties of its ruling at the hearing or by further Order.
- (c) If the parties wish to submit on the tentative ruling, no appearance will be necessary if the department's judicial assistant is notified by 4:00 p.m. the day before the hearing. The tentative will then become the final ruling.
- (d) The Court will not entertain a request for continuance unless stipulated to by all parties and no further papers may be filed once the tentative ruling has been posted.

(e) The party prevailing on the motion shall serve all parties with written notice of the court's ruling.

(f) Telephone numbers assigned to the civil courtrooms are as follows:

For departments S16, S26, S32: (909) 521-3085

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