

**MERCED SUPERIOR COURT  
LOCAL COURT RULES**

**d.** Notice shall be in accordance with California Rule of Court 3.1203, and all paperwork shall be submitted no later than 12:00 noon the day before the scheduled hearing.

*(Effective July 1, 2004)*

**RULE 2: FILING PROCEDURES**

**a. Time of Filing Papers**

All documents and other papers shall be filed during the hours set forth in Rule (2) above. All papers necessary to hearing in default cases (including default dissolutions), return of service on orders to show cause (except wherein the Court has by order shortened the time of service), probate matters, adoptions, compromise claims of minors, including proof of notice, posting affidavits of publication, agreements in dissolution actions, etc., shall be filed by 4:00 p.m. on the third court day preceding the date set for hearing.

Example: If a matter is set for hearing on a Monday morning, the documents pertaining to said hearing shall be filed with the Clerk of the Superior Court by 4:00 p.m. on the Wednesday preceding that Monday. Saturdays, Sundays, and holidays are not considered court days.

The Clerk shall process court filings on a priority basis, insuring that all documents are properly entered and filed in the appropriate file. The Clerk shall further give processing priority to documents with imminent trial or hearing dates, insuring that documents reach the court file prior to delivery of the file to Court for hearing, or as soon thereafter as is reasonably possible in consideration of the date of receipt.

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**b. Compliance with California Rules of Court 3.110**

All documents presented for filing shall comply with the provisions of Rule 3.110 of the California Rules of Court.

**c. Completion of File in Default and Uncontested Matters**

No hearing will be set in a default or uncontested matter until all requisite pleadings and documents have been filed and the Clerk has entered the default, unless it is a matter requiring Court entry of default, in which case the return of service must be filed before the request for hearing.

**d. Filing of Orders**

All written orders shall be filed in the office of the Clerk immediately after they are signed.

**e. Forma Pauperis Procedure**

All parties should refer to California Rules of Court, Rules 350-3.63.

**f. Courtesy Copies**

(1) Except as to cases designated as “complex,” one courtesy copy of all papers filed in relation to any motion to be heard on the Law and Motion Calendar must be provided on the same day the papers are filed, including opposition and reply papers. The clerk shall endorse such courtesy copies as filed, and shall forward them to the Law and Motion department. If the motion attacks a pleading already on file, a courtesy copy of that pleading must also be provided.

**g. FAX Filing and Service**

Parties may file pleadings by FAX through Official Payments Corp. (800-322-4945) pursuant to California Rules of Court, Rules 2.300-2.303 et. seq..

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(1) All FAX filings shall be accompanied by the Judicial Council Facsimile Filing Cover Sheet as the first page transferred, followed by any special handling instructions. Neither the cover sheet nor handling instructions will be filed in the case. The court is not required to keep a copy of the cover sheet.

(2) *RESERVED*

(3) *RESERVED*

(4) *RESERVED*

(5) All FAX filings are to be received no later than 4:00 p.m. in order to be filed stamped with that day's date. Otherwise, they will be file stamped the next court day.

(6) *RESERVED*

*(Effective July 1, 2004).*

**RULE 3: CIVIL LAW AND MOTION GENERALLY**

**a. Failure to Appear**

Any party may waive their right to appear at any Law and Motion hearing by providing the court and all counsel with written notice of their intent not to appear and to waive oral argument. If the party has filed documents in support or in opposition to a law and motion, the court will consider the non-appearing parties position based upon the documents filed. A written notice of intent not to appear shall be deemed a waiver of oral argument. One party's notice of intent not to appear shall not impair any other parties right to appear and argue their respective position.

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Unless the moving party has given written notice of intent not to appear, failure of moving party or counsel to appear at the time set in the department to which the matter is assigned, unless excused by the Judge, shall be deemed cause:

- (1) For placing such matter off calendar,
- (2) For proceeding to hear the matter in the absence of party or

counsel.

### **b. Papers on File**

Pursuant to Rule, 3.20, California Rules of Court, all local court rules relating to pleadings, demurrers, ex parte applications, motions, discovery, provisional remedies and form and format of papers are preempted by the California Rules of Court.

### **c. Failure to Comply with Rules**

Failure to file a memorandum of points and authorities by the filing deadline or to comply with Rule 3.1113, California Rules of Court, is a waiver of the memorandum; and in the case of the moving party, the failure to timely file may be considered an admission that the motion is without merit.

### **d. Tagging Attachments and Exhibits**

All attachments and exhibits shall comply with California Rules of Court, Rules 3.1110 and Rule 3.1113.

Each attachment and exhibit to any document, including but not limited to the motion, notice of motion, declaration and memorandum of points and authorities, shall bear a tag setting forth the letter/number designation given it in the document.

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**e. Evidence at Hearings**

Without court permission in writing, oral testimony is not allowed. If counsel believes a particular case justifies oral testimony, the statement required by California Rules of Court, Rule 3.1306 must include an explanation as to why the evidence cannot be presented by declaration or affidavit.

*(Effective July 1, 2004).*

**RULE 3.1: SUMMARY JUDGMENT AND SUMMARY ADJUDICATION**

Pursuant to Rule 3.20, California Rules of Court, all local court rules relating to Summary Judgment motions are preempted by Rules 3.1350-3.1354 of the California Rules of Court.

*(Effective July 1, 2004).*

**RULE 3.2: TENTATIVE RULINGS**

The Court adopts the tentative ruling procedure set forth in CRC 3.1308(b) until further change. *(Effective July 1, 2004).*

**RULE 4: CASE MANAGEMENT**

**a. General**

(1) In accordance with and as required by Rule 3.720, California Rules of Court, the Court has adopted the following procedures to evaluate each case and assign each case to a case-management plan. The court will use the factors listed in California Rules of Court, Rule 3.715, in evaluating cases and selecting a case-management plan. Additional information is provided on the Court's website at [www.mercedcourt.org](http://www.mercedcourt.org)

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(2) All parties or their counsel of record must file and serve a Case Management Statement using the mandatory Case Management Statement Form (CM-110). Such statement must be filed no later than 15 calendar days before the date set for the case management conference or review.

(3) All applicable items must be completed on Form CM-110. Any answer for which there is not sufficient space on the forms shall be completed on an attached sheet. In lieu of each party filing a separate Case Management Statement, any two or more parties may file a joint statement. Unless the court orders another time period, all parties must meet and confer in person or by telephone no later than 30 calendar days before the date set for the management conference to consider each of the subjects listed in California Rules of Court, Rules 3.727 and 3.724.

(4) This Rule applies to all: “general civil cases” as defined in California Rules of Court, Rule 3.712. It applies to cases designated as uninsured motorist cases and to coordinated cases only as specified in Rules 3.712(b) and (c).

### **b. Case Management Conference and Order**

(1). Upon the filing of any complaint or other initial pleading in any case included with this Rule 4, the clerk will provide the filing party with a “Notice of Inclusion in Delay Reduction Program/Notice of Case Management Conference.” Said Notice must be served along with the complaint or other initial pleading. A copy of the Notice will be placed in the court file.

(a). The case management conference will be held no later than 180 days after the filing of the initial pleading before a court official designated by the Presiding Judge. Unless notified by the Court that no appearance is necessary, all parties or their attorneys must be present at the conference or appear by telephonic conference call, and must be prepared to discuss all elements of the case inquired into on the Case

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Management Form and the subjects listed in California Rule of Court, Rule 3.727.

(b). At the Case Management Conference, the Court will enter a Case Management Order setting a schedule for subsequent proceedings, and otherwise providing for management of the case as specified in California Rules of Court, Rule 3.728.

**c. Assignment to One Judge for all or Limited Purposes; Complex Cases**

(1) In order to promote the efficient administration of justice, the presiding judge may on the court's own motion or on the noticed motion of a party, order the assignment of any case to one judge for all or limited purposes.

(2) A civil case which has been identified as complex, under California Rules of Court, Rule 3.400, shall be assigned to one judge for all purposes.

**d. Telephone Appearances**

Appearances by telephone are permitted and encouraged under the circumstances and procedures listed in California Rules of Court, Rule 3.670. The telephone number to which calls can be made will be posted on the court's website and in the Notice of Inclusion in Delay Reduction Program/Notice of Case Management Conference.  
*(Effective July 1, 2004).*

**RULE 5: RESERVED**

**RULE 6: SETTLEMENT CONFERENCES**

**a. Requirement of Settlement Conferences**

A settlement conference is required in all civil trial matters. The time, date and place of the mandatory settlement conference will be set at the Case Management Conference and included in the Case Management Conference Order. At the request of