OVERVIEW OF

THE CIVIL CASE MANAGEMENT PROGRAM

I. INTRODUCTION

Welcome to the Mariposa Superior Court's Civil Case Management Program. When a new civil complaint is filed, a Case Management Conference ("CMC") is scheduled. A Case Management Conference is a status conference between the parties and the Court, usually heard in the Judge's Chambers. It is designed to monitor the status of a case and to ensure that adequate progress is being made towards resolution by all parties. Generally, the parties at a Case Management Conference report on whether all complaints and answers have been filed, the status of discovery, including written discovery requests and depositions, and the possibility of the parties engaging in Alternative Dispute Resolution ("ADR") procedures such as arbitration, mediation or neutral case evaluation. The final purpose of a CMC is to determine the parties' readiness for trial and to assign reasonable mandatory settlement conference and trial dates.

The information being provided here is designed to take you through the CMC process and answer the most commonly asked questions. This information is broken into logical steps, namely, what you generally need to know and do (1) before the CMC, (2) at the CMC, and (3) after you achieve resolution of your case.

Additional information is available from the following:

California Rules of Court (http://www.courts.ca.gov/formsrules.htm)

California Code of Civil Procedure (http://www.leginfo.ca.gov/calaw.html).

II. BEFORE THE CMC

Filing a New Case

Commensurate with the Trial Court Delay Reduction Act, cases are automatically presumed to be Plan 1 type cases (12 month duration). Upon an appropriate showing at the CMC Hearing, cases may be designated Plan 2 (18 month duration) or Plan 3 (24 month duration). Trial dates will be set accordingly, absent any stays or other constraints.

When a new case is filed:

- Each case of the appropriate type is given a CMC date, not less than 120 days away.
- A Notice of Inclusion in Court's Civil Case Management Program is given to the plaintiff.

The timing of the CMC allows for:

- 60 days for service on defendants and filing of the proofs of service
- 30-40 days for the responsive pleadings(depending upon the method of service) and
- an additional 15-day extension of time to respond.

This adds up to 110-115 days from the initial filing of the complaint, so that by the date of the CMC, the case should either be ready for trial setting or for entry of default/judgment. Until the case is either set for trial or disposed of (dismissed, stayed or a judgment entered), it must always have an upcoming case management date set.

At least 30 days prior to the CMC, parties are to meet and confer pursuant to Cal. Rules of Court, Rule 3.724, and discuss:

- discovery disputes/schedules
- facts and issues that are uncontested and those in dispute
- motions pending or anticipated
- settlement of the case
- trial scheduling

As part of their duties to meet and confer, parties are to review the Court's Alternative Dispute Resolution ("ADR") Information Guide (in PDF Format, Free download of Adobe Reader can be found by clicking here), and discuss what types of ADR procedures would be best suited toward ultimate resolution of the case. Attorneys are to obtain their clients' consent to any ADR procedures contemplated **before the CMC.**

No later than 15 days before the CMC, parties are to COMPLETELY fill out and file a CMC Statement (Form CM-110) available on-line at www.courts.ca.gov . The CMC statement must also be served on all parties.

Parties are to take every reasonable effort to ensure their case is "at issue" by the first CMC, which is typically set 120 days from the filing of the original complaint. "At issue" means that the complaint has been properly served on all defendants, all proofs of service have been filed with the Court, and each defendant has filed a responsive pleading (e.g. an answer or demurrer). Failure of the plaintiff to not: (1) serve all the defendants within 60 days of filing the complaint, (2) timely take the default of any defendants who failed to respond, and (3) pursue a default

judgment after entry of default, may result in the case being referred for an Order to Show Cause ("OSC") re Dismissal as to any unserved parties. If the plaintiff appears at the initial CMC but the case is not ready to be set for trial, then the Court must determine which situation applies.

The case can be continued for 120 days, usually by granting (2) 30-day continuances of the CMC. After the 120 days are exhausted, unless a Judge approves **an extraordinary** continuance, then an OSC will be issued 60 days from the date of the CMC, and reasons for the OSC stated. If the plaintiff cures the defects and gets the case ready for trial setting or disposed of prior to the OSC hearing, that hearing may be taken off calendar unless there was also a failure to appear on the plaintiff's part. In that case permission of the Judge must be obtained to vacate the OSC. If the OSC hearing is taken off calendar, a new CMC hearing must be set and noticed unless the parties have stipulated to a trial setting, using the local form created for this purpose, or a Judge orders trial be set on a specific date.

Types of Cases **not assigned** a CMC date:

Unlawful Detainer

- Collection (Limited Civil Only)
- Writ of Mandate
- Harassment
- Name Change Petition
- Emancipation
- Enforcement of Judgment
- Sister-State Judgment
- Complaint for Validation
- Judicial Review
- Minor's Compromise

Uninsured Motorist Cases

An Uninsured Motorist case is exempt from the case management rules for 180 days from the date of filing the complaint. If declared at the time the case is filed, the initial CMC should be set at the 10-month mark instead of at 4 months. If we are informed at the CMC that this is an Uninsured Motorist case, then a continuance should be granted so that the next CMC takes place at the 10-month mark after the filing of the case. If the case is already 10 months old when the Uninsured Motorist declaration is made, then it should receive no special continuance.

III. APPEARING AT THE CMC

All Parties must appear at scheduled CMC hearings (either telephonically or in person). Only trial counsel or counsel thoroughly prepared to discuss the case and authorized to commit to

discovery, ADR and trial issues should appear at CMC hearings. FAILURE TO APPEAR AT A SCHEDULED CMC HEARING MAY RESULT IN WAIVER OF A PARTY'S RIGHTS (such as the right to a jury trial), SANCTIONS, AND, POSSIBLE DISMISSAL OF THE ENTIRE ACTION.

Appearing in Person

Parties may appear in person for Case Management Conferences by reporting to the Mariposa Courthouse, 5088 Bullion St., Mariposa, CA 95338. Parties and counsel are to wait inside the courtroom, as directed, until the time set for their matter. CMCs are generally heard in 20-minute intervals, subject to the Court's discretion.

COURT REPORTERS ARE NOT PROVIDED BY THE COURT FOR CMC HEARINGS.

Appearing by Telephone

Parties are welcome to appear telephonically by complying with Cal. Rules of Court, Rule 3.670 and by making timely arrangements with CourtCall, LLC. CourtCall, LLC may be reached at: 1-888-882-6878. Parties may give notice of their intent to appear by telephone by indicating "TELEPHONIC APPEARANCE REQUESTED" on their CMC Statements filed at least 15 days before the CMC, or by separately filing with the Court, a Request for Telephonic Appearance, NOT LESS THAN THREE (3) COURT DAYS, prior to the Case Management Conference. The initial Notice of Telephonic Appearance will be deemed valid as to any continued CMC Hearings scheduled thereafter. Parties are to inform Court Call of the specific Judge assigned to hear the CMC.

Consolidated Matters

Once a case is ordered consolidated by the trial Court, parties are relieved from appearing at scheduled CMC hearings in non-lead matters, unless further ordered by the Court . All further CMCs in non-lead matters are subject to being taken off calendar.

IV. RESCHEDULING A CMC

Rescheduling a CMC is generally disfavored because:

- Parties and counsel may conveniently appear telephonically and make any needed requests at that time;
- A continued CMC is generally scheduled with the parties and counsel's availability in mind; and
- Rescheduling a CMC may benefit one party, but can be detrimental to other parties, and therefore requires proper notice and/or stipulation.

In no case will a CMC be rescheduled based on the written or telephonic request from a single party. PARTIES ARE NOT TO MAKE SUCH *EX PARTE* REQUESTS. Parties desiring to reschedule a CMC, notwithstanding the above, are to either:

1) File and serve a stipulation executed by all parties and appear *ex parte* in the trial Court; or

2) File a fully-noticed motion with the trial Court requesting the CMC be rescheduled.

V. REPORTING SETTLEMENT

A continued CMC will be ordered up and until a matter is finally disposed of by dismissal of the **entire action** or by entry of final judgment **as to all parties** (including Doe Defendants). Even where cases are near resolution, a further, continued CMC is generally ordered to make certain final disposition of the matter is properly undertaken. Appearing at the continued CMC is important because, (1) initial settlement accords do not always result in final disposition of the matter, and (2) after achieving resolution, the parties may fail to file the required papers to confirm final disposition of the matter. The mere reporting of a settlement is not sufficient to take a CMC off calendar.

However, where the parties, at least five (5) Court days before a scheduled CMC, file an **Unconditional Notice of Settlement** pursuant to Cal. Rules of Court, Rule 3.1385 requiring dismissal of the entire action within 45 days, the Court will automatically continue the CMC on its own motion, without the need for the parties to appear, to a date after the 45-day period. Failure to have disposed of the entire matter by the time required will result in the matter being set for an Order to Show Cause re Dismissal given the mandatory language of Cal. Rules of Court, Rule 3.1385. Any other filing indicating settlement requires the appearance of the parties at any previously scheduled CMC.