

## 1309 CIVIL LITIGATION ADMINISTRATION

(d) [Case Management Conference] All parties shall file a case management statement not later than fifteen (15) calendar days before the CMC in accordance with CRC 3.725 and rule 1102. At the CMC, the court shall consider, in addition to the other matters specified by CRC 3.727, ADR methods, including but not limited to mediation, all forms of arbitration, early settlement conferences, use of special masters or referees, private judicial proceedings and judges *pro tempore*. The case may be assigned to ADR prior to setting the case for trial. [See Chapter Eleven of these local rules.]

Counsel and self-represented litigants attending the CMC shall be thoroughly familiar with the case, able to inform the court of any aspect of the case that may assist the court in its determinations for processing the case through settlement or trial; and counsel shall have discussed ADR methods and settlement procedures with their clients have authority to act on behalf of their clients, and shall have entered this information on the case management statement.

The court shall make a determination whether the amount in controversy exceeds or is less than fifty thousand dollars (\$50,000.00) on the CMC order. In cases deemed by the court to have a value in excess of fifty thousand dollars (\$50,000.00), the court may order the parties to attend a continued Case Management and ADR ("CMADRESS") orientation conference with a court-appointed facilitator. The facilitator will meet with the parties and their counsel to discuss the case with respect to issues of trial preparation, the volume of anticipated discovery, the potential costs of the litigation if pursued through trial, and assist them in deciding whether ADR would help resolve the dispute.

The parties will be given the opportunity to mediate their case at this conference if they choose. The parties will not have to pay for the services of the facilitator assigned to the case for the first 1.5 hours of the session. The facilitator for each case will be chosen by the CADRe Director from a list of mediators approved by the Court's ADR Committee. The parties shall be responsible for scheduling the CMADRESS conference, which must be held within the time limits set by the court in the case management order.

The court may also schedule an Order to Show Cause at the time of the Mandatory Settlement Conference to ensure that the parties have completed the session as required by the case management order. If the parties elect to pursue private ADR with their own facilitator and at their own expense, they must inform the court at the CMC and the court will exempt them from the CMADRESS conference and schedule a follow-up CMC to ensure that they have held their private mediation by the time set by the court. Parties attending the CMADRESS conference may continue mediation or other ADR with the assigned facilitator or any mediator after the CMADRESS conference, but they will be responsible for making a fee arrangement with the selected mediator for subsequent ADR sessions. ~~Personal attendance at the CMADRESS is required of all parties, their attorney and any claims representatives, except for defendants who are fully insured and represented by a claims agent for their insurance carrier and who do not have to consent to a settlement.~~

Requests for excused personal attendance must be directed to the Mandatory Settlement Conference Judge. The facilitator will be directed by the court to report to the CADRe Director on the CMADRESS conference with a form approved by the Court's ADR Committee and provided to the facilitator upon assignment of the case, and the completed forms will then be placed in the court file.

If the court determines at the CMC that a case has a value of less than fifty thousand dollars (\$50,000.00), the court may assign the case to a limited CADRe mediation with a mediator selected by the CADRe director at no expense to the parties. The court may schedule an Order to Show Cause at the time of the Mandatory Settlement Conference to ensure that the parties have completed the mediation as required by the case management order. The court may also set a date for a mandatory settlement conference (MSC) and trial. Any requests for continuance of these dates must be directed to the assigned trial judge.

Any unlawful detainer case not resolved or set for trial within forty-five (45) calendar days after the date the complaint was filed may be set for CMC to determine the status of such case.

(Amended effective 07-01-09; adopted 07-01-99; previously amended effective 07-01-01, 01-01-03, 01-20-05 and 07-01-08)

**Comment [v1]:** The three hours was reduced to 2 hrs. at the 8/4/09 ADR Committee Mtg and further reduced to 1.5 hrs. at the 9/3/09 meeting of panel members with Judge McLafferty.

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**Comment [v2]:** Judge McLafferty since changed the procedure of setting a CMC to follow up on CMADRESS/CADRe Limited Mediation completion and opted to instead set an OSC at the time of the MSC which is item #7 on the CMC Order (SC-2010). I indicate "may" in place of "will" because some judges set the OSC while others do not.

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**Deleted:** a follow-up CMC

**Deleted:** CMADRESS assignment

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**Comment [v3]:** As discussed a number of times, this rule (now numbered 3.894) does not fit with our policy on attendance as it gives the authority to the mediator to excuse personal attendance. The language is consistent with item #1 of the CMADRESS Report (SC-2004) filed by the neutral.

**Deleted:** Attendance at CMADRESS conferences shall be governed by CRC 3.874

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**Comment [v4]:** The Civil Judges have agreed that all such requests should go through Judge Sterne for continuity. This is the same wording used in the CMC Order for continuances of CMADRESS completion. The language works for Santa Maria judges as they conduct their own MSC's.

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**Deleted:** a follow-up CMC

**Comment [v5]:** See comment V2.

**Deleted:** limited mediation occurs by the date set by the court at the original CMC. At any follow-up CMC to ensure that the parties have complied with the terms of the CMC Order, an Order to Show Cause ("OSC") hearing may be set to determine if sanctions should be imposed for non-compliance.

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