

JURY TRIAL ASSIGNMENT POLICY

Adopted June 3, 2020, Effective June 12, 2020

A. Background

It is the responsibility of the Superior Court to operate in an efficient, effective, and reasonable manner in serving the people of California. (CRC 10.601(a)(3)) Specifically, the California Rules of Court are intended to insure the authority and responsibility of the Superior Courts to manage all day-to-day operations with sufficient flexibility to meet the needs of every citizen served by the court and to develop and implement processes and procedures to improve court operations and responsiveness to the public it serves. (CRC 10.601(b)(1)(6))

“The presiding judge is responsible, with the assistance of the court executive officer, for leading the court, establishing policies, and allocating resources in a manner that promotes access to justice for all members of the public, provides a forum for the fair and expeditious resolution of disputes, maximizes the use of judicial and other resources, increases efficiency in court operations, and enhances service to the public.” (CRC 10.603(a))

Throughout Rule of Court 10.603, specific duties of the Presiding Judge are articulated, and authority identified, which allow the Presiding Judge to initiate policy and procedures to meet the directive of subdivision (a).

In 2018 and 2019, the operation and use of the trial courts/jury trial resources has been dominated by the criminal division. Indeed, criminal matters account for the largest portion of court operations, judicial time, court personnel, jurors, and financial resources. These resources include two full time home court felony judges, two judges managing 4 total days of misdemeanor calendars, and all but a fraction of the 4 current trial courts operating days Tuesday through Thursday.

In 2019, of the cases that were confirmed as ‘ready for trial’ in the home courts and that were sent from the trial assignment court to a trial court, 39% did not require a jury due to being dismissed, continued, or settled in the trial court. In many of those cases, jurors had been summoned, arrived at the courthouse, waited for up to hours, and were dismissed. This not only costs the individual juror time away from work or other obligations, but needlessly wastes court resources, including financial resources which the court is entrusted to manage to the benefit of all members of the public. Similar problems existed in 2018.

During the time trial judges were engaged in managing confirmed criminal trials that ultimately did not require a trial court’s time and resources, civil litigants were deprived of a forum to resolve their disputes. The increase in filings and need for judicial time and court resources in other divisions of the superior court to include Family Law, Civil, Juvenile, Probate and others required immediate attention and resources to avoid backlogs that delay justice to those involved.

B. Need for Efficiency of Court Resources During COVID-19 Pandemic

In the current emergency related to the COVID-19 virus, state executive orders exist that limit the number of persons who can be in proximity to one another and the distance at which persons can be from one another. These orders requiring “social distancing” create extreme challenges in selecting jurors. To comply with directives, fewer jurors will be viable from the summoned citizens, fewer jurors

can be questioned in the courtrooms, and the entire process is forecast to require considerably more time to complete. These challenges make it more important than ever to assure trial court time is used to its fullest advantage.

For the reasons stated above, and particularly in light of the COVID-19 virus and the challenges it presents to the trial court, the Shasta County Superior Court adopts, effective June 12, 2020, the following policy regarding criminal jury trial proceedings to augment Shasta County Superior Court Local Rule of Court 13.05.

C. Policy

1. It is understood that any attorney answering that a case is ready for a trial court, when a jury is demanded, is representing the following:
 - a. That all discovery in the matter has been exchanged consistent with the provisions of Penal Code sections 1054, 1054.1, 1054.3, and any other statutory provision governing the exchange of discovery.
 - b. That all exculpatory evidence has been disclosed consistent with *Brady vs. Maryland* and Penal Code section 1054.1(e).
 - c. That all witnesses necessary to proceed to trial have either been subpoenaed or have been contacted by the party requiring that witness, and that witness has confirmed that the witness is available, and will come to court to testify.
 - d. That all settlement negotiations have been completed and that in the professional opinion of the trial attorney, there are no other legitimate avenues of settlement in the case.
 - e. That the defense attorney has fully discussed with their client the full sentencing options available to the trial court in the event of conviction and the offers made, and that counter offers acceptable to the client have been extended to the prosecution. .
 - f. That all settlement offers have been made and revoked.
 - g. That the assigned case is ready to be tried, without delay, to a jury to verdict.
 - h. That all motions, except for proper motions in limine, have been brought and heard in the home court.
 - i. Whether or not specifically asked, trial counsel are expected to provide information regarding the readiness of the case to be tried to a jury consistent with Rule of Professional Conduct 3.3, Candor Toward the Tribunal.
2. Prior to the pre-voir dire conference required pursuant to CRC 4.200, trial counsel shall meet and confer regarding stipulations, special requests regarding the order of witnesses, and all matters requiring discussion under CRC 4.200.
3. Any Jury questionnaires that either party might request must be provided at the pre-voir dire conference in proposed final form, and counsel must have met and conferred regarding its contents. Counsel shall be prepared for an in depth discussion regarding the questioning of jurors. (See California Code of Civil Procedure section 223.)

4. All motions in limine shall be submitted, in writing, to the trial court no later than the beginning of the pre-voir dire conference.
5. CALCRIM jury instructions, to the extent known to the parties requesting instructions, shall be submitted no later than 12:00 P.M. of the first day of trial as directed in Shasta County Superior Court Local Rule of Court 9.03(1). Counsel should check with the assigned trial judge to determine the preferred form of instruction requests or comply with Local Rule 9.03(2). (Some trial courts prefer to simply have counsel submit the numbered CALCRIM instructions rather than a full copy of proposed instructions described in Local Rule 9.03(2).)
6. Once a case has been assigned to a trial court, it is the trial court's responsibility to manage that case through verdict, dismissal within that trial court's discretion under Penal Code section 1385, an open plea to all charges and enhancements not charged in the alternative, or under the provisions of Penal Code section 1368, with the following discretionary exceptions:
 - a. If one or both parties represent a case is not ready to proceed or that any alternative to trying the matter to jury verdict is requested, the trial court must determine if the information now requiring a deviation is "newly discovered". "Newly discovered" shall mean a material matter that was unknown to the party or parties prior to confirmation of the case in the home court, and that could not have been known with the exercise of reasonable diligence in the preparation of the matter for trial.
 - b. If the information is not 'newly discovered' in the reasoned opinion of the trial court judge, that matter shall proceed under paragraph 6.
 - c. If the information is "newly discovered" in the reasoned opinion of the trial court judge and both parties are requesting the case proceed in a manner contrary to paragraph 6, the trial court shall contact the home court judge to discuss the request and the reasons stated for that request.
 - d. If the trial court judge agrees, and in that judge's discretion decides, the matter can proceed in a manner other than that described in paragraph 6, the case shall be dropped from the trial court's calendar, time shall be waived, and the matter reset in the home court for further proceedings consistent with the circumstances and availability of the home court.
7. Trials confirmed in the home courts, and not assigned a trial court, may be placed in a trailing mode or, at the request of the parties or discretion of the assignment judge, returned to the home court for further proceedings.
8. Trials that are trailing in the assignment court shall be on an "On Call" status. "On Call" status means the trial attorneys shall contact all witnesses and place them on stand-by. Trial counsel shall provide contact information to the court and shall be available to report to the assignment court forthwith for assignment to a trial court.
 - a. The assignment court judge may place any trailing matter back on calendar, at any time, in order to manage the case prior to assignment.

- b. Trial counsel assigned an available trial court shall be prepared to conduct the pre-voir dire conference and begin jury selection.
- c. While a matter is trailing, the parties may request the assignment court judge to return the case to the home court for further proceedings. If the request is a joint request, the request may be granted if time is waived and the matter can be dropped from the trial calendar.

- 9. This Jury Trial Assignment Policy does not, and is not intended to be a substitute for the trial court's discretion to handle matters assigned to that trial court judge consistent with the objectives of the Rules of Court, statute, the interests of justice or other legal authorities.

(Adopted June 3, 2020, effective June 12, 2020], without comment pursuant to the March 23, 2020 statewide emergency order of the Chief Justice)