

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SHASTA
PROPOSED CHANGES TO LOCAL RULES OF COURT for January 1, 2023

Comments can be submitted to administration@shasta.courts.ca.gov or (530) 245-6761.

RULE 9.04
CRIMINAL TRIAL READINESS AND TRIAL ASSIGNMENT

(A) In any criminal case in which the assigned trial attorney answers ready for assignment all the following must have been accomplished, or will be accomplished according to the time requirements expressed herein:

1. That all discovery in the matter has been exchanged consistent with the provisions of Penal Code sections 1054, 1054.1, 1054.3, Local Rule 8.01, and any other statutory provision governing the exchange of discovery.
2. That all exculpatory evidence has been disclosed consistent with *Brady vs. Maryland* and Penal Code section 1054.1(e).
3. That all witnesses necessary to proceed to trial have either been subpoenaed or have been contacted by the party requiring that witness, and that the attorney requiring the witnesses has confirmed the availability of the witnesses for the date and time the witness is anticipated to testify.
4. That all settlement negotiations have been completed and that in the professional opinions of the trial attorneys, there are no other legitimate avenues of settlement in the case.
5. That the defense attorney has fully discussed with their client the offers made and the full sentencing options available to the trial court in the event of conviction, and that any counter offers acceptable to the client have been extended to the prosecution., and the full sentencing options available to the trial court in the event of conviction.
6. That all settlement offers have been made and rejected or revoked.
7. That the assigned case is ready to be tried, without delay, to a jury or court to verdict.
8. That all motions, except for proper motions in limine, have been brought and heard in the home court.
9. Whether or not specifically asked, trial counsel are expected to provide information regarding the readiness of the case to be tried consistent with Rule of Professional Conduct 3.3, Candor Toward the Tribunal.

If any attorney cannot, in good faith, represent that all of the requirements of this section are either true or will be accomplished at the designated time established in this rule, the matter will not be assigned a trial court.

(B) Trials confirmed in the home court will be assigned to a trial department on the following Tuesday to commence trial.

(C) Trials confirmed in the home courts, and not assigned a trial court, shall be placed in a trailing mode or, at the request of the parties or in the discretion of the assignment judge, returned to the home court for further proceedings.

(D) 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 within one hour of being contacted by the court, for assignment to a trial court.

1. The assignment court judge may place any trailing matter back on calendar, at any time, in order to manage the case prior to assignment.
2. Trial counsel assigned an available trial court shall be prepared to conduct the pre-voir dire conference and begin jury selection upon reporting to the trial court.
3. 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 will be granted if good cause exists, time is waived and the matter can be dropped from the trial calendar.

(E) The following rules related to settlement of cases shall apply to matters which have been sent to a trial department. These rules are not, and are 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 Constitution of the United States, the Constitution of the State of California, Rules of Court, statute, interest of justice or other legal authorities:

1. On the day the case is set to commence trial, the case is expected to move forward to trial, and should not be resolved short of trial other than by a plea to all charges then existing in the charging document or a dismissal by the district attorney, except as set forth below:
 - i. If trial counsel on the day of trial present to the trial court a negotiated disposition, and they are able to articulate changed circumstances that are both material and demonstrated to have been unforeseeable at the trial assignment calendar, the home court judge should be contacted by the trial court judge and advised of the foregoing. The decision to accept or reject the plea agreement lies within the sound discretion of the trial court judge.
2. Once trial has commenced, any changed circumstances that arise during the course of the trial may be cause for the trial court to accept a negotiated plea. Under these circumstances the trial judge shall exercise its own independent discretion whether to accept a negotiated plea, and if it does so, shall conduct any sentencing proceedings that result from the negotiated plea.

(Adopted, effective January 1, 2023)

RULE 9.05
CRIMINAL PRE-VOIR DIRE CONFERENCE

- (A) Prior to the pre-voir dire conference required pursuant to CRC 4.200, trial counsel shall meet and confer regarding stipulations, special requests regarding order of witnesses, and all matters requiring discussion under CRC 4.200.
- (B) Any jury questionnaire 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.)
- (C) All trial briefs and motions in limine shall be submitted, in writing, to the trial court with a copy provided to opposing counsel no later than the beginning of the pre-voir dire conference.

(Adopted, effective January 1, 2023)

RULE 13.05
FELONY AND MISDEMEANOR HOME COURTS

(A) All felony cases initiated on or after January 1, 1995, and all felony cases pending any proceeding on or before January 1, 1995, shall be assigned by the Presiding Judge, effective January 1, 1995, to one of two specific "felony home court" departments for all proceedings and purposes except for trials. All misdemeanor cases shall be assigned by the Presiding Judge to one of two specific "misdemeanor home court" departments for all proceedings and purposes except for trials. Reassignments may be made, from time to time, in the discretion of the courts, to assure the effective and efficient administration of justice.

(1) ~~In order to formalize a policy that has been in place since March 1995 and that has been effective in promoting early settlement of felony matters and the avoidance of clogged trial calendars as had previously existed, the following rules shall apply:~~

~~(a) At the trial assignment calendar an unsettled case will be assigned to a trial department on the following Tuesday to commence trial. On the day the case is set to commence trial, the case may not be resolved short of trial other than by a plea to all charges then existing in the charging document or a dismissal by the district attorney, except as set forth below.~~

~~If trial counsel on the day of trial present to the trial court a negotiated disposition, and they are able to articulate changed circumstances that are both material and demonstrated to have been unforeseeable at the trial assignment calendar, the home court judge is to be contacted by the trial court judge and advised of the foregoing. The purpose of this is to avoid "forum shopping." If the home court judge approves of the settlement, the home court and trial court judges will discuss whether to take an "Arbuckle" waiver and return the case to the home court for sentencing. The plea will then be taken either in the trial department or in the home court, as directed by the home court judge.~~

~~If the home court judge indicates disapproval of the negotiated disposition, the parties will be referred to the home court judge for argument on the changed circumstances and a decision by the home court judge whether to approve or disapprove the negotiated disposition. If the home court judge, after hearing argument, still disapproves the negotiated disposition, the parties will be referred back to the trial department to commence trial.~~

~~(b) Prior to the start of trial, the judge shall not engage in, or initiate settlement discussions. The trial judge shall only communicate any already agreed upon proposed disposition and the asserted changed circumstances to the home court judge. Otherwise the trial judge shall simply begin trial.~~

~~(c) Once trial has commenced, any changed circumstances that arise during the course of the trial may be cause for the trial court to accept a negotiated plea. Under these circumstances the trial judge shall exercise its own independent discretion whether to accept a negotiated plea, and if it does so, shall conduct any sentencing proceedings that result from the negotiated plea.~~

~~(B) All misdemeanor cases initiated on or after January 1, 1995, and all misdemeanor cases pending any proceeding on or before January 1, 1995, shall be assigned by the Presiding Judge, effective January 1, 1995, to one of two specific "home court" departments for all proceedings and purposes, except for trials. Reassignments may be made, from time to time, in the discretion of the courts, to assure the effective and efficient administration of justice.~~

~~(B)~~ ~~(C)~~ When ~~privately retained~~ counsel has court appearances set in two or more court departments at the same time, he or she shall so advise the courtroom clerks and request priority handling in one department and that the proceeding in the other department(s) trail the first.

(Amended, effective January 1, 2023)