
Fun in the Sun!

California Civil Litigation
Docketing for Non-California
Practitioners

Presented by the SF Chapter Co-Chairs

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NDA 2023



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THINKING ABOUT
DOCKETING!**

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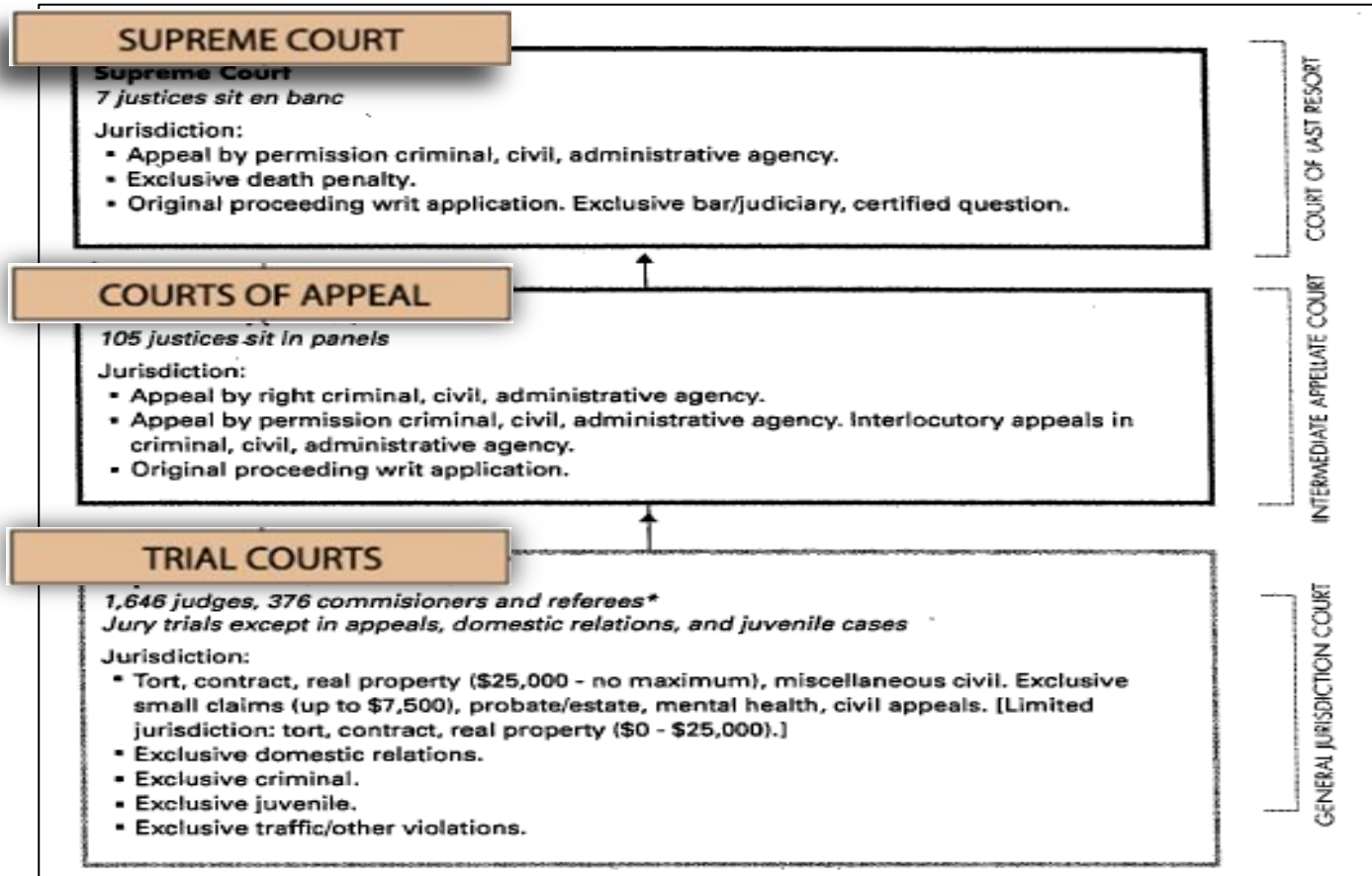
You'll be fine



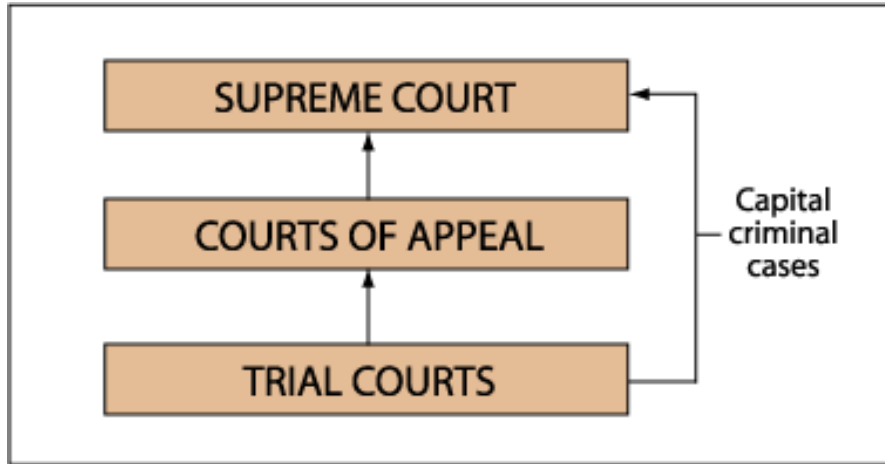
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California Court System



California Court System



California Supreme Court

- Justices: 1 Chief Justice, 6 Associate Justices
- Filings: 5665 annually
- Written Opinions: 49 annually

Courts of Appeal

- Justices: 106 (authorized positions)
- Filings: 16,308 annually
- Dispositions: 20,117 annually

Superior Courts (trial courts)

- 1,755 judges (authorized positions)
- Filings: ≈ 4,400,000 annually
- Dispositions: ≈ 2,400,000

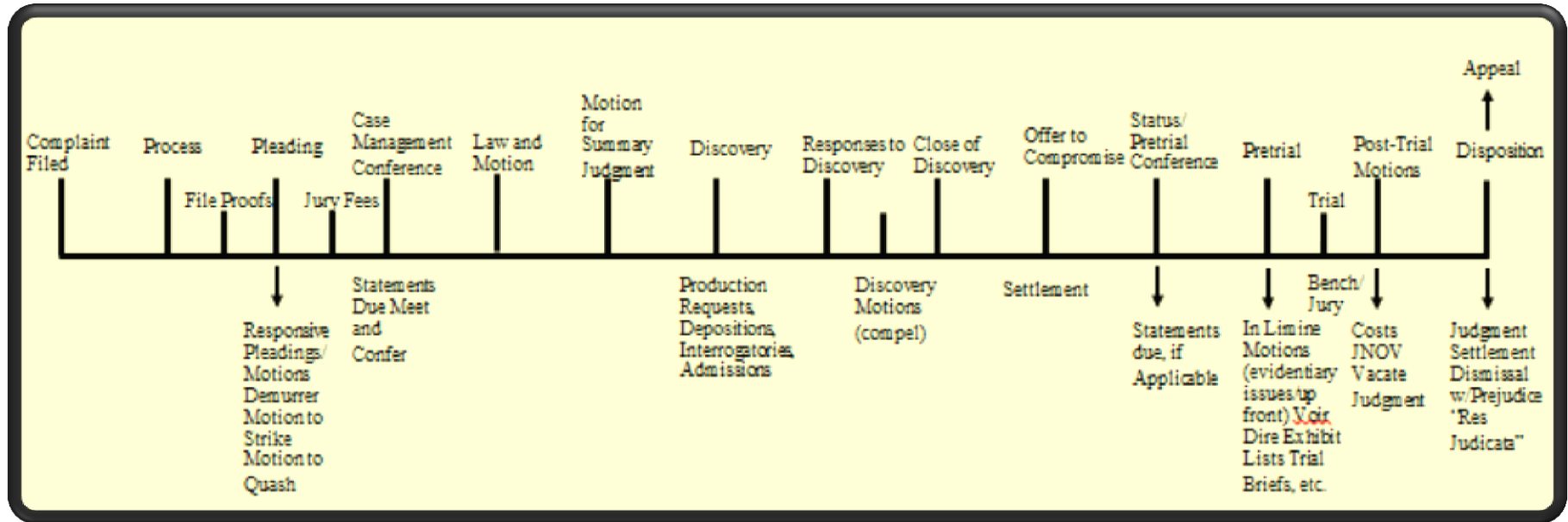
CA Superior and Appellate Courts



California Court Rules

- CODE OF CIVIL PROCEDURE (CCP)
 - Changes occur each January 1
- CALIFORNIA RULES OF COURT (CRC)
 - Changes occur each January 1 and July 1
 - Shall not be inconsistent with the CCP
- LOCAL RULES FOR EACH COUNTY (LR)
 - Most preempted by the California Rules of Court
 - Address local issues (e.g. tentative rulings, courtesy copies)
- STANDING ORDERS FOR INDIVIDUAL JUDGES
 - Typically for single assignment cases

Overview of California Litigation



Calendaring Ground Rules



Calendaring Ground Rules

COMPUTATION OF TIME

- Include/Exclude Rule
- Count using 'calendar' days unless 'court days specified
- Counting forwards
- Counting backwards
 - Discovery cutoffs may switch direction
- Hearing deadlines

Computation of Time

Rules for Computation of Time		Cite
1	CCP computation rules also apply to the California Rules of Court Chapter 8 (Appellate Rules).	CRC Rule 8.60(a)
2	Include/Exclude Rule: Compute time by excluding the first day and including the last; unless the last day is a holiday; and then it is also excluded.	CCP §12 CCP §12c
3	Count all days: Days are construed as <i>calendar</i> days unless specifically qualified as <i>court</i> days in the rule or code. [no code or rule cite]	Iverson v. Superior Court of Orange, 213 Cal Rept. 399
4	Counting forwards: If the last day to perform an act is a holiday, then that period is extended to and includes the next day which is not a holiday ¹ .	CCP §§ 12a, 12b, 135, 2016.060; Gov. Code §§ 6700; 6701
5	Counting backwards:	
	a) Discovery cut-offs are extended forward to the next day which is closer to trial	CCP 2016.060
	b) Hearing deadlines: Count backward from the hearing date, excluding the date of the hearing. Continue to count back from the "primary" calculation, if you need to add time for service other than by hand.	CCP §12c

Calendaring Ground Rules

METHODS OF SERVICE

- Personal
- Mail within CA
- Mail outside CA
- Mail outside U.S.
- Overnight Delivery *
- Fax *
- Electronic

*time changes for motions

Methods of Service

6	If time runs from “service” or “notice”, add additional days as follows. ²		
Method of Service	Extension of Time	Cite	
Hand	0 days	CCP §1011	
Mail Within CA: Place of address <i>and</i> place of mailing must be <i>within CA.</i>	5 days	CCP §1013(a)	
Mail Outside CA/within U.S.: If either place of address <i>or</i> place of mailing is <i>outside CA but within the U.S.</i>	10 days	CCP §1013(a)	
Mail Outside the U.S.: If either place of address <i>or</i> place of mailing is <i>outside the U.S.</i>	20 days	CCP §1013(a)	
Overnight Delivery	2 court days (except for service of moving papers under CCP 1005 when extension is 2 calendar days)	CCP §1013(c) CCP 1005(b)	
Fax Transmission (must be by consent)	2 court days (except for service of moving papers under CCP 1005 when extension is 2 calendar days)	CCP §1013(e) CCP 1005(b) CRC 2.300 <i>et. seq.</i>	
Electronic Service (by consent for cases filed on or before 12/31/18; by express consent for cases filed on or after 1/1/19)	2 court days	CCP §1010.6(a)(4); and (a)(2)(A) CRC 2.250 <i>et. seq.</i>	

Commencing the Lawsuit – Part 1

- MASTER CALENDAR vs. SINGLE ASSIGNMENT
- CASE MANAGEMENT DEADLINES
 - Serve the Complaint
 - File Proof of Service
 - Meet and Confer
 - Deposit Jury Fees
 - File and serve Case Management Conference Statement
 - Attend Case Management Conference

Commencing the Lawsuit – Part 2

METHODS OF SERVICE*

- Personal
- Substituted
- Notice and Acknowledgment
- Out-of-State
- Publication

*Discovery commences for the plaintiff at a defined time after each defendant has been served

Methods of Service

Method of Service	CA Code	Computation Based on Effective Date of Service
Personal Service	CCP §415.10; CCP § 416.10 thru CCP § 416.90	Service deemed complete upon delivery to the individual personally; or (if a corporation, partnership, association or public entity) to an officer or agent for service of process, or as specified in the relevant code section.
Substituted Service	CCP §415.20, 413.20	Service deemed complete on the 10th day after mailing* *Confirm Due Diligence has been established.
Notice and Acknowledgment (Mail) Service	CCP §415.30, 413.20	<ol style="list-style-type: none"> 1) Defendant signs and returns Acknowledgment of Receipt no later than 20 days after plaintiff mails Notice and Acknowledgment Form. 2) Service deemed completed on the date a written acknowledgment of receipt of summons is executed (i.e. defendant's signing of Acknowledgment Form).
Out-of-State Service	CCP §415.40, 413.20	Service deemed complete on the 10th day after mailing (return receipt requested)* *service may also be accomplished in any other manner as provided by CCP §415.10 et seq
Publication (by Court Order)	CCP §415.50 Govt. Code §6064	Service deemed complete the date of the last publication (summons published once a week for 4 successive weeks)

Pleadings Allowed

- ANSWER
- DEMURRER
- MOTIONS TO QUASH, STRIKE, DISMISS
- CROSS-COMPLAINTS
- AMENDED COMPLAINTS

Pleadings Defined

Definitions

Answer to Complaint: The pleading by which the defendant responds to the plaintiff's complaint; the formal written statement made by a defendant setting forth the grounds for his or her defense. *Function:* An answer should contain whatever *denials* or *affirmative defenses* are necessary to controvert the material allegations in the complaint. It should put the case *at issue* as to all important matters alleged in the complaint that Deft does not want to admit.

Amended Complaint: The pleading which corrects any error, adds new cause of action, or adds new parties to the complaint; sometimes requires leave of court.

Complaint: The initial pleading in an action, which sets forth a claim for relief. The complaint, together with the summons, is required to be served on the defendant.

Cross-Complaint (state) or Counterclaim (federal): A legal claim presented by a defendant in opposition to the claim of the plaintiff.

Demurrer (state): A plea that alleges that, even if the facts stated by the opposite party are true, they are insufficient to state a legal claim. *Function:* A demurrer tests the legal sufficiency of other pleadings, i.e., it raises issues of law, not fact, regarding the form or content of the opposing party's pleading.

General Denial (state): A pleading form that can only be used if the amount asked for in the complaint or the value of the property is \$1000 or less or may be used if the complaint is not verified. Never used if a complaint is verified (Plaintiff's oath that each allegation in a complaint is true except as to matters alleged on information or belief.). *Function:* A blanket denial of an entire complaint.

Motion to Dismiss (usually federal): A motion attacking the action based on the insufficiency of the pleading, of process, venue, joinder, etc. (no statutory authority to do so in state court).

Motion to Quash: A defense against an improper summons or service. *Function:* Without valid service of summons, the court never acquires jurisdiction over the Deft. The statutory ground for the motion to quash is the court *lacks jurisdiction* over the Defendant.

Motion to Strike (usually state): A motion to delete a portion of a pleading or statement from the court record.

Pleadings: The formal allegations by the parties of their respective claims and defenses, and responses thereon, for the judgment of the court.



Discovery Methods – Part 1

- Interrogatories
- Inspection Demands/Requests for Production of Documents
- Requests for Admissions
- Depositions
- Subpoenas
 - Consumer Production Subpoenas
- Motions to Compel (remedy when responses are incomplete)

DOCUMENT	DEADLINE	STATE
INTERROGATORIES		
Interrogatories Served	Responses Due	30 days CCP 2030.260(a)
Verified Responses to Interrogatories Served (includes suppl.)	Motion to Compel Further Response	45 days CCP 2030.300(c)
INSPECTION DEMANDS		
Request for Production/Inspection Served	1. Responses Due	30 days CCP 2031.260
	2. Date of Production/Inspection	30 days CCP 2031.030(c)
Verified Responses to Production/Inspection Demand Served (includes suppl.)	Motion to Compel Further Response	45 days CCP 2031.310(c)
ADMISSIONS		
Request for Admissions Served	Responses Due	30 days CCP 2033.250
Verified Responses to Request for Admissions Served (includes suppl.)	Motion to Compel Further Response	45 days CCP 2033.290(c)
DEPOSITIONS		
Notice of Deposition	Notice period	10 days prior CCP 2025.270(a)
Date of Deposition (non-consumer)	Objections	3 days prior by personal service CCP 2025.410(a),(b)
SUBPOENAS		
Non-Consumer Subpoena Served on Deponent/Witness	Objections	No specific time



Discovery Methods – Part 2

- DEMAND FOR EXPERTS
 - 2 part calculation
- DISCOVERY CUTOFFS
 - Fact and Expert
Calculation direction could switch
 - Will not get continued automatically if trial date moves!
- DISCOVERY MOTION CUTOFFS
 - Fact and Expert
 - Must account for designated Motion Hearing Days
 - Will not get continued automatically if trial date moves!

DOCUMENT	DEADLINE	STATE
EXPERTS		
Demand for Experts	1. Serve Demand	10 days after initial trial date has been set or 70 days before that trial date, whichever is closer to trial CCP 2034.220
	2. Experts Exchanged/Disclosed	20 days after service of demand or 50 days prior to initial trial date, whichever is closer to trial CCP 2034.230(b)
Exchange/Disclosure Served	Supplement Experts	20 days CCP 2034.280
COMMENCEMENT OF DISCOVERY		
Discovery	First Day Plff to Serve	10 days after service on deft CCP 2030.020(b) CCP 2031.020(b) CCP 2033.020(b)
Notice of Deposition	First Day Plff to Serve	20 days after service on deft CCP 2025.210(b)
DISCOVERY CUTOFFS		
Non-Expert Discovery	Responses Due Depositions Noticed	30 days prior to initial trial date CCP 2024.020(a)
Non-Expert Discovery Motions	Hearings Scheduled	15 days prior to initial trial date CCP 2024.020(a)
Expert Discovery	Depositions Noticed	15 days prior to initial trial date CCP 2024.030
Expert Discovery Motions	Hearings Scheduled	10 days prior to initial trial date CCP 2024.030

Motions

- MOST FOLLOW CCP 1005
 - refer to code for exceptions (e.g. summary judgment)
- ATTORNEY TYPICALLY SELECTS HEARING DATE
- NOTICE AND BRIEFING TIMES RUN FROM HEARING DATE
- TENTATIVE RULINGS AVAILABLE

CCP 1005 Motion

Document/Event	Calculation	Calendar Entry	Cite
<p>MOTION UNDER CCP § 1005, NOTICE OF</p> <p><i>The CCP § 1005(b) briefing schedule applies to:</i></p> <ul style="list-style-type: none"> <i>The motions enumerated in CCP § 1005(a)(1) – (12);</i> <i>"Any other proceeding under this code in which notice is required and no other time or method is prescribed by law or by court or judge", per CCP § 1005(a)(13);</i> <i>See examples of CCP 1005 motions and list of motions that are exceptions below</i> <i>Computation of notice period per CCP § 12c</i> 	Date set for hearing	Hearing time & place	CCP § 1005
	16 court days prior to hearing	Moving papers due	CCP § 1005(b)
	9 court days prior to hearing	Opposition papers due	CCP § 1005(b)
	5 court days prior to hearing	Reply papers due	CCP § 1005(b)
	2 court days prior to hearing	Request to appear by telephone	CRC 3.670(h)(1)(b) Check local rules
	3 court days prior to hearing	Request for oral evidence	CRC 3.1306(b)
	By 3PM, 1 court day prior to hearing	Tentative ruling reminder, if available	CRC 3.1308; Local Rules

CCP 1005 Motion

Some Examples of Motions that Follow the Notice Requirement and Briefing Pursuant to CCP § 1005 (above):

Type of Motion	Cite
Motion to Quash Service	CCP 418.10(b)
Motion to Strike	CCP 585(f); CCP 435(b)(2)
Demurrer	CRC R. 3.1320(c). NOTE: Meet and confer requirement per CCP 430.41.
Discovery motions, including motions to compel	no CCP cite that specifically points to CCP 1005
Motion to Take Deposition Beyond Geographic Limits	no CCP cite that specifically points to CCP 1005
Motion for Admission Pro Hac Vice	CRC 9.40(c)
Motion to Expunge for Defects in Service or Filing Lis Pendens (Notice of Pendency of Action)	CCP § 1005(a)(11)
Motion for Sanctions under CCP § 128.5	CCP § 128.5 Note: copy of file-endorsed caption page of motion or opposition must be emailed to California Research Bureau (rule effective until 1/1/18)
Motion for Sanctions for Discovery Abuse	no CCP cite that specifically points to CCP 1005
Writ of Possession	no CCP cite that specifically points to CCP 1005
Motion for Determination of Good Faith Settlement	CCP § 1005(a)(5); CCP 877.6
"Any other proceeding under this code in which notice is required and no other time or method is prescribed by law or by court or judge".	CCP § 1005(a)(13)

Exceptions

Type of Motion	Cite
Arbitration, Petition to Compel	CCP § 1290.2
Attachments (see below)	CCP §§ 484.050; 484.060; 484.070
Class certification	CRC 3.764
Coordination (Petition for)	CRC 3.500 <i>et seq.</i> ; CCP § 404
Dismissal for Delay in Prosecution under CCP § 583.410	CRC 3.1342
Ex Parte Applications	CRC 3.1200 <i>et seq.</i> ; CRC 3.670
<i>in limine</i> motions	Check Local Rules/Case Scheduling Order
Judgment Notwithstanding the Verdict (JNOV)	CCP § 629(b) – follows timing for Motion for New Trial
New Trial	CRC 3.1600; CCP § 659; 659(a)
Preliminary Injunction – following the issuance of a TRO	CCP § 527
Reconsideration of an Order	CCP § 1008
Sanctions under CCP § 128.7 <i>only</i> – Does not apply to other sanctions motions	CCP § 128.7 "safe harbor" notice requirement + regular CCP § 1005 briefing schedule
Set Aside or Vacate a Judgment	CCP § 663a – follows timing for Motion for New Trial
Summary judgment/Summary Adjudication (see next page)	CCP § 437c
Unlawful detainer cases – Motions to Quash; Summary judgment; Discovery	CCP § 1167.4; CCP § 1170.7

Motion for Summary Judgment

<p>MOTION FOR SUMMARY JUDGMENT (MSJ)</p> <p><i>Note: The 75 day period for service of MSJ moving papers is extended for service other than by hand – see CCP § 437c(a).</i></p> <p><i>Note: the 2 court day extension of time for service of MSJ moving papers by overnight delivery or fax.</i></p>	The date of the hearing	Hearing on MSJ, time & place.	CCP § 437c
	75 calendar days prior to hearing	L/D to serve moving papers	CCP § 437c(a)
	14 calendar days prior to hearing	L/D to file and serve opposition papers	CCP § 437c(b)(2)
	5 calendar days prior to hearing	L/D to file and serve reply papers	CCP § 437c(b)(4)
	Simultaneously with the opposition or reply papers	L/D to file and serve any objections to evidence	CRC 3.1354(a)
	1 court day prior to hearing	Tentative ruling reminder, if available	CRC 3.1308 Local Rules

Let's Count!

NOVEMBER						
SUN	M	TU	W	TH	F	S
					306	307
					1	2
308	309	310	311	312	313	314
3	4	5	6	7	8	9
315	316	317	318	319	320	321
10	11	12	13	14	15	16
322	323	324	325	326	327	328
17	18	19	20	21	22	23
329	330	331	332	333	334	335
24	25	26	27	28	29	30

Nov. 11 Veterans Day – Federal & State
Nov. 28 Thanksgiving – Federal & State Holiday
Nov. 29 Day After Thanksgiving – State Holiday; Federal districts vary*

DECEMBER						
SUN	M	TU	W	TH	F	S
336	337	338	339	340	341	342
1	2	3	4	5	6	7
343	344	345	346	347	348	349
8	9	10	11	12	13	14
350	351	352	353	354	355	356
15	16	17	18	19	20	21
357	358	359	360	361	362	363
22	23	24	25	26	27	28
364	365	366				
29	30	31				

Dec. 25 Christmas - Fed & State Holiday



Pre-Trial/Trial/Disposition

- ALTERNATIVE DISPUTE RESOLUTION (ADR)
 - Arbitration; Mediation; Settlement Conference
- TRIAL
 - Motions in Limine set by Local Rule
 - Generates **large** number of trial-related dates!

See, California's not that weird!



Thanks for visiting!



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Resources

- The Judicial Council

<https://www.courts.ca.gov/home.htm>

- Superior Courts

<https://www.courts.ca.gov/superiorcourts.htm>

- Court of Appeals

<https://www.courts.ca.gov/courtsofappeal.htm>

- Supreme Court

<https://supreme.courts.ca.gov/>

- Code of Civil Procedure

<https://leginfo.legislature.ca.gov/faces/codes.xhtml>

- California Rules of Court

<https://www.courts.ca.gov/rules.htm>

- Local Rules

https://www.courts.ca.gov/find-my-court.htm?query=browse_courts



National Docketing Association

SF Bay Area Chapter

