

1. CIVIL RULES

GENERAL PROVISIONS

1.1 CITATION

These civil rules should be cited as "Marin County Rule, Civil" or "MCR Civ" followed by the rule number (e.g., Marin County Rule, Civil 1.1 or MCR Civ 1.1). For the purposes of these rules, "parties" means actual parties, counsel for parties and self-represented parties.

[Rule 1.1 adopted effective 5/1/98; amended 7/1/15]

1.2 APPLICATION OF RULES

All civil cases filed in Marin County will be assigned a single judge for all purposes at the time of filing of the action. Unless otherwise noted, these civil rules apply to all civil cases, regardless of classification or jurisdictional amount. These rules do not apply to family law or probate cases. Although the Court is unified, statutory and state-wide rules regarding the differences between the jurisdictional classification of cases remain in effect (e.g., jurisdictional limits, discovery rules).

[Rule 1.2 adopted effective 5/1/98; amended 7/1/15]

ADMINISTRATION OF CIVIL LITIGATION

1.3 FORMS TO BE ISSUED BY CLERK UPON FILING OF COMPLAINT

Upon the filing of a complaint, the Clerk will provide to the plaintiff or cross-complainant the following three documents:

1. Alternative Dispute Resolution (ADR) Informational Notice (CV006);
2. Notice of Case Management Conference (CV008), indicating the assigned judge and the date of the First Case Management Conference; and
3. A file-stamped copy of the Summons and Complaint

From the Court's website at www.marincourt.org under the Fees, Forms and Rules section, the plaintiff or cross-complainant shall obtain the following two documents:

3. A blank Case Management Statement (CM-110);
4. A blank Notice of Settlement of Entire Case (CM-200).

[Rule 1.3 adopted effective 5/1/98; amended 7/1/15]

1.4 CASE MANAGEMENT CONFERENCES

The Court shall calendar and conduct Case Management Conferences. The Court may sanction parties who fail to attend or participate. The Court shall set The First Case Management Conference for a date not later than 180 calendar days after the filing of a complaint.

If a case is transferred from another jurisdiction after a responsive pleading has been filed, the Court shall set the First Case Management Conference for a date not later than forty-

five (45) calendar days from the filing of the action in this Court. If no responsive pleading has been filed, the Court shall set the First Case Management Conference for a date not later than ninety (90) calendar days from the filing of the action in this Court.

[Rule 1.4 adopted effective 5/1/98; amended 7/1/15]

1.5 SERVICE OF SUMMONS AND COMPLAINT

A. Forms With Summons and Complaint and Return of Proof of Service. The plaintiff or cross-complainant shall serve the summons and complaint together with the five documents described in MCR Civ 1.3.

B. Sanctions. The plaintiff or cross-complainant shall serve the complaint or cross-complaint and file a proof of service within sixty (60) calendar days of filing the complaint or cross-complaint. Failure to do so will result in the issuance of an Order to Show Cause as to why the Court shall not sanction the plaintiff or cross-complainant for failure to comply with this rule. Responsive papers to the Order to Show Cause must be filed and served five (5) court days in advance of the hearing.

C. New Parties in Cross-Complaint. If a cross-complaint names new parties, the cross-complainant shall serve copies of the five documents described in MCR Civ 1.3 on the new parties at the same time that the cross-complaint is served. The Court may impose sanctions for failure to comply with MCR Civ 1.5B.

[Rule 1.5 adopted effective 5/1/98; amended 7/1/15]

1.6 RESPONSIVE PLEADING

A. Service. Each party that has been served with summons and complaint shall file and serve all necessary responsive pleadings according to the time frames set forth in the summons.

B. Entry of Default.

1. If a responsive pleading is not filed, the plaintiff or cross-complainant must, within ten (10) calendar days after the statutory time for filing the responsive pleading has expired, request the entry of a default. Upon the plaintiff's or cross-complainant's failure to request entry of default, at the First Case Management Conference an Order to Show Cause will issue as to why the Court should not impose sanctions for the failure to request entry of default.

2. After a request for entry of default is filed, the Court will set and notice the case for default hearing. A default judgment by clerk in lieu of appearance may be submitted in cases where Code of Civil Procedure §585 applies.

3. Parties may seek to set aside a default by a stipulation submitted with a proposed order. If the Court approves the order, an answer or other responsive pleading must be filed within ten (10) days of the filing of the order.

[Rule 1.6 adopted effective 5/1/98; amended 7/1/15]

LAW AND MOTION MATTERS

1.7 FORM AND FORMAT OF PAPERS PRESENTED FOR FILING

A. Documents Presented for Filing. All documents presented for filing in any civil law and motion proceeding must comply with the Civil Law and Motion Rules of the California Rules of Court (CRC), commencing with CRC 3.1110 et seq., as well as CRC 2.100 et seq.

B. Discovery Motions. All discovery motions presented for filing must state “Discovery Motion” on the caption page.

[Rule 1.7 adopted effective 5/1/98; amended 7/1/15]

1.8 MISCELLANEOUS GENERAL PROVISIONS

A. Copies for Filing. A filing must include an original and one copy of each motion, petition for writ of mandate, attachment or possession, preliminary injunction, demurrer and all other papers filed in support or opposition. The copy should be identified as such on the upper right-hand corner of the document, and should contain the same items as the original with regard to tabs, etc., including any highlighting.

B. Conformed Copies. If a conformed copy is desired, an additional copy must be submitted. The Court will conform a maximum of two copies of any pleading at the time of filing. Parties requesting that the Court mail them conformed copies of their filings must provide a self-addressed stamped envelope of proper size and with sufficient postage. If no envelope is provided, the conformed copy will be placed in the Will Call cabinet in the Clerk’s Office in Room 113 for a maximum of sixty (60) calendar days. If the envelope provided or the postage is insufficient to mail the conformed copy, it will be placed in the Will Call cabinet for a maximum of sixty (60) calendar days.

C. Attachment of Previously Filed Documents.

1. Parties shall not attach previously filed documents, other than certain motions as specified in MCR Civ 1.8C2, to a filed pleading.

2. For demurrers and motions for summary judgment/summary adjudication, parties shall attach the operative pleading as an exhibit.

D. Filing Documents on Shortened Time. All motions or other pleadings filed on an order shortening time shall state on the caption page that the matter was brought on an order shortening time, with the file date of the order.

E. Court's Research Staff. Parties shall not initiate communications with the Court's research attorneys.

[Rule 1.8 adopted effective 5/1/98; amended 7/1/15]

1.9 HEARINGS

A. Hearing Dates. The Clerk’s Office will assign all motion hearing dates at the time a motion is filed unless otherwise ordered by the Court. Parties cannot reserve dates or obtain them over the telephone. This rule does not apply to motions brought pursuant to Code of Civil Procedure §128.7. Parties bringing such a motion may obtain a hearing date at the Clerk’s Office and will establish the filing deadline with the Law & Motion Clerk at that time.

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B. Continuances. Requests to continue law and motion matters shall be granted upon filing of a stipulation signed by all parties no later than five (5) court days prior to a hearing. Requests to continue law and motion matters filed fewer than five (5) court days prior to a hearing will not be granted without written order of the Court.

C. Removing Matters From Calendar. The moving party shall immediately notify the law and motion clerk when a law and motion matter has been resolved so that the clerk can drop the hearing from calendar. The moving party shall drop an appearance at the earliest possible opportunity. If the moving party drops an appearance within five (5) court days of when the matter is on calendar, the moving party shall file a declaration explaining to the Court why the appearance could not have been dropped sooner.

[Rule 1.9 adopted effective 5/1/98; amended 7/1/15]

1.10 TENTATIVE RULINGS

A. Obtaining Rulings. Parties may obtain tentative rulings online at (http://www.marincourt.org/tentative_landing.htm) or by calling (415) 444-7260 from 2:00 p.m. to 4:00 p.m. on the court day preceding the scheduled hearing.

B. Oral Argument. If a party wants to present oral argument, the party *must contact the court at (415) 444-7046 and all opposing parties by 4:00 p.m. of the court day preceding the scheduled hearing.* Notice may consist of a phone call or email to all other parties that argument is being requested (i.e., it is not necessary to speak with counsel or parties directly). Unless the Court and all parties have been notified of a request to present oral argument, no oral argument will be permitted except by order of the Court.

C. Length of Hearings. Non-evidentiary hearings on the Law and Motion calendar are limited to a maximum of 20 minutes.

D. Sanction Requests. All requests for sanctions not ruled upon are deemed denied.

[Rule 1.10 adopted effective 5/1/98; amended 7/1/15]

1.11 ORDERS

Except in unlawful detainer cases, or when the Court otherwise directs, the prevailing party shall prepare an order consistent with the announced ruling in accordance with CRC 3.1312. Parties shall meet and confer in good faith to resolve all differences concerning the wording of the order. If, after argument, the Court adopts the tentative ruling as the final ruling in a case, a party may deliver an order reflecting that ruling to the Court at the end of the hearing without obtaining approval of other parties. Once an order is signed by the Court and filed, the party preparing the order shall mail conformed copies to all parties.

[Rule 1.11 adopted effective 5/1/98; amended 7/1/15]

1.12 APPLICATIONS FOR EX PARTE ORDERS, PROVISIONAL REMEDIES AND ORDERS SHORTENING TIME

All applications must comply with applicable CRC rules (e.g., CRC 3.1200 et seq., 3.1300.). Except as otherwise specifically provided by these rules, parties shall present applications for ex parte orders or provisional remedies as follows: Parties shall present civil applications involving injunctive relief, extraordinary provisional remedies (writs of attachment), emergency relief and appointment of receivers and any matters subject to the civil delay reduction program to the civil judge assigned to the action at the time of filing.

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However, if the judge to whom an application should be presented under this rule is unavailable (i.e., not physically present) or is disqualified, or in cases of emergency, then parties shall present the application to the assigned judge's designated backup judge. Parties may obtain the time for presenting applications in each department online at http://www.marincourt.org/judicial_dept_assign.htm.

Parties shall pay the ex parte application filing fee in the Clerk's Office prior to the hearing in a department.

[Rule 1.12 adopted effective 5/1/98; amended 7/1/15]

1.13 DISCOVERY FACILITATOR PROGRAM

A. Policy of the Marin County Superior Court. Parties must reasonably and in good faith attempt informal resolution of each issue in any discovery dispute in a civil case prior to filing a discovery motion. Parties must submit a declaration setting forth this reasonable and good faith attempt at resolution with any discovery motion, pursuant to Code of Civil Procedure §2016.040. Notwithstanding the outcome of a particular motion, the Court may impose a monetary sanction on any party who fails to meet and confer as required, for the reasonable expenses, including attorneys' fees, incurred by anyone as a result of that failure. (Code of Civil Procedure §2023.020.)

For any discovery dispute in a civil case that the parties cannot resolve informally in the meet and confer process, it shall be the policy of the Marin County Superior Court to require use of the Discovery Facilitator Program ("the Program"). Reasonable and good faith participation in the Program before the filing of a discovery motion satisfies a party's meet and confer obligation for purposes of this rule.

B. Participation in the Program. Parties to a civil case discovery dispute shall be referred to the Program or participate in the Program in one of the following ways:

1. *Before the Filing of a Discovery Motion.* The parties may request referral to the Program, before the filing of a discovery motion, by submitting a stipulation to the ADR Coordinator for referral to the Program. Filing the stipulation will toll the time for filing the discovery motion until a party files a Declaration of Non-Resolution with the Court (see Rule 1.13H); or

2. *After the Filing of a Discovery Motion.* After the filing of a discovery motion, the Court shall refer the dispute to the Program. All discovery motions will be referred to the discovery facilitation process. The parties and the discovery facilitator shall promptly commence the resolution process upon the discovery facilitator's appointment. The court anticipates that the motion will not go forward on the assigned hearing date if the court has not received a notice of non-resolution of the motion at least five (5) court days prior to the scheduled hearing date.

C. Discovery Facilitator Panel. The Court shall maintain a list of qualified Discovery Facilitators. Each panelist on the list must be an active member of the State Bar licensed for at least 10 years or a retired judge.

D. Selection of a Discovery Facilitator. The Discovery Facilitator shall be selected for a discovery motion as follows:

1. The ADR Coordinator shall select, at random, a number of names from the panel of qualified Discovery Facilitators equal to the number of sides plus one, and

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shall prepare a list of the names of the randomly selected Discovery Facilitators. The ADR Coordinator shall provide this list to the parties upon the filing of a discovery motion or referral stipulation. For purposes of this rule, a “side” shall consist of all parties represented by the same counsel (e.g., where one counsel represents more than one plaintiff or cross-complainant or more than one defendant or cross-defendant).

2. If the parties agree on the selection of a Discovery Facilitator from the list provided, they shall notify the ADR Coordinator within ten (10) calendar days following the filing date of the discovery motion or referral stipulation. If the parties cannot agree on a Facilitator, then within the 10 calendar day period, each side shall submit to the ADR Coordinator a written rejection identifying no more than one name on the list of potential Facilitators that it does not accept.

3. Promptly upon expiration of the 10 calendar day period, the ADR Coordinator shall appoint one of the persons on the list who was either agreed upon or whose name was not rejected to serve as Discovery Facilitator.

4. The ADR Coordinator shall promptly assign the case to the Discovery Facilitator and shall serve the “Notice of Appointment of Discovery Facilitator” on all parties and on the Discovery Facilitator. Upon receipt of the “Notice of Appointment of Discovery Facilitator,” the parties shall promptly deliver to the Discovery Facilitator copies of the pleadings and discovery necessary to facilitate resolution of the dispute.

E. Facilitator Process. The Discovery Facilitator shall establish the procedures in each case to be utilized by the parties, through telephone conferences, exchange(s) of letters or emails and/or in-person conferences, for discussion and attempted resolution of the discovery dispute.

F. Compensation. Beginning from the time the Discovery Facilitator receives notice from the parties or the Court of an appointment, the Discovery Facilitator shall devote up to two (2) hours, without charge to any of the parties, in an attempt to facilitate resolution of the discovery dispute. If the matter has not resolved after the two hours, the parties may continue working with the Discovery Facilitator if the parties and the Discovery Facilitator agree regarding the Discovery Facilitator’s compensation.

G. Resolution. If a pending discovery motion is resolved, then no later than five (5) calendar days before the scheduled law and motion hearing date the moving party shall withdraw the motion and drop it from the calendar. If the motion is not dropped at least five (5) days prior to the date it is on calendar, the moving party shall file a declaration explaining to the Court why the motion could not have been dropped sooner.

H. Declaration of Non-Resolution.

1. If a discovery dispute is not resolved with the assistance of the Discovery Facilitator, each party shall file and serve a pleading entitled “Declaration of Non-Resolution.” The Declaration shall not exceed three pages and shall briefly summarize the remaining disputed issues and each party’s contentions. If the parties entered the Program after filing a discovery motion, then the Declaration caption shall include the name of the motion and the date of the hearing and the parties shall file and serve it no later than five court days prior to the hearing.

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2. If the Declaration of Non-Resolution is filed less than five (5) court days prior to the date the motion is on calendar, the Court shall issue a tentative ruling, dropping the hearing from calendar.

3. The Discovery Facilitator may at his or her option, serve on all parties or their counsel of record and file with the Court, a report containing a brief summary of the dispute and the parties' contentions, and any legal or factual analysis made by the Discovery Facilitator regarding the dispute.

[Rule 1.13 adopted effective 7/1/12; amended 7/1/17]

SETTLEMENT AND ISSUE CONFERENCES

1.14 SETTLEMENT CONFERENCE

A. Mandatory Settlement Conference. The Court shall hold a mandatory settlement conference in all cases where a jury trial has been demanded or in the Court's discretion.

B. Settlement Conference Statement. At least ten (10) court days before the settlement conference, parties shall lodge an original and two copies of a settlement conference statement with the Court. Parties shall provide two envelopes of sufficient size, and with sufficient postage, to accommodate mailing the statements to the settlement panelists. The Court may impose sanctions of \$49 per calendar day for statements lodged late. The parties shall note the date and time of the settlement conference and trial on the face sheet of the statement. The settlement conference statement shall comply with all requirements of CRC 3.1380(c) and shall also include the following, where applicable:

1. Pertinent excerpts of medical reports, depositions, photographs, and records with material portions highlighted on all copies submitted;
2. The highest previous offer and lowest previous demand;
3. The date of the last face-to-face settlement discussion;
4. Presentation of any special barriers to settlement.

C. Required Attendance. The Court requires personal attendance at all settlement conferences by lead trial counsel, a client representative with full settlement authority and, in cases involving third-party payors, a representative with full settlement authority from each third-party. Exceptions to this rule require advance written approval from the Court.

D. Sanctions. An attorney's or party's failure to prepare for, appear at, or participate in a settlement conference, absent good cause shown, may result in the imposition of sanctions.

[Rule 1.14 adopted effective 5/1/98; amended 7/1/15]

1.15 ISSUE CONFERENCE

A. Attendance. An Issue Conference will be held before the trial judge. The conference will be set on the day of trial unless otherwise ordered. Trial counsel for each party must attend such conference. The trial judge may also require all parties and claims representatives to attend.

B. Documents to be Filed for Issue Conference. Not later than five (5) court days before an Issue Conference, each party shall file and serve the following:

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1. Issue Conference Statement;
2. A proposed statement of the case to be read to the jury;
3. Proposed voir dire questions;
4. Proposed jury instructions;
5. Proposed verdict forms;

6. Motions *in Limine* (if any). All motions *in limine* must be in writing and consecutively numbered. Parties shall provide Courtesy copies of all *in limine* motions directly to the trial department. If a party submits more than five *in limine* motions, the party shall submit the courtesy copies in an indexed binder. Parties shall separately tab each motion with tabs meeting the requirements set forth in CRC 3.1110(f).

C. Issue Conference Statements. Parties shall include the following in the Issue Conference Statement for consideration at the Issue Conference:

1. A statement of the facts, law, and respective contentions of the parties regarding liability, damages and (if applicable) the nature and extent of injuries;
2. Any unusual evidentiary or legal issues anticipated at trial;
3. All matters of fact believed by any party to be appropriate for stipulation;
4. A list of all witnesses to be called and a brief statement of anticipated testimony;
5. A list of all exhibits to be introduced;
6. A trial length estimate.

Other than as relates to impeachment or rebuttal, or for good cause shown, witnesses and exhibits not identified in the Issue Conference Statement will be excluded at trial.

[Rule 1.15 adopted effective 5/1/98; amended 7/1/15]

RULES FOR CERTAIN CIVIL CASE TYPES

1.16 APPROVAL OF COMPROMISE OF MINOR'S CLAIM

A. Application. All applications for Court approval of a compromise of minor's claim, pursuant to CRC 7.950, shall include as attachments current medical reports giving a diagnosis and prognosis of the minor's condition. Medical costs covered by medical insurance available to the minor or the minor's parents shall not be included as items of reimbursement.

B. Attorney's Fees. Attorney's fees in these proceedings shall not exceed an amount equal to 25% of the net proceeds of any settlement (the gross less reimbursable medical-legal costs), without substantial justification for a higher fee.

C. Forms to Deposit Money. All applications filed to request an order to deposit money belonging to a minor shall be accompanied by completed Judicial Council forms MC-350, MC-351, and MC-355.

D. Hearing Assignment. Applications shall be assigned for hearing by the Court on the default calendar of a civil department.

[Rule 1.16 adopted effective 5/1/98; amended 7/1/15]

1.17 UNLAWFUL DETAINERS

A. Settlement Conferences. Settlement conference statements are not required for unlawful detainer cases. Even when no trial date has been scheduled, a party in an unlawful detainer action may request a settlement conference by filing a request with the Court. The Court will set the requested settlement conference on the same date and time as it schedules other unlawful detainer settlement conferences.

B. Orders. The prevailing party shall prepare an order after the Court has granted any motion. Because time is of the essence, the prevailing party is not required to send the order to the opposing party for approval as to form.

[Rule 1.17 adopted effective 5/1/98; amended 7/1/15]

1.18 UNINSURED MOTORIST CASES

A. Required Declaration. Plaintiff's or cross-complainant's counsel shall file a declaration captioned "Request for Temporary Exemption - Uninsured Motorist Case" at the time of filing of the complaint or cross-complaint, or within ten (10) calendar days of learning that an action will proceed as an uninsured motorist case. The declaration shall set forth the following information:

1. A statement that coverage likely exists under an uninsured motorist's insurance policy;
2. The name of the carrier and limits of coverage; and
3. Whether counsel believes that the limits of coverage are adequate to compensate for known loss or damage, that plaintiff(s) or cross-complainant(s) will promptly pursue such remedy, and whether counsel intends to assign the claim or dismiss the pending action upon conclusion of the uninsured motorist claim.

B. Court Designation. Upon review of the required declaration, the Court may designate the action as an uninsured motorist case. Upon such designation, the time requirements under these rules will be suspended for not more than 180 calendar days from the date the complaint or cross-complaint was filed or the date the case was designated an uninsured motorist case, whichever is earlier. The Court shall set a case management conference to be held at the end of the suspension period. If a dismissal has not been filed, plaintiff's or cross-complainant's counsel shall file a declaration five (5) court days prior to the case management conference. The declaration shall describe the status of the arbitration.

[Rule 1.18 adopted effective 5/1/98; amended 7/1/15]

1.19 SMALL CLAIMS CONTINUANCES

Any party may submit a written request to postpone a hearing for good cause. The Court will only consider requests to continue small claims proceedings if the Court receives the request in writing at least ten (10) calendar days before the hearing date, unless the Court determines that the requesting party has good cause to file the request at a later date. The requesting party shall mail or personally deliver a copy of the continuance request to each of the other parties to the action. If the Court finds that the interests of justice would be served by postponing the hearing, the Court will postpone the hearing and will notify all parties by mail of the new hearing date.

[Rule 1.19 adopted effective 5/1/98; amended 7/1/15]

1.20 SANCTIONS

If the Court finds that any counsel, a party represented by counsel, or a self-represented party has failed to comply with these local rules, the Court on motion of a party or on its own motion may strike out all or any part of any pleading of that party, or, dismiss the action or proceeding or any part of it, or enter a judgment by default against a party, or impose other penalties of a lesser nature as otherwise provided by Law. The Court also may order a party or a party's counsel to pay the moving party's reasonable expenses in making the motion for sanctions, including reasonable attorney fees.

[Rule 1.20 adopted effective 5/1/98; amended 7/1/15]

1.21 TELEPHONE APPEARANCES

CourtCall LLC is the Court's telephonic appearance provider. The telephone number for CourtCall LLC is (888) 88-COURT [(888) 882-6878]. The website address is www.courtcall.com. Parties shall schedule their CourtCall appearances two (2) court days prior to a hearing.

A party making a CourtCall appearance shall: (a) eliminate to the greatest extent possible all ambient noise from the party's location; (b) speak directly into a telephone handset during the appearance; and (c) not utilize the "hold" button. Each time a party speaks the party shall identify by name for the record and participate in the appearance with the same degree of courtesy and courtroom etiquette as a personal appearance would require.

[Rule 1.21 adopted effective 7/1/00; amended 7/1/15]

1.22 DOCUMENTS NOT FILED OR ADMITTED AT HEARING OR TRIAL

Documents not filed or admitted at a hearing or trial and left at the courthouse will be discarded immediately following the hearing or trial without notice to the parties. This includes binders and boxes containing the documents.

[Rule 1.22 adopted effective 1/1/15; amended 7/1/15]

1.23 PROCEDURES FOR HANDLING MEDIATOR COMPLAINTS

A complaint about conduct of a mediator on the mediation panel will be directed to the presiding judge. The Court will maintain a file of each complaint and its disposition. The presiding judge or a judge or judges designated by the presiding judge will review each complaint promptly. Each complainant will be notified promptly in writing of the disposition of the complaint.

[Rule 1.23 adopted effective 1/1/04; amended 7/1/15]

APPELLATE DIVISION

1.24 COPIES

At the time of filing any original brief with the Clerk of the Appellate Division, the filing party shall lodge with the Clerk *four* legible copies of the brief.

[Rule 1.24 adopted effective 5/1/98; amended 7/1/15]

1.25 RECORD ON APPEAL

A. Record on Appeal. The Appellate Division elects to authorize the use of the original court file in lieu of a clerk's transcript as the record on appeal, pursuant to CRC 8.830(a)(1)(B) and 8.833.

B. Settled Statement on Appeal. The Appellate Division elects to authorize the use of an official electronic recording, where available, as the record of the oral proceeding instead of obtaining a corrected statement on appeal from the judicial officer who presided over the proceeding before the Appellate Division, pursuant to CRC 8.837(d)(6)(A).

[Rule 1.25 adopted effective 1/1/13; amended 7/1/15]

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