

3. INFRACTION RULES

3.1 CITATION

These infraction rules should be cited as "Marin County Rule, Infraction" or "MCR Infr" followed by the rule number (e.g., Marin County Rule, Infraction 3.2 or MCR Infr 3.2).

[Rule 3.1 adopted effective 5/1/98; amended 1/1/12]

3.2 FILINGS

The Clerk's Office of the Marin County Superior Court, Traffic Division shall be responsible for processing all adult and juvenile traffic infractions and non-traffic infractions. No misdemeanors shall be filed in the Traffic Division.

[Rule 3.2 adopted effective 5/1/98; amended 1/1/12]

3.3 COURT SESSIONS

Regular court sessions for citations and complaints filed in the Traffic Division for both adult and juvenile matters shall be scheduled as required by the Presiding Judge and published by the Court Executive Officer.

[Rule 3.3 adopted effective 5/1/98; amended 1/1/12]

3.4 ARRAIGNMENTS

Except for offenses mandating a court appearance, a defendant may waive his/her right to be arraigned on the violation and enter a plea of not guilty at the counter or by phone or over the internet using the Court's automated systems. The Clerk will assign a trial date within the statutory time requirements of Penal Code §1382, unless the defendant waives that right on the form provided by the Clerk.

[Rule 3.4 adopted effective 5/1/98; amended 1/1/14]

3.5 CONTINUANCES

Except for continuance of a trial date, on or before the date set or required in any matter, the Clerk shall have the authority to grant the defendant one extension of not more than thirty (30) calendar days.

[Rule 3.5 adopted effective 5/1/98; amended 1/1/12]

3.6 TRIAL CONTINUANCES

When a case has been set for a contested court trial, each side shall be entitled to one continuance of the trial date provided the request is received by the Traffic Division not fewer than ten (10) calendar days prior to the assigned date of trial.

[Rule 3.6 adopted effective 5/1/98; amended 1/1/12]

3.7 ALTERNATE PROCEDURES FOR JUDICIAL REVIEW OF INFRACTION MATTERS

A. Ex Parte Judicial Review by Written Declaration or Request. Defendants who plead guilty or no contest on certain infraction matters may seek judicial review to obtain specific relief from the Court as follows:

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1. On Good Cause Declaration (Form TR021):

a. Request that civil assessment be vacated, case be recalled from court collections, and fine be reduced to original bail amount.

b. Request to accept proof of completion of community service work or traffic violator school after civil assessment has been added and case has been transferred to court collections.

c. Request for extension of time to correct mechanical violations or obtain out-of-state registration or to provide proof of valid driver's license.

d. Request to reinstate community service work when community service work has been previously terminated.

2. On Request for Sentence Modification (Form TR022):

a. Request for sentence modification to convert fines to community service work, upon approval of Financial Qualification for Community Service Work (Form TR024) and payment of \$50 non-refundable community service work administrative fee.

b. Request for sentence modification to convert community service work to fine.

c. Request for sentence modification to allow traffic violator school when not initially ordered, upon payment of a non-refundable administrative fee of \$52 for such conversion.

d. Request for sentence modification to a payment plan upon approval and payment of \$35 non-refundable account receivable fee.

e. Request for sentence modification to extend time to pay or to complete community service work or traffic violator school.

3. On Declaration and Request for Community Service Work (Form TR023) and Financial Qualification for Community Service Work (Form TR024):

a. Request for approval of community service work when defendant does not meet the qualifications for financial hardship. If approved, defendant will be required to pay a \$50 non-refundable community service work administrative fee.

Following review, the reviewing judicial officer shall determine whether good cause exists and may grant specific relief. The judicial officer shall make such findings and issue such orders as are appropriate to address requests for relief. The Clerk's Office shall communicate such judicial orders to the defendant in writing within thirty (30) days from the date the request was received by the Court.

B. Monthly Calendar for Personal Appearance. The Court has established a monthly calendar for personal appearance by defendants in the following infraction matters:

1. To adjudicate infraction charges for which the Court has determined that a defendant must appear in court.

2. To hear various motions, other than motions pursuant to Penal Code §1538.5.

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3. To review and adjudicate disposition of bail and/or bonds held by the Court, where a defendant posted bail on a promise to appear but the District Attorney filed the case with only infraction charges in the Traffic Clerk's Office.

4. To arraign a defendant who requests to make such personal appearance before a judicial officer.

C. Appearance at Contested Court Trial. The Court shall compel defendants who request certain specific relief or Court findings to appear at a contested Court trial as follows:

1. To plead not guilty and request dismissal because defendant claims that he or she was not the citee (e.g., defendant alleges identity theft) and the Clerk's Office is otherwise unable to ascertain whether defendant was the citee.

2. To argue motions filed on behalf of defendant pursuant to Penal Code §1538.5.

3. To plead not guilty and request to amend violation from non-correctable to correctable, where authorized by law.

[Rule 3.7 adopted effective 7/1/12; amended 1/1/17]

3.8 ADJUDICATION OF MISCELLANEOUS INFRACTION MATTERS

A. Clerks' Authority in Infraction Cases Not Transferred to Court Collections.

For cases that have not been transferred to court collections, deputy clerks are granted the authority to take the following actions at the request of defendants charged with infraction violations:

1. Grant bail waivers to defendants who plead not guilty and schedule appearances in contested traffic court.

2. Accept the posting and forfeiting of bail on infraction cases.

3. Upon approval of defendant's written request on Financial Qualification for Community Service Work (Form TR024), signed under penalty of perjury, and payment of a \$50 non-refundable community service work administrative fee, approve requests to perform community service work in lieu of paying bail at a rate of \$16 for each hour worked at a non-profit organization, as defined by Internal Revenue Code §501(c)(3), found on the Court's approved list of such agencies.

4. Allow defendants to convert community service work to bail one time only.

5. Accept requests to stay execution of court orders pending outcome of infraction appeal.

6. In limited circumstances and if defendant lives within California but outside of Marin County, upon payment of a \$50 non-refundable fee, authorize a defendant to perform community service work with a non-profit organization, as defined by Internal Revenue Code §501(c)(3), that is not on the Court's approved list of community service work providers but that is overseen by a community service work agency in the county in which the work is to be performed.

7. In limited circumstances for California residents only, following signature verification, confirmation of non-profit status and upon payment of \$50 non-refundable court costs, accept proof of completion of community service work from an

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organization not on the Court's approved list and not overseen by a community service work agency in the county in which the work was performed.

8. Grant initial 30-day extension of time to pay or provide proof of completion of community service work or traffic violator school or to provide proof of correction of correctable offense(s).

9. Grant payment plan of up to 12 months, following defendant's payment of \$35 non-refundable accounts receivable fee, by dividing the outstanding balance by the number of months of the requested payment plan to determine monthly installments of equal amounts. The minimum monthly payment shall not be less than \$50. No payment plan may exceed 12 months from the date it is established.

10. Grant acceptance of proof of correction, following payment of full bail on underlying correctable charge(s), and delete Vehicle Code §40616 from defendant's case.

11. For defendants who previously signed up for traffic violator school and upon payment of \$50 non-refundable court costs, accept late completion of traffic violator school within sixty (60) days of the date a conviction abstract was sent to the Department of Motor Vehicles.

12. For defendants who did not previously sign up for traffic violator school and upon payment of \$52 non-refundable traffic violator school fee and \$50 non-refundable court costs, accept late completion of traffic violator school within sixty (60) days of the date a conviction abstract was sent to the Department of Motor Vehicles.

13. Before the due date on the courtesy notice and upon completion of written Request to Elevate Infraction Charge to Misdemeanor (Form TR027), re-file infraction charges as misdemeanors and set matters on calendar for arraignment [e.g. Business & Professions Code §25662; Penal Code §555; Vehicle Code §§ 12500(a), 23109(a), (b) and (c), 14601.1(a), pursuant to Penal Code §17(d)].

14. Upon request of defendants or their counsel, calendar defendants' matters on the next court day for arraignment.

15. Provide a verified complaint if the notice to appear is not prepared on a form approved by the Judicial Council and is not verified under penalty of perjury by the citing officer.

B. Requests Neither the Court nor Clerks Will Grant. The Court will not grant, or authorize deputy clerks to grant, any of the following requests from defendants or their counsel:

1. For reset of contested court trial within ten (10) calendar days of the scheduled court hearing date.
2. For reset of second or subsequent date for court trial.
3. For dismissal of charges following a period of "no further violations."
4. For reduction in bail, fines and fees, or community service work hours.
5. For remand to county jail in lieu of payment of bail or fines and fees.

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6. To accept proof of correction and give refund following bail forfeiture or payment in full of fines and fees.

7. To grant subsequent extension, following an initial 30-day extension, of time to pay or to provide proof of completion of community service work or traffic violator school or to provide proof of correction of correctable offense(s).

8. To grant subsequent extension, following an extension granted by a judicial officer, of time to pay or to provide proof of completion of community service work or traffic violator school or to provide proof of correction of correctable offense(s).

9. To re-abstract the Department of Motor Vehicles upon submission of a late traffic violator school certificate, if submission is sixty-one (61) days or greater from the date a conviction abstract was sent to the Department of Motor Vehicles.

10. To grant traffic violator school or community service work following defendant's failure to appear for a contested traffic trial, where the case has been sentenced in absentia.

11. To provide a verified complaint unless the citation is not completed on a mandatory form authorized by the Judicial Council and is not verified.

12. To grant out of state community service work.

[Rule 3.8 adopted effective 7/1/12; amended 7/1/17]

3.9 APPEALS

An appeal is taken by filing with the Clerk in the Traffic Division a written notice of appeal signed by appellant or appellant's attorney. The notice shall be filed within thirty (30) days of pronouncement of judgment or mailing by the clerk of notice of judgment. A notice received after the expiration of the time prescribed shall be marked by the Clerk "received (date) but not filed," and the Clerk shall advise the party seeking to file the notice that it was received but not filed because the period for filing had elapsed. (CRC 8.902(d))

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 8.910(a)(1)(B) and 8.914.

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 8.916(d)(6)(A).

[Rule 3.9 adopted effective 5/1/98; amended 1/1/13]

3.10 ENHANCED COURT COLLECTIONS PROGRAM

At the time the Court determines that a defendant is delinquent in making payments for fines, fees, penalty assessments and surcharges, the Court will refer the delinquent case to the Enhanced Court Collections Program (ECC). Upon such referral, ECC will contact the defendant to determine how the unpaid court ordered debt will be paid. ECC will utilize all available collection methods to resolve these unpaid debts, including monitored payment plans, skip tracing, referral to the Franchise Tax Board Court Ordered Debt Program for possible wage garnishment and levy of personal property, and referral to other collection agencies.

[Rule 3.10 adopted effective 1/1/10; amended 1/1/12]

3.11 APPLICATION OF OVERPAYMENTS

Whenever the Court receives an overpayment for an infraction case and the Court determines that the defendant is delinquent on another felony, misdemeanor or infraction case, the Court will apply the overpayment to that case.

[Rule 3.11 adopted effective 1/1/13]