

## **4. INFRACTION RULES**

### **4.1 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 4.2 or MCR Infr 4.2).

*[Rule 3.1 adopted effective 5/1/98; amended 1/1/12; renumbered as Rule 4.1 effective 1/1/22]*

### **4.2 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; renumbered as Rule 4.2 effective 1/1/22]*

### **4.3 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 Judicial Officer and published by the Court Executive Officer.

*[Rule 3.3 adopted effective 5/1/98; amended 1/1/12; renumbered as Rule 4.3 effective 1/1/22]*

### **4.4 ARRAIGNMENTS**

Except for offenses mandating a court appearance, a defendant may waive their right to be arraigned on the violation and enter a plea of not guilty at the front counter of the Clerk's Office in Room C-10, by phone, by mail, 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; renumbered as Rule 4.4 effective 1/1/22; amended 7/1/24]*

### **4.5 CONTINUANCES**

Except for continuance of a trial date, on or before the date set or required in any matter, the Clerk's Office 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; renumbered as Rule 4.5 effective 1/1/22]*

### **4.6 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; renumbered as Rule 4.6 effective 1/1/22]*

### **4.7 ALTERNATE PROCEDURES FOR JUDICIAL REVIEW OF INFRACTION MATTERS**

**A. Trial by Written Declaration.** In the event a defendant fails to appear pursuant to written promise to appear, or at trial after plea of not guilty, the Court may conduct trial by written declaration pursuant to Vehicle Code section 40903.

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**B. Ex Parte Judicial Review After Adjudication.** Defendants who have pled guilty or no contest or found guilty by the Court on certain infraction matters may, by written declaration or request, seek judicial review to obtain specific relief from the Court as follows:

1. Request that civil assessment be vacated.
2. Request case be recalled from court collections.
3. Request a fine be reduced to original bail amount.
4. 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.
5. Request for extension of time to correct mechanical violations or obtain out-of-state registration or to provide proof of valid driver's license.
6. Request to reinstate community service work when community service work has been previously terminated.
7. Request sentence modification to:
  - a. Convert fines to community service work.
  - b. Allow traffic violator school when not initially ordered, upon payment of \$52 Traffic Violator School fee.
  - c. Extend time to pay or complete community service work or traffic violator school.
8. Defendants who are unable to pay their fine may request a fine reduction, payment plan, extension of time to pay, or community service in lieu of fine payment by submitting an Ability of Pay petition using the court's website: [Ability To Pay \(ca.gov\)](http://AbilityToPay.ca.gov), or submitting the Can't Afford to Pay Fine: Traffic and Other Infractions ([Form TR-320](#))

**C. Calendar for Personal Appearance.** The Court has established a 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.
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.

**D. 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.

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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 and renumbered as Rule 4.7 effective 1/1/22; amended 7/1/24; amended 1/1/25]*

### **4.8 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. Accept the posting and forfeiting of bail on infraction cases.
2. Upon approval of defendant's written request on Financial Qualification for Community Service Work (Form TR024), signed under penalty of perjury, approve requests to perform community service work in lieu of paying bail at the prevailing fine conversion rate 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.
3. Allow defendants to convert community service work to bail one time only.
4. In limited circumstances and if defendant lives within California but outside of Marin County 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.
5. In limited circumstances for California residents only, following signature verification, confirmation of non-profit status, accept proof of completion of community service work from an 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.
6. Grant payment plan of up to 12 months, for all non-traffic infractions or traffic infractions where the defendant is not seeking an ability to pay review. The minimum monthly payment shall not be less than \$50 and no longer than 12 months.
7. 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.
8. For defendants who previously signed up for traffic violator school 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.
9. For defendants who did not previously sign up for traffic violator school and upon payment of \$52 non-refundable traffic violator school fee 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.
10. 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)].

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

12. 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 remand to county jail in lieu of payment of bail or fines and fees.

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

6. 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).

7. 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).

8. 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.

9. 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.

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

11. To grant out of state community service work.

*[Rule 3.8 adopted effective 7/1/12; amended 1/1/19; renumbered as Rule 4.8 effective 1/1/22; amended 7/1/24; amended 1/1/25]*

### **4.9 COURT COLLECTIONS**

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 for collections. Upon such referral, the collection agency 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 3.9 adopted effective 1/1/10; amended 1/1/12; renumbered as Rule 4.9 effective 1/1/22; amended 1/1/25]*

**4.10 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 3.10 adopted effective 1/1/13; renumbered as Rule 4.10 effective 1/1/22]*

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