

**NOTICE OF CHANGES TO CALIFORNIA RULES OF COURT, RULE 3.1380**  
**AFFECTING LITIGANTS IN COMPLEX ACTIONS**

Many of your Case Management Orders may now contain provisions which are out of compliance with recent amendments to *California Rules of Court*, rule 3.1380 regarding the appointment of mediators and settlement referees (effective January 1, 2008).

Please be advised the judges of the Complex Civil Panel of the Orange County Superior Court have approved the suggested language below. It is recommended that the parties consider the recommended language for inclusion in Case Management Orders concerning the appointment of mediators and settlement referees. It may be necessary that existing Case Management Orders be amended to comply with those amendments to the *California Rules of Court*.

**Suggested language:**

**A. Mediations:**

The Court hereby appoints \_\_\_\_\_ as Mediator in this action to conduct assisted voluntary resolution between the parties. The parties participating in the mediation shall pay the fees incurred as part of the mediation as follows: Plaintiff one-third, Developer one-third, and the remaining parties participating in the mediation one-third on a pro-rated basis. At the conclusion of the final mediation session, if the matter is not thereby resolved, the mediations will terminate and the appointment provided under this section shall cease.

Mediation sessions shall be scheduled by the mediator, and shall occur after the date of the order up to \_\_\_\_\_. Thereafter the appointment of \_\_\_\_\_ as mediator shall automatically terminate.

**B. Mandatory Settlement Conferences:**

If the matter is not resolved at the mediation provided above, the Court may schedule one or more Mandatory Settlement Conferences to be conducted pursuant to *California Rules of Court*, rule 3.1380. The Court appoints \_\_\_\_\_ to serve in the capacity of a Settlement Conference Referee pursuant to *California Code of Civil Procedure* §639 to assist the Court in conducting the Mandatory Settlement Conference. Fees arising from the appointment as a Settlement Conference Referee shall be paid as follows: Plaintiff one-third, Developer one-third, and the remaining parties one-third on a pro-rated basis.

All parties shall attend the Mandatory Settlement Conferences as provided in the *California Code of Civil Procedure*, *California Rules of Court*, and *Local Rules*; except a party's attendance may be excused on written application to the Settlement Conference Referee, with notice provided to all parties. [*The following text applies only to construction defect cases: The provisions of any local court rule requiring the filing of Mandatory Settlement Conference statements or briefs are waived, except as provided by further order of the Settlement Conference Referee.*]