

## **LOCAL RULES – SUPERIOR COURT of CALIFORNIA, COUNTY of ORANGE**

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### **Rule 856. Informal Arraignments**

#### **A. Exceptions to Informal Arraignments**

In misdemeanor cases, subject to the following exceptions noted below, attorneys who are in good standing with the State Bar and the Court, on or before a defendant's in-court appearance date, may enter a plea of "Not Guilty" and set a pretrial and jury trial date with the clerk of the court pursuant to Penal Code section 977(a):

1. When a defendant has failed to appear;
2. When an arrest warrant has been issued;
3. When a violation of Penal Code section 166(a)(4) has been charged;
4. When a violation of Penal Code section 192(c) has been charged;
5. When a misdemeanor offense involving domestic violence, as defined in Family Code section 6211, or a misdemeanor violation of Penal Code section 273.6 has been charged;
6. When a violation of Vehicle Code sections 23152 and/or 23153 has been charged and a prior conviction of either offense has been alleged; or
7. When an attorney's eligibility to use the informal arraignment procedure is revoked.
8. When a defendant is in-custody on the day of the arraignment.

#### **B. Representations of Counsel**

By utilizing the informal arraignment procedure, the attorney represents and agrees as follows:

1. That he or she is counsel for the defendant;
  2. That the client has expressly authorized the attorney to appear on the client's behalf pursuant to Penal Code section 977(a);
  3. That the telephone, counter, or facsimile arraignment constitutes a general appearance by the attorney;
  4. That the client has specifically authorized the attorney to act as the client's
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agent for the purpose of receiving notice from the court of the pretrial and jury trial date;

5. That the client and attorney have agreed that notice of the date to the attorney shall be deemed full, complete and valid notice to the client;
6. That the attorney's use of any informal arraignment procedure constitutes a representation to the Court that the attorney has specifically advised the client that failure of the client to appear timely on the court date set for pretrial and jury trial, upon order of the Court, may constitute the crime of failure to appear, and a bench warrant may be ordered.

### C. Methods of Informal Arraignments

**At the court's discretion,** attorneys who represent misdemeanor defendants who have no outstanding warrants and who are not in custody may arraign their clients by telephone, facsimile (FAX) machine, or by personally appearing at the Clerk's Office at the location where the case is initially scheduled to be heard. Telephone, facsimile and counter arraignments will be accepted from attorneys only.

### D. Telephone Arraignment

1. An **Informal Arraignment by Attorney** form will be completed by the clerk on behalf of the attorney.
  2. Telephone arraignments will be conducted between 9:00 a.m. and 2:00 p.m. daily (excluding holidays and weekends), no sooner than seven days prior to the scheduled in-court arraignment date and no later than 10:00 a.m. on the scheduled in-court date of arraignment.
  3. The clerk will set the case for pretrial and jury trial in the normal course of the Court's business: pretrial within thirty days and jury trial within 35 days, both from the date of the informal arraignment. The clerk will file the original **Informal Arraignment by Attorney** form and mail one copy to the attorney for the defendant and notify the prosecuting attorney of the pretrial and jury trial dates set by the Court.
  4. The attorney for the defendant must confirm the pretrial and jury trial dates with the Clerk's Office, in writing, within three calendar days of the telephone arraignment.
  5. Any bail/bond posted, or O/R release must remain in force from the date of the telephone arraignment to the next appearance date in the matter. The attorney agrees that any bail/bond or release issues are reserved for the next hearing date.
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6. Notice of rejected telephone arraignments will be mailed to the submitting attorney by 5:00 p.m. on the court day following receipt of the request for informal arraignment. If a telephone arraignment is rejected, the defendant and his or her attorney are required to appear in Court on the originally scheduled in-court arraignment date.

### E. Counter Arraignments

1. An **Informal Arraignment by Attorney** form is to be completed by the attorney and the original delivered to the Court.
2. Counter arraignments will be conducted between 9:00 a.m. and 2:00 p.m. daily (excluding holidays and weekends), no sooner than seven and no later than two court days prior to the scheduled in-court arraignment date.
3. The clerk will set the case for pretrial and jury trial in the normal course of the Court's business: pretrial within thirty days and jury trial within 35 days, both from the date of the informal arraignment. The clerk will file the original **Informal Arraignment by Attorney** form and notify the prosecuting attorney of the pretrial and jury trial dates set by the Court.
4. Any bail/bond posted, or O/R release must remain in force from the date of the counter arraignment to the next appearance date in the matter. The attorney agrees that any bail/bond or release issues are reserved for the next hearing date.
5. Notice of a rejected counter arraignment will be mailed to the submitting attorney by 5:00 p.m. on the court day following receipt of the request for informal arraignment. If a counter arraignment is rejected, the defendant and his or her attorney are required to appear in Court on the originally scheduled in-court arraignment date.

### F. Facsimile Arraignments

1. An **Informal Arraignment by Attorney** form is to be completed by the attorney and the original faxed to the Court.
  2. FAX arraignments must be received between 9:00 a.m. and 2:00 p.m. daily (excluding holidays and weekends), no sooner than seven and no later than two court days prior to the scheduled in-court arraignment date.
  3. The clerk will set the case for pretrial and jury trial in the normal course of the Court's business: pretrial within thirty days and jury trial within 35 days, both from the date of the informal arraignment. The clerk will file the original **Informal Arraignment by Attorney** form and mail one copy to the attorney for the defendant and notify the prosecuting attorney of the pretrial and jury trial dates set by the Court.
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4. The attorney for the defendant must confirm the pretrial and jury trial dates with the Clerk's Office, in writing, within three calendar days of the FAX arraignment.
5. Any bail/bond posted, or O/R release must remain in force from the date of the FAX arraignment to the next appearance date in the matter. The attorney agrees that any bail/bond or release issues are reserved for the next hearing date.
6. Notice of a rejected FAX arraignment will be mailed to the submitting attorney by 5:00 p.m. on the court day following receipt of the request for informal arraignment. If a FAX arraignment is rejected, the defendant and his or her attorney are required to appear in Court on the originally scheduled in-court arraignment date.

G. Failure to Comply

Failure to comply with any of the provisions of the Informal Arraignment Rule may result in:

1. Imposition of sanctions pursuant to Code of Civil Procedure section 177.5.
2. The Presiding Judge or his/her designee's entering an order revoking the attorney's eligibility to use informal arraignment procedures at the Court.

*(Revised effective January 1, 2020; Rule 856 revised effective January 1, 2016; effective July 1, 1998; revised effective July 1, 1999, July 1, 2008, July 1, 2009)*

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