

Summary of Proposal to Amend Rule 3.90 of Title 3, Chapter 1 of the Local Rules

Failure to Comply with these Rules

The proposal to amend rule 3.90, entitled ***Failure to comply with these rules***, of the court's Local Rules ("Rules") is part of the court's continuing effort to review, correct, and update its rules as needed.

SUMMARY

The Civil Committee proposed amendments to this rule to make it better track the statutory language of Code of Civil Procedure section 575.2, which sets forth numerous potential sanctions against a party or counsel who fails to comply with the Court's Local Rules. The Rules and Forms Committee reviewed and approved the proposed amendments to the rule.

Rule 3.90. Failure to comply with these rules

If, ~~at any time a~~ any party or counsel fails to pursue a case to disposition or ~~fails to~~ comply with the requirements of these rules, the Court may take any of the following actions against that party or counsel:

- (1) Strike all or any part of any pleading of the party;
- (2) Dismiss all or part of the party's action or proceeding;
- (3) Enter a judgment by default against the party;
- (4) Impose other penalties of a lesser nature as provided by law; and
- (5) Order the party or counsel to pay the moving party the reasonable expenses in making the motion, including reasonable attorney fees.

No penalty may be imposed against a party or counsel without notice and an opportunity to be heard ~~an order to show cause may be issued by the court and a hearing held to determine whether good cause exists for such failure and to consider the imposition of financial or terminating sanctions.~~

Local Rules of the Superior Court of California, County of Alameda

Rule 3.90 amended effective January 1, ~~2016-2008~~; adopted as rule 4.18 effective May 19, 1998; previously amended and renumbered to rule 4.16 effective July 1, 2002 and subsequently amended and renumbered effective July 1, 2007; previously amended effective January 1, 2007 and effective January 1 2008.