



**The Superior Court**

*STATE OF CALIFORNIA - COUNTY OF SANTA BARBARA*

**- SUPERIOR COURT RULES -**

**and**

**SCHEDULE OF COURT SERVICES,  
FILING FEES AND SERVICE CHARGES**

**Effective July 1, 2009**

**LOCAL RULES OF COURT**  
***EFFECTIVE: July 1, 2009***

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**- SUPERIOR COURT ORGANIZATION & LOCATIONS -**

**- JULY 2009 -**

***COURT LOCATIONS***

**Address / Phone, FAX**

**Judicial Officers / Managers**

***SOUTH SANTA BARBARA COUNTY LOCATIONS:***

Gary M. Blair, *Court Executive Officer*  
Lynn Dunlap, *Assistant Court Executive Officer*

**Anacapa Building**

1100 Anacapa Street  
P. O. Box 21107  
Santa Barbara, CA 93121-1107  
(805) 882-4520  
FAX (805) 882-4519

**Filings Of**

Civil, Family Law,  
Probate (wills, etc.)  
Mental Health,  
Small Claims

**Thomas P. Anderle**, *Judge*  
**James W. Brown**, *Judge*  
**Denise deBellefeuille**, *Judge*  
**Brian Hill**, *Assistant Presiding Judge*  
**J. William McLafferty**, *Judge*  
**Frank J. Ochoa**, *Judge*  
Ann Wooten, *Manager*

**Figueroa Building**

118 East Figueroa Street  
Santa Barbara, CA 93101  
(805) 568-2780  
FAX (805) 568-2847

**Filings Of**

Criminal,  
Traffic, Infractions,  
Appeals

**Clifford Anderson III**, *Judge*  
**Jean Dandona**, *Judge*  
**Edward DeCaro**, *Commissioner*  
**George Eskin**, *Judge*  
**Colleen Sterne**, *Commissioner*  
**Deborah Talmage**, *Commissioner*  
Cynthia Sgobba, *Manager*

**Juvenile – Santa Barbara**

4500 Hollister Avenue  
Santa Barbara, CA 93110  
(805) 882-4577 FAX (805) 882-4698

**Filings Of**

Juvenile Petitions

**Thomas Adams**, *Judge*

---

***NORTH SANTA BARBARA COUNTY LOCATIONS:***

Gary M. Blair, *Court Executive Officer*  
Darrel Parker, *Assistant Court Executive Officer*

**Cook Building**

312 –C East Cook Street  
Santa Maria, CA 93454  
(805) 614-6414  
FAX (805)614-6616

**Filings Of**

Civil, Family Law  
Probate (Wills, etc.),  
Mental Health,  
Civil Appeals,  
Small Claims

**Timothy J. Staffel**, *Judge*  
**James F. Rigali**, *Judge*  
**Arthur A. Garcia**, *Presiding Judge*  
**Steven Belasco**, *Commissioner*  
**Colleen Sterne**, *Commissioner*  
Judy Sorensen, *Manager*

**Miller Building**

312-M East Cook Street  
Santa Maria, CA 93454-5165  
(805) 614-7590  
FAX (805) 614-7591

**Filings Of**

Criminal,  
Criminal Appeals,  
Traffic Infractions

**Jed Beebe**, *Judge*  
**Edward H. Bullard**, *Judge*  
**Rogelio Flores**, *Judge*  
**James F. Iwasko**, *Judge*  
**Steven Belasco**, *Commissioner*  
**John F. McGregor**, *Commissioner*  
Sheryl Edwards, *Manager*

**Juvenile-Santa Maria**

4285 California Boulevard  
Santa Maria, CA 93455  
(805) 614-6579  
FAX (805) 614-6581

**Filings Of**

Juvenile Petitions

**James E. Herman**, *Juvenile Court Presiding Judge*

**Lompoc Building**

115 Civic Center Plaza  
Lompoc, CA 93436-6967  
(805) 737-7789  
FAX (805) 737-5440

**Filings Of**

Criminal, Criminal Appeals  
Small Claims, Family Law  
Civil (Limited Jurisdiction)  
Traffic Infractions

**Kay S. Kuns**, *Judge*  
**Steven Belasco**, *Commissioner* (Thur)  
**Colleen Sterne**, *Commissioner* (Fri)  
Terra Nichols, *Supervisor*

**Solvang Building**

1745 Mission Drive, Suite C  
Solvang, CA 93463  
(805) 686-5040  
FAX (805) 686-7491

**Filings Of**

Civil (Limited Jurisdiction),  
Family Law  
Small Claims,  
Traffic Infractions

**Steven Belasco**, *Commissioner* (Wed)  
Michael Rodriguez, *Supervisor*

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**Official Publisher of These Rules**

The Executive Officer is the official publisher of these rules pursuant to CRC 10.613. Please report any publishing errors or omissions to:

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Executive Officer  
Superior Court  
1100 Anacapa St.  
Santa Barbara, CA 93101  
(805) 882-4550

**Chapter One – ADMINISTRATION OF RULES**

**100 AUTHORITY**

These local Court Rules (“local rules”) are adopted pursuant to Code of Civil Procedure section 575.1; California Rules of Court (“CRC”) 10.613 and Government Code sections 68070, *et seq.* (Amended effective 07-01-09; adopted effective 07-01-98; previously amended effective 07-01-09)

**101 AMENDMENTS**

These local rules may be amended only upon a majority vote of the judges present at any noticed regular or special meeting of the judges of the Superior Court of Santa Barbara County (“Court”).

*(Amended effective 07-01-09; adopted 07-01-98; previously amended effective 01-01-00)*

**102 SANCTIONS FOR NON-COMPLIANCE**

If any counsel, a party represented by counsel, or a self-represented litigant fails to comply with any of the requirements of these local rules, a judge, on motion of a party or on his or her motion, may (1) strike all or any part of any pleading of that party, (2) dismiss the action or proceeding or any part thereof, (3) enter a judgment by default against that party, or (4) impose other penalties of a lesser nature as otherwise provided by law, and may order that party and counsel to pay to the moving party reasonable expenses associated with the motion, including reasonable attorney fees.

No penalty may be imposed under this rule without prior notice and an opportunity to be heard, by the party against whom the sanction is sought to be imposed. [CCP sections 177.5 and 575.2].

If failure to comply with these local rules is the responsibility of counsel and not the party, any penalty shall be imposed on counsel and shall not adversely affect the party's cause of action or defense thereto.

*(Amended effective 07-01-09; adopted effective 07-01-98; previously amended effective 07-01-03)*

## **Chapter Two - JURISDICTION & VENUE**

### **200 GEOGRAPHIC JURISDICTION**

The jurisdiction of the Court's geographic regions is specified by Article VI, sections 4 and 5 of the Constitution of the State of California; ordinances adopted by the Santa Barbara County Board of Supervisors, and by these local rules.

*(Amended effective 07-01-09; adopted 07-01-98; previously amended effective; 01-01-99)*

### **201 NORTH & SOUTH COUNTY REGIONS**

For the purpose of these local rules, it shall be assumed that Santa Barbara County has been divided geographically into two separate regions hereinafter referred to as "South County" and "North County." The portion of Santa Barbara County southerly and easterly of the following described line constitutes "South County";

"Beginning at the intersection of the west bank of Gaviota Creek and the mean high tide line of the Pacific Ocean; northerly to intersection with the westerly right-of-way line of U.S. Highway 101; northerly along the westerly right-of-way line of U.S. Highway 101 to the south bank of the Santa Ynez River; easterly along the south bank of said river to the westerly right-of-way line of Happy Canyon Road and Figueroa Mountain Road; northerly and northeasterly along said right-of-way line to the boundary line between Township 8 North and Township 7 North; and easterly along said boundary line to the Ventura County line, including the islands of Anacapa, San Miguel, Santa Rosa, and Santa Cruz."

The remainder of Santa Barbara County constitutes "North County." This geographic division is coterminous with the jurisdictional boundaries dividing the former Santa Barbara Municipal Court District and the former North Santa Barbara County Municipal Court District. A map depicting this geographic division is contained in "Appendix 1" of these local rules.

*(Amended effective 07-01-09; adopted 07-01-98; previously amended effective 01-01-99)*

### **202 COURT DIVISIONS**

For the purpose of these local rules, the following are designated as the divisions of the Court: Santa Maria, Lompoc, Solvang, Santa Barbara, Juvenile and Appellate.

*(Adopted 07-01-09)*

### **203 VENUE**

When, under California law, "North County" would be a 'proper county' for venue purposes, all filings for such matters shall be in the appropriate division of the Clerk's office in North County. All other filings shall be made in the Clerk's office in the appropriate division of the Court in South County.

Any filing erroneously made in a division of the Court may be transferred to the appropriate division upon motion of any party or on the court's own motion upon a showing of good cause.

*(Amended effective 07-01-09; adopted 07-01-99 previously amended effective 01-01-99)*

## **204 FILING & LOCATION OF HEARING**

The proper venue for filing documents will ordinarily, but not necessarily determine the Court location where any case will be heard. Notwithstanding the proper filing venue, and subject to procedures established by the Court, any document intended to be filed for consideration by any division may be delivered to the Clerk's office in any other division, provided that the document is legally acceptable for filing and in addition to any other requirements for document caption(s), the first page of the document clearly and prominently displays the name of the proper Court filing venue location.

Documents delivered to divisions other than the proper filing venue are accepted only for the purpose of subsequent filing by the Clerk in the division of the proper venue, and will bear a filing date one day later. For purposes of this local rule, the date of deposit of documents transmitted by mail or telefax is the date of receipt by the Clerk.

*(Amended effective 07-01-09; adopted 07-01-98; previously amended effective 01-01-99)*

### **Chapter Three - ORGANIZATION & MANAGEMENT**

#### **300 MEETINGS OF THE JUDGES**

Regular meetings of the judges of the Court shall be called periodically by the Presiding Judge or by the Assistant Presiding Judge. Special meetings of the judges may be called by the Presiding Judge, or Assistant Presiding Judge, or by a majority vote of the judges of the Court. Meetings of the judges of either region of the Court may be called by the Presiding Judge or Assistant Presiding Judge or by any two judges of a region.

*(Amended effective 07-01-09; adopted 07-01-98; previously amended effective 01-01-99)*

#### **301 PRESIDING JUDGE & ASSISTANT PRESIDING JUDGE**

The Presiding Judge and an Assistant Presiding Judge of the Court shall be elected by a secret ballot majority vote of all judges of the Court at a September meeting. The Presiding Judge shall be selected from one region and the Assistant Presiding Judge shall be selected from the other region. The term of office for these positions shall be concurrent and shall be for a period of two calendar years. Upon completion of the term, the Assistant Presiding Judge shall succeed the Presiding Judge for a full two-year term.

*(Amended effective 07-01-09; adopted effective 01-20-05)*

#### **302 JUDICIAL VACATION & PERSONAL LEAVE**

A judge's vacation day is defined as an approved absence from the Court for one full business day. A request for vacation time or other absence from the Court shall be submitted to the Presiding Judge or a designee with reasonable advance notice. Absences from the court to attend an authorized education program, conference, or workshop or to participate in Judicial Council or other authorized committees or community outreach activities, is not considered vacation time if prior approval has been granted by the Presiding Judge or a designee.

A judge may take two personal leave days per year subject to prior approval by the Presiding Judge or a designee.

*(Amended effective 07-01-09; adopted effective 07-01-08)*

#### **303 COURT EXECUTIVE OFFICER**

The judges of the Court may appoint an Executive Officer, who shall also serve as Clerk of the Court ("Clerk") and as Jury Commissioner, and who shall continue to serve at the pleasure of a majority of the judges of the Court. The duties of Executive Officer are prescribed by CRC 10.610.

*(Amended 07-01-09; Adopted 07-01-98; previously amended 01-01-99)*

## **Chapter Four - OFFICERS & PERSONNEL**

### **400 PERSONNEL PLAN**

The Executive Officer shall prepare and submit a Superior Court Personnel “Plan” to the judges of the Court for approval. The Plan, when adopted by a majority of the judges, shall apply to all Court employees, and the judges shall follow such Plan in all dealings with Court employees, except where inconsistent with California and federal statutes and the CRC, in which event the statutes and CRC shall be controlling.

*(Amended effective 07-01-09; adopted effective 07-01-98)*

### **401 COMPLAINTS AGAINST SUBORDINATE JUDICIAL OFFICERS**

**(a) [Applicability]** This rule applies to all subordinate judicial officers as that term is defined by CRC 10.703.

**(b) [Submission and Content]** Complaints against subordinate judicial officers must be in writing and must be submitted to the Presiding Judge. To be considered a complaint, the writing must contain the name, mailing address and telephone number of the complainant, and the name of the subordinate judicial officer against whom the complaint is made. The complaint must also state whether the complaint is about (1) the content or resulting effect of a decision or ruling, (2) or the exercise of judicial or administrative discretion by the subordinate judicial officer, or (3) whether the complaint is about other actions or conduct of the officer.

The complaint must include a statement of the specific action or conduct by the subordinate judicial officer that is the basis for the complaint and the approximate date that the action was taken or conduct occurred. If the complainant requests that particular witnesses to the action or conduct of the subordinate judicial officer be contacted in support of the complaint, the names, and if available to the complainant, the addresses and telephone numbers of those witnesses must be included in the complaint.

**(c) [Closing Complaints After Preliminary Review]** If a complaint against a subordinate judicial officer addresses the content or effect of a ruling of that officer, or if the complaint addresses the exercise of judicial or administrative discretion of the officer, the Presiding Judge will close the complaint after preliminary review and will notify the complainant and the subordinate judicial officer of that decision. [CRC 10.703(h)].

*(Former rule 402 renumbered effective 07-01-09; adopted effective 01-20-05)*

### **402 EMPLOYMENT CONFLICT OF INTEREST CODE**

**(a) [Adoption of Code]** The Court adopts this Conflict of Interest Code, as provided by Article 3, commencing with Government Code section 87300 incorporating by reference Title 2, California Code of Regulations section 18730 and any subsequent amendments thereto.

**(b) [Code Reviewing Body]** The Presiding Judge or designee(s), shall act as the Code Reviewing Body for this Conflict of Interest Code.

(c) **[Place of Filing; Filing Officer]** The Executive Officer is designated as the Filing Officer for all Statements of Economic Interests filed under this rule.

(d) **[Forms and Filing of Statements]** The California Fair Political Practices Commission will supply the Court with the Statement of Economic Interests forms required by this rule, the Court's personnel staff will distribute the forms to those persons required to file, and the designated employees, contractors and consultants are responsible for completing and filing their own forms (1) on assuming employment in a designated classification (2) on terminating employment in a designated classification, and (3) annually, while so classified.

(e) **[Code Appendices: I. Designated Classifications; II Disclosure Categories]** The Court adopts the following appendices to Code of Regulations section 18730.

*(Former rule 403 renumbered effective 07-01-09; Adopted as Rule 402, previously amended effective 07-01-98, 01-01-99; and renumbered 01-20-05)*

### APPENDIX I

#### DESIGNATED EMPLOYMENT CLASSIFICATIONS

Judges and commissioners will file Statements of Economic Interests and any other related and required forms as elsewhere provided by law.

Employees, contractors or consultants in the below-designated classifications shall report interests, investments and interests in the corresponding Disclosure Categories set forth in Appendix II:

CLASSIFICATION	DISCLOSURE CATEGORY
Executive Officer	1, 2
Legal Research Attorneys	3
Family Custody Mediators & Supervisors	1, 2
Consultants	1, 2

### APPENDIX II

#### DISCLOSURE CATEGORIES

**Category 1.** Employees, contractors or consultants in designated classifications assigned to this disclosure category shall report interests in real property located within Santa Barbara County or within two miles of Santa Barbara County.

**Category 2.** Employees, contractors or consultants in designated classifications assigned to this disclosure category shall report investments in and income from business entities engaged in the

manufacture, sale, lease or provision of supplies, materials, equipment, real property and services of the type used by the Court within the past two (2) years.

**Category 3.** Employees, contractors or consultants in designated classifications assigned to this disclosure category shall report all investments, sources of income, interests in real property, and positions in business entities, as follows: if, during a reporting period, a designated employee in this category did not participate in, or was not required to disqualify himself or herself from participating in, a case or other assignment in which he or she had a financial interest as defined by Government Code section 87103, the employee shall sign a statement to that effect, under penalty of perjury. This statement shall be filed as the statement of economic interests required by California Code of Regulations section 18730(4). Employees who disqualify themselves from participating in a case or assignment in which they had a financial interest shall disclose the case or assignment and the disqualifying interest and file the statement with the Filing Officer.

*(Amended 07-01-09; adopted 07-01-98; previously amended effective 01-01-99)*

**Chapter Five - BUDGET, FINANCE & FISCAL SERVICES**

**500 FEES & SERVICE CHARGES SCHEDULE**

The Executive Officer shall recommend, prepare for approval by the judges, and for review and authorization of the Judicial Council, a schedule of all fees charged by the Court and by the Clerk, to litigants and to the general public for filing documents and provision of other Court services. Upon adoption by the judges and upon authorization of the Judicial Council pursuant to CRC 10.815, the approved Schedule of Court Services, Filing Fees and Charges, and all instructions or information contained therein, shall be published and maintained for public inspection and shall have the full force and effect of a Rule of Court, except as may otherwise be prescribed by statute, the CRC, or otherwise by these local rules.

*(Amended effective 07-01-09; adopted 07-01-98; previously amended effective 01-01-99)*

**501 PAYMENT METHODS FOR FEES, CHARGES, FINES & BAIL**

(a) Personal checks, bank cashier's checks, drafts or money orders will be accepted by the Court in payment of any fee, service charge, fine or bail deposit if tendered in the appropriate manner and amount as defined in the Cash Handling Section of the Trial Court Financial Policies and Procedures Manual (Procedure No. FIN 10.02, section 6.3.3).

If a check is returned for non-sufficient funds or "account closed," the payor must reimburse the Court with cash, or cashier's check plus a service fee for the actual cost as determined by consultation between the Court Administrator and the County Auditor's Office.

(b) Credit cards will be accepted by the Court in payment of any fee, service charge, fine or bail deposit if tendered in the appropriate manner and amount as defined in the Cash Handling Section of the Trial Court Financial Policies and Procedures Manual (Procedure No. FIN 10.02, section 6.3.4).

*(Amended effective 07-01-09; adopted 07-01-98; previously amended effective 01-01-02)*

**502 FINE PAYMENT PLANS**

The Court will not accept deferred or partial payments on fines unless a deferred fine payment or a financial payment plan is first approved, or as may otherwise be ordered by a judicial officer. To establish a fine deferment, for one future payment of the entire fine, or a financial payment plan for multiple future payments, the defendant must submit a completed application, along with a nominal fee for the cost of account administration, to the fiscal unit of the Clerk's office in the division where the case is calendared. Incomplete applications will not be accepted. Court approval of deferment or installment payment plans will include specified due dates and minimum amounts for payments, as determined by the Court at the time of the application is filed.

*(Amended effective 07-01-09; adopted 07-01-98; previously amended effective 01-01-99)*

**503 COURT COLLECTIONS CONTRACT(S)**

The Court has entered into contract(s) with private debt collections firm(s), for the purpose of collecting certain delinquent accounts. Court accounts may be referred for collection under such contract(s) and collections will be made and remitted to the Court, pursuant to the terms of the contract(s).

*(Amended 07-01-09; adopted 07-01-98; previously amended effective 01-01-99)*

**504 TRUST FUNDS INTEREST**

All interest earned on Court funds, and on funds deposited by the Court in fiduciary trust for other persons or entities, shall be paid promptly into the fund which contains the principal on which the interest accrued in accordance with Government Code section 53647(b), and to the extent not otherwise specifically provided by the CRC, or specific rule or formal order of the Court.

*(Amended 07-01-09; adopted 07-01-98; previously amended effective 01-01-99)*

**Chapter Six - COURT FACILITIES; ACCESS & SECURITY**

**600 COURT SECURITY OFFICER**

The Sheriff of Santa Barbara County is designated Court Security Officer (“CSO” for the Court. The CSO shall provide court security services within and about the perimeter of all Court facilities, prisoner transportation services, prisoner escort services, bailiff services, and the execution of court orders and bench warrants requiring the immediate presence of a defendant or witness in court pursuant to Government Code section 26671.4 and in compliance with Government Code sections 69920 *et seq.*, and the CRC.

*(Amended effective 07-01-09; previously amended effective 01-01-99; adopted 07-01-98)*

**601 SECURITY PLAN**

The Court Security Officer shall prepare, periodically review and revise, a Court Security Plan (“Plan”), for consideration and approval by the Court Security Committee created pursuant to CRC 10.173 and Government Code section 26671.6. The Plan shall be submitted for approval of a majority of the judges of the Court and shall comply with the requirements of Government Code section 69925 and CRC 10.172.

*(Amended effective 07-01-09; previously amended effective 01-01-99; adopted 07-01-98)*

**602 BAILIFF SERVICES; JUDICIAL DIRECTION**

The Court Security Plan shall include, and the CSO shall provide, a bailiff for each department of the Court where a judicial officer is presiding in accordance with the Memorandum of Understanding (“MOU”) between the Court and the Sheriff prescribed by Government Code section 69926 and for such other Court proceedings as directed by the Presiding Judge. The courtroom bailiff’s primary responsibility is to assure the security of the attending public, courtroom personnel, jurors and other participants in court hearings as well as the security of court facilities, equipment and evidence in the courtroom. In the execution of this duty, each bailiff shall serve under the direction of the judicial officer presiding in the courtroom to which the bailiff is assigned, as well as under the supervision of the CSO. The CSO shall consult with the Court Security Committee before assigning newly-hired personnel or transferring personnel into the Sheriff’s Court Services Division pursuant to Government Code section 26671.7.

*(Amended effective 07-01-09; previously amended effective 01-01-99; adopted 07-01-98)*

**603 PUBLIC ACCESS; COURT CONTROL**

The Court shall control the use and occupation of the courtrooms, corridors, and adjacent public spaces, when court is in session and immediately before and after court sessions, as necessary to allow the courts to function, and to protect the right of access to court proceedings by parties litigant, witnesses, observers, and the general public. The Court may specify procedures for protection of the operations of the Court against disruption or obstruction due to noise, crowding,

or other disruptive conditions that may occur in or immediately adjacent to court facilities; as further implemented by the Court-adopted Court Security Plan.

All judicial officers are hereby empowered to make such orders as they may deem necessary to limit the occupancy of the courtrooms in which they preside and the public corridors in court facilities immediately adjacent thereto, and to limit and control the behavior of persons gathered therein, when the circumstances indicate that the operations of the court, or public access to the court, are being disrupted or are about to be disrupted by congestion or disturbance. The CSO is empowered to enforce such Court orders, and also to implement the intent of this rule, generally, as consistent with the Plan.

Before limiting the activities of members of the news media within the courthouse, or in the areas immediately adjacent to the court building within the courthouse grounds, the court shall give such notice as is practical in the circumstances to all identifiable news media members who may be affected by an order under this rule, and offer them an opportunity to make a showing that the proposed order is unnecessary, or should be modified. Nothing in this rule is intended to impact the procedures established in the CRC regarding the coverage of court proceedings by electronic media.

Any party aggrieved by an order made pursuant to this rule may apply to the court to modify the order, or to be exempted from it, by making a request in writing to the judge who issued the order, or to the Presiding or Assistant Presiding Judge of the Court, if the judge who issued the order is not available. Such written request shall be made under penalty of perjury, and shall state the specific impact of the order on the party requesting exemption or modification, as well as the specific relief requested.

*(Amended effective 07-01-09; previously amended effective 01-01-99; adopted 07-01-98)*

#### **604 CLOSURE OF COURT PROCEEDINGS**

Court proceedings are generally open to the public, but certain exceptions are provided by California statutes and the CRC and may be further specified by court order. Closed court proceedings will be noticed by a sign, "Courtroom Closed."

When a court order is sought for closure of any proceeding or for opening any closed proceeding, the party seeking such order shall file written notice of motion at least two (2) court days prior to the hearing. The motion shall be scheduled to be heard at least one day prior to the hearing. Motions for closure of hearings may be heard on shorter notice at the discretion of the court.

*(Amended 07-01-09; previously amended effective 01-01-99; adopted 07-01-98)*

#### **605 REQUESTS FOR MEDIA COVERAGE**

Requests for photographing, recording, and/or broadcasting any court proceedings shall be made in accordance with CRC 1.150.

*(Amended effective 07-01-09; previously amended effective 01-01-03; adopted 07-01-98)*

**Chapter Seven - LEGAL & PROFESSIONAL SERVICES & FEES**

**700 COURT SERVICE VENDOR RATE & FEE SCHEDULE**

(a) **[Services to the Courts]** The fees payable by the Court to non-employee, court-appointed, experts and specialist service providers to the Court, including but not limited to: medical, psychiatric or psychological examiners and diagnosticians, expert witnesses, legal counsel, investigators, receivers, appraisers and other economic experts, verbatim reporters, language interpreters and translators, jurors and witnesses, where not otherwise specifically prescribed by statute, the CRC, by these local rules, or by a written contract approved for such services, shall be as established by the Court Service Vendor Rate & Fee Schedule (“Schedule”) attached to these rules.

(b) **[Court Service Vendor Rate & Fee Schedule]** The CEO shall periodically survey rates and fees paid for such services in the county and by other courts in neighboring counties. With consideration for maintenance of effective services to the Court, and to minimize the costs of government services, the CEO shall recommend and prepare for approval by the judges of the Court, and shall publish and maintain for public inspection a schedule of approved rates and fees for such specialized services. Upon adoption by a majority of judges of the Court, the Schedule, and all instructions and information contained therein, shall have the full force and effect of a rule, except as may otherwise be prescribed by statute, the CRC, or otherwise by these Rules.

(c) **[Fee Exceptions By Order]** Where the fees to be charged for any expert, professional or specialized service are not provided by statute, rule, Court contract, or by the Schedule, or are inconsistent with the service rates specified by the Schedule, such fees shall be prescribed by written order or minute order of the appointing judge in each case. Such Special Fee Approval Order shall be made prior to providing of such service upon motion or application by counsel, self-represented litigant, by the prospective service provider, or upon the court's own motion.

(d) **[Fee Payment Responsibilities]** Where fees and expenses for appointed expert, professional and specialized services are prescribed by statute or local rule as charges against the Court or County of Santa Barbara, they shall be paid from the Court’s budget only when specifically prescribed by statute or local rule, where the statute or local rule requires that the Court make the appointment without discretion or motion of the parties, or where appointment has been made by the Court on its own motion. Such fees and expenses shall otherwise be paid by the prosecution or defense agency or department requesting the appointment.

*(Amended effective 07-01-09; adopted 07-01-98; previously amended effective 01-01-99)*

**701 SERVICES OF JURORS, INTERPRETERS & REPORTERS**

(a) **[Advance Notice of Service Requirements]** In addition to any and all requirements of California statutes and the CRC for such services, parties or counsel who anticipate any requirement for the services of trial jurors, language interpreters or verbatim reporting for any court proceeding, are required to notify the court in advance of the need for such service, except in those criminal and juvenile cases where the service is required by statute without election by the parties and is customarily provided by the courts.

**(b) [Filing of Written Notice]** The request for these services shall be made in writing to the clerk in the division where the case is pending, and shall include the specific language required for any language interpreting service. Such request shall be filed as soon as the need for such service has been anticipated within any time period specified by statute, and where not specified by statute, not later than forty-eight (48) hours prior to commencement of the hearing or trial for which the service is required.

**(c) [Fee Deposit Requirements, Forfeiture; Civil Cases]** In civil cases, parties shall make any deposit required for these services, in the amounts specified by the Schedule. Except as may otherwise be provided by statute or the CRC, failure to deposit the required fees for such service may constitute a waiver of the request or requirement for the service; and failure to notify the court of any subsequent change in such need by not later than 3:00 p.m. on the court day prior to the hearing or trial for which the service has been requested may result in forfeiture of any or all of the service deposit(s). Disposition of jury fees after waiver of a jury or after the action is settled, dismissed or a continuance granted, will be in accordance with Code of Civil Procedure section 631.3.

**(d) [Official Reporting Services – CRC 2.956.** The Court will provide official reporting services for civil trials pursuant to CRC 2.956 and Government Code sections 68086(a) – (b). The party requesting official reporting services is responsible for payment of the services. In limited jurisdiction cases, “official reporting services” includes electronic recording equipment operated by the court for preparation of a verbatim record of the proceedings.

If it appears that official reporting services will not be available in a courtroom, the Clerk shall notify the parties to a civil trial as soon as possible before trial. If official reporting services will not be available during a hearing on law and motion or other non-trial matters in civil cases, that fact shall be noted on the Court’s official calendar. If official reporting services are not available, a party may arrange for the presence of a certified shorthand reporter to serve as an official *pro tempore reporter*. It is that party’s responsibility to pay the reporter’s fee for attendance at the proceedings, but the expense may be recoverable as part of the costs as provided by law.

If a party arranges and pays for the attendance of a certified shorthand reporter at a hearing in a civil case because of the unavailability of official reporting services, none of the parties shall be charged the established fee for official reporting services.

*(Amended 07-01-09; adopted 07-01-98; Previously amended effective 07-01-99, and 01-01-03)*

## **702 COURT DISCRETION**

The allowance of fees in excess of those provided in the Schedule for appointed counsel, diagnosticians or other court service providers is subject to the discretion of the court upon proper and sufficient showing by the claimant of the necessity or justification thereof, except as may otherwise be specifically provided by statute.

*(Amended 07-01-09; adopted effective 07-01-98)*

### **703 COURT-APPOINTED COUNSEL FOR INDIGENT DEFENDANTS**

Except as to those Public Defender and Conflict cases subject to written contract between the court, Santa Barbara County and contract counsel, the following appointment and counsel fee approval procedures shall apply:

**(a) [Public Defender Conflict or Other Inability; Court Appointment]** In the event the Public Defender's Office declares a legal conflict of interest or other inability to act for appointment to represent a person qualifying for the assistance of court-appointed counsel, the court shall appoint counsel as set forth in this rule and such policies as the court may adopt periodically.

**(b) [Billing for Counsel Services and Expenses]** At the conclusion of all proceedings in a case in which counsel has been appointed, counsel shall submit an original plus two copies of an itemized statement showing all services reasonably provided on behalf of the represented client and the dates that each such service was provided. Counsel shall attach an attorney fee order form for the judge's signature to the front of the original and two copies of the declaration supporting the request signed under penalty of perjury. The amount of time billed on the itemized statement shall not exceed the actual "billable" time the attorney would ordinarily bill to a typical client that attorney might represent in private practice. The time itemized shall not include attorney's traveling time or related expenses within the South region of Santa Barbara County in cases prosecuted in South County, or traveling time or related expenses within the North region of Santa Barbara County in cases prosecuted in North County, or research or preparation time which would not be required of an attorney reasonably experienced in the practice of criminal law.

**(c) [Court Determination and Payment; Hearing on Denial or Reduction]** Within a reasonable period of time after the date of filing counsel's request for a fee order and itemized declaration in support thereof, the court shall determine whether or not said request and declaration conform to this rule and any corresponding court policy. If the request and declaration conform to this rule and any corresponding court policy, an order shall be made and delivered forthwith to the Auditor of the County of Santa Barbara for payment pursuant to Penal Code section 987.2 (a). In the event the court determines that the request and declaration is not or may not conform with this rule and any corresponding court policy, the court may reduce the claim as it deems appropriate or may notify counsel that the request for attorneys fees is denied, pending a hearing. Counsel shall not bill the court for any time spent to prepare for or attend the hearing. At the conclusion of the hearing, the court shall make a final order as to the amount of attorney's fees to which counsel is entitled pursuant to this rule and to any corresponding court policy.

*(Amended effective 07-01-09; adopted effective 07-01-98)*

### **704 QUALIFICATION FOR COURT-APPOINTED COUNSEL**

To assist the court in determining the qualifications of otherwise unrepresented persons for court-appointed counsel, and to permit effective compliance with legal requirements for court determination of the ability of such persons to pay for the public services provided by appointed counsel, all court-appointed counsel, including the Public Defender, contract and non-contract appointed attorneys, shall collect financial information regarding the represented client's assets, liabilities, income and expenses for all defendants who are not in custody, and provide such

information to the court at the time of the initial appointment and again on conclusion counsel shall also advise the court of the number of professional hours and the nature and amount of expenses that the defense has incurred at public expense.

*(Amended 07-01-09; adopted effective 07-01-98)*

**705 COUNSEL FEE STANDARDS IN TORT ACTIONS INVOLVING MINORS,  
INSANE OR INCOMPETENT PERSONS**

Reasonable attorney's fees shall be awarded at the discretion of the court in a tort action involving a minor, insane or incompetent person. Petitions for reasonable attorney's fees shall contain the following:

1. A brief statement summarizing the facts which establish liability.
2. A statement that identifies all medical treatment furnished to date, what future medical treatment, if any, is expected to be required and the nature and extent of any permanent injuries sustained by the minor, insane or incompetent person.
3. The total medical expenses incurred by the minor, insane or incompetent person to date and the estimated cost of any anticipated medical attention which will be required in the future.
4. A reasonably detailed declaration setting forth all effort expended on behalf of the minor, insane or incompetent person in obtaining the settlement and how it was expended. The declaration should address any or all of the following factors:
  - a. Was liability obvious and policy limits tendered, requiring processing only?
  - b. What was the degree of difficulty?
  - c. How much skill was required and employed?
  - d. What was the risk of a poor result for the amount of work done?
  - e. How much money did the attorney advance?
  - f. How many hours of work did the attorney perform?
  - g. What result was achieved?
  - h. What time elapsed between completion of the work and payment of the attorney fees?
  - i. Was the attorney's fee contingent on recovery?
5. If the injuries (damages) clearly exceed the amount of the insurance policy limits, the statement should also include a recitation of all steps taken to determine if any additional coverage or assets are available from which the minor, insane or incompetent person could seek compensation.

6. Any additional information that may assist the court in determining whether the petition should be granted or determining reasonable compensation.
7. Structured Settlement. If the petition for approval of a claim under Probate Code section 3500(b) relates to a structured settlement calling for future periodic payments, the petition shall provide the discounted present value of all annuity payments in a form that clearly states the current present value of the annuity.

Upon request, petitioner shall furnish a disclosure statement containing the information specified in Insurance Code section 10136(b) so that complete financial information is provided to the court.

*(Amended 07-01-09; adopted 07-01-98; previously amended effective 01-01-01, and 01-01-08)*

#### **706 COMPROMISE OF CLAIMS; ATTORNEY'S INTEREST DISCLOSURE**

In a compromise of an incompetent's disputed claim, counsel shall disclose any financial interest in the proceedings pursuant to 7.951. Such disclosure shall include a declaration under penalty of perjury of the attorney's relationship with the liability insurance company settling the claim and, should counsel be employed by that insurance company, a statement that no compensation will be received from any person other than the insurance company.

*(Amended 07-01-09; adopted effective 07-01-98)*

#### **707 CIVIL DEFAULT CASES; ATTORNEY FEES**

When the obligation sued on provides for the recovery of reasonable attorney's fees, the fees in default cases shall be twenty-five (25) percent of principal plus interest. When the plaintiff is entitled to an award of attorney's fees in an unlawful detainer default judgment, the sum of Five Hundred Dollars (\$500.00) will be awarded. A higher fee may be awarded in unusual cases if the request is supported by declaration under penalty of perjury setting forth the reasons for the increased fee.

*(Amended 07-01-09; adopted effective 07-01-98)*

## **Chapter Eight - GRAND JURY & TRIAL JURY SELECTION**

### **800 GRAND JURY SELECTION**

The selection of the grand jury shall be conducted pursuant to Penal Code sections 896 – 908.2. The Jury Commissioner shall ascertain that each nominee complies with the qualifications prescribed by Penal Code section 893.

The Court shall interview all volunteer applicants who have submitted properly completed applications. After certifying the competence and qualifications of the applicants, the Clerk shall deposit their names in five separate boxes according to the supervisory district in which the applicant resides. The Clerk shall randomly draw an appropriate number of applicants as directed by the Court from each supervisory district. The judges shall jointly nominate those applicants for grand jury duty and those names shall be deposited into the “grand jury box” by the Clerk. Another drawing shall be held to reduce the randomly-drawn applicants to not less than twenty-five (25) nor more than thirty (30) names. A final, random drawing shall be held from the pool of not less than twenty-five (25) nor more than thirty (30) names to select the required number of grand jurors.

Any grand juror who fails to obey the oath taken or charge by the court pursuant to Penal Code sections 911 or 914 is subject to removal from office by the Presiding Judge.

*(Amended 07-01-09; adopted 07-01-98; previously amended effective 01-01-99)*

### **801 TRIAL JURY SELECTION; VENUE**

Trial jury selection shall be conducted in accordance with Code of Civil Procedure section 198.5. Jury venires for all South County divisions shall be selected from the South County geographic region, and jury venires for all North County divisions shall be selected from the North County geographic region as defined in rule 201 of these local rules, unless the Presiding Judge or Assistant Presiding Judge orders a countywide venire in the interest of justice.

*(Amended 07-01-09; adopted 07-01-98; previously amended effective 01-01-00)*

### **802 CIVIL CASE SETTLEMENT; NOTICE & JURY FEES**

In the event a civil case settles prior to the commencement of trial, the party who has demanded trial by jury shall notify the Jury Commissioner no later than 3:00 p.m. on the court day prior to the date set for trial. Failure to provide timely notice shall result in the party's forfeiture of the jury fee deposit and liability for all of the costs of the jurors appearing for trial. If the case settles on the day of trial after the jurors have actually appeared and cannot be utilized in another trial on the same date, the parties shall be responsible for the actual costs of all jurors appearing for the trial to be determined by the judge.

*(Amended 07-01-09; adopted effective 07-01-98)*

### **803 ACCESS TO JUROR IDENTIFICATION INFORMATION**

The Jury Commissioner and all Court employees shall release identifying information concerning jurors and prospective jurors only in accordance with this local rule.

“Identifying information” or “identification information” constitutes all information reported to the Jury Commissioner under penalty of law, including, but not limited to, home addresses, business and work addresses, telephone numbers, fax contact numbers, e-mail addresses, names and other identifying information of family members, vehicle identification information, occupation, and all similar information maintained on file by the Jury Commissioner to assist with the summoning and selection of panels of prospective jurors, including all information furnished pursuant to Code of Civil Procedure section 205.

The fact that an item of information concerning a juror may be recorded in some other public record not under the control of the Jury Commissioner shall not affect the duty to maintain the confidentiality of information filed with the Jury Commissioner.

Access to juror identification information in criminal cases is regulated by the provisions of Code of Civil Procedure section 206.

Access to juror identification information in civil cases shall be controlled by the trial judge or the Presiding Judge if the trial judge who heard the case is unavailable. A party requesting access to juror identification information in a civil case, or in any special proceeding other than a criminal case, shall file a verified petition setting forth good cause for access to such information. The petition shall be heard upon such notice as the assigned judge shall direct, but in no case less than ten (10) court days. In all cases the Clerk shall serve a copy of such petitions, by mail, on the jurors whose identifying information is sought, together with notice of (1) the time and place of the hearing, (2) their right to object both in person and in writing, and (3) their right to decline to discuss the case with any person, regardless of the action of the court on the petition for release of information.

*(Amended 07-01-09; adopted effective 07-01-99)*

## **Chapter Nine - COURT CALENDARS & DISTRIBUTION OF CASES**

### **900 DIRECT CALENDAR SYSTEM**

The Court maintains a direct calendar system with cases generally assigned to one department for all purposes including trial. The Presiding Judge or Assistant Presiding Judge may assign and re-assign cases to other departments.

*(Amended 07-01-09; adopted 07-01-98; previously amended effective 01-01-99)*

### **901 SCHEDULES**

The Clerk shall post in a prominent public location at each division by 4:00 p.m. every court day, a copy of the weekly schedule of judicial assignments and a copy of the daily calendar the hearings and trials scheduled for the following court day, excluding the name and other identifying information regarding juvenile or other confidential actions except as may otherwise be provided by law.

*(Amended 07-01-09; adopted 07-01-98; previously amended effective 01-01-99)*

### **902 “AFTER HOURS DUTY” JUDICIAL OFFICERS**

The Court shall establish a schedule of judicial officers to be available to consider and to make necessary court orders after regular business hours for the review and setting of bail, issuance of search warrants, and emergency juvenile, domestic violence and other protective orders. The Court has established a system of telephonic or other contact with such “after-hours duty judicial officers,” and shall provide such information to law enforcement agencies and child protective service agencies on a confidential basis.

*(Amended 07-01-09; adopted 07-01-98; previously amended effective 01-01-99)*

### **903 ISSUANCE OF PROTECTIVE AND CHILD CUSTODY ORDERS**

**(a) [Communication and Coordination]** All judicial officers shall, prior to issuance of criminal protective orders or orders involving child custody or visitation, make reasonable efforts to determine the existence and terms of any prior orders that may have been issued as to any party to the action pursuant to Penal Code section 136.2(i) (1) and (2) and CRC 5.450.

**(b) [Coexistence of Orders; Conditions]** A family or juvenile court order may coexist with a criminal protective order; orders permitting contact between the restrained person and his or her children shall provide for safe exchange of the children, and shall not contain language that violates a "no contact" order issued in a criminal case; further, that the family or juvenile court order specifies the time, day, place and manner of transfer of the child, as provided by Family Code section 3100.

**(c) [Modification of Orders]** Any judicial officer to whom a criminal case has been assigned and in which case a criminal protective order has been issued, may, after consultation with the judicial officer assigned to a family or juvenile case where a subsequent child custody or

visitation order has been issued involving the same parties, modify the criminal protective order to allow or restrict contact between the person restrained and his or her children.

**(d) ["After Hours" Emergency Protective Orders]** Upon application for an emergency protective order by law enforcement or child welfare personnel, and prior to issuing such order, "after hours" duty officers shall inquire of the applying law enforcement or child welfare officer to confirm completion of the required Judicial Council application form for such orders, particularly including information as to such officer's knowledge of the fact and terms of any existing protective or custody orders. The "after hours duty judicial officers" may require further inquiry of the person or persons to be protected concerning the existence and terms of any prior court orders.

*(Amended 07-01-09; adopted effective 01-01-04)*

#### **904 JUDICIAL ASSISTANCE**

**(a) [Requests for Assistance]** All requests for judicial assistance required by any judicial officer, whether for reasons of judicial absence, disqualification or recusal, or for calendar conflicts or workload, shall be made to the Presiding Judge or Assistant Presiding Judge.

**(b) [Sources for Assistance]** In determining the need and the appropriate source for obtaining judicial assistance, available sources will be considered in the following order: first, judicial resources of the division where the need arises; second, judicial resources within other divisions located in the same geographic region; and, third, judicial resources in the other geographic region.

**(c) [Considerations]** In determining sources for judicial assistance, convenience and potential travel requirements for parties, counsel and jurors shall be considered.

**(d) [Judicial Council Assistance]** Requests for judicial assistance from the Judicial Council Assigned Judges Program shall be made only on approval of the Presiding Judge or Assistant Presiding Judge.

*(Amended 07-01-09; adopted 07-01-98; Former Rule 903; re-numbered effective 01-01-04; previously amended effective 01-01-99)*

## **Chapter Ten – GENERAL COURT PROCEDURES**

### **1000 CASE DISPOSITION TIME STANDARDS**

To assure timely disposition of all cases consistent with the goals of Government Code section 68607 and California Standards of Judicial Administration 2.1, the Court will actively manage all cases from filing to disposition.

*(Amended 07-01-09; adopted effective 07-01-99; previously amended effective 01-01-99)*

### **1001 CONTINUANCES**

Continuances shall not be granted based solely on a stipulation of the parties. Scheduled court appearances may not be excused without the specific authorization of a judicial officer and cases may not be taken off calendar without such authorization. The Clerk is not authorized to continue a matter or take a matter off calendar except by direction of a judicial officer.

*(Amended 07-01-09; adopted effective 07-01-98)*

### **1002 SCHEDULING HEARINGS & TRIALS**

Except upon specific order of a judicial officer or as may otherwise be provided by law, no case shall be scheduled in any division of the court without approval of the Clerk.

*(Amended 07-01-09; adopted effective 07-01-98; previously amended effective 01-01-99)*

### **1003 TIME ESTIMATES**

Counsel are required to provide accurate estimates of the time required for hearing when scheduling cases. To the extent permitted by law and in the discretion of the judicial officer presiding, if time estimates are exceeded, any case may be deemed submitted for decision on the evidence presented, ordered off calendar, or a mistrial declared.

*(Amended 07-01-09; adopted effective 07-01-98)*

### **1004 ATTENDANCE OF PARTIES & WITNESSES**

Counsel in both civil and criminal cases are responsible for having their parties and witnesses present in court promptly so that no proceeding is delayed. It is also the responsibility of counsel to attempt to mitigate unnecessary attendance of witnesses at proceedings where they may not be necessary, and to attempt to schedule witnesses on an “on-call” basis whenever possible. The court will not impose sanctions in cases where there is a short continuance required for the appearance of a witness who has been placed “on-call” in a reasonable manner.

*(Amended 07-01-09; adopted effective 07-01-98; previously amended effective 01-01-99)*

### **1005 APPEARANCE BY TELEPHONE**

**(a) [Telephone Appearance Program;]** The Court has established a Telephone Appearance Program pursuant to CRC 3.670.

**(b) [Fees and Costs]** Counsel who request(s) to appear by telephone shall pay the costs of any conference calls and shall pay any additional required court fee at the time the motion to appear by telephone is filed with the clerk’s office. The costs of any telephone call(s) involved in such a hearing shall be charged to the first counsel requesting to appear by telephone. Should counsel wish to apportion charges amongst themselves, such arrangements shall be made by counsel without any court intervention. The court is not responsible for the costs of any telephone calls and will not hear any dispute regarding the allocation of such costs between any attorneys appearing by telephone.

**(c) [Conference Procedure]** When counsel appear by telephone, they shall speak one at a time and shall state their name for the record each time they speak. If counsel does not participate in a conference call after requesting to present oral argument by telephone, the matter shall be deemed submitted by such counsel.

**(d) [Court Limitations; Calling Responsibilities]** The court reserves the right to limit the number of matters designated for telephonic oral argument on any day in departments assigned for hearing such matters. Counsel requesting telephonic argument in any matter in which oral argument by telephone has been approved by the court shall place a telephone call to the number designated by the court at least five minutes before the time scheduled by the court for telephonic oral argument. If multiple requests to appear by telephone have been granted, the moving party shall place the conference call.

*(Amended 07-01-09; adopted effective 07-01-98; previously amended effective 01-01-99)*

**1006 STATE PREEMPTION OF LOCAL RULES; CIVIL PRETRIAL & TRIAL**

*(Rule 1006 repealed effective 07-01-09; adopted 07-01-98)*

**1007 SPECIAL COURT FORMS**

*(Rule 1007 repealed effective 07-01-09; adopted 07-01-98)*

**1008 DIRECT FILING BY FAX**

**(a) [Fax Filing Requirements; Agency Filing]** Any party may file by fax directly to the Court. Direct filing by fax must be made in full compliance with Code of Civil Procedure section 1012.5 and CRC 2.300 – 2.306.

**(b) [Fax Numbers]** The Court Fax numbers are as follows:

**SOUTH COUNTY COURT DIVISIONS:**

Santa Barbara - Civil (805) 882-4519  
Santa Barbara – Criminal & Traffic (805) 882-4647

**NORTH COUNTY COURT DIVISIONS:**

Santa Maria - Civil (805) 614-6616  
Santa Maria – Criminal & Traffic (805) 614-6591

Lompoc Division (805) 737-5440  
Solvang Division (805) 686-7491

**(c) [Fax Fees; Credit Cards]** All direct Fax filings shall be accompanied by payment of fees by Credit Card, pursuant to CRC 2.304(d).

*(Amended 07-01-09; adopted effective 07-01-98; previously amended effective 01-01-99, 01-01-03)*

### **1009 EX PARTE ORDERS**

All applications for ex parte orders shall comply with CRC 3.1200-3.1207, and shall be filed in the Clerk's office of the appropriate court division where the case is pending. The application, together with the appropriate file, will be presented to the appropriate judicial officer by the clerk. In the absence of a court order properly prepared by counsel or party in *pro per*, the reviewing judge shall record the decision on the application and/or in the court minutes.

*(Amended 07-01-09; adopted effective 07-01-98)*

### **1010 COURT RECORDS MANAGEMENT & ACCESS**

**(a) [Original Court Case Records and Exhibits]** Only judicial officers and authorized court personnel shall file, process, remove, replace, edit, mark, copy or destroy original, official, records and exhibits. All access to original records shall be permitted only under direct supervision of authorized Court personnel; and only in accordance with California statutes, the CRC and these local rules.

**(b) [Copying and Reproducing Official Court Records]** Only judicial officers and authorized court personnel may photocopy or otherwise reproduce original, official records or exhibits. Any such copying or reproduction for public distribution shall be done only by or under the direct supervision of such authorized personnel, subject to any established court charge for these services. Personal photographing or other reproduction of original documents by the public is not permitted. This rule does not apply to the printing or reproduction of documents that may be posted or otherwise made available in electronic form on the Court's websites.

*(Amended 07-01-09; adopted effective 01-20-05; Former rule 1010, Acceptance of Certain Hand Printed Documents and Forms, Repealed, effective 1-1-03)*

### **1011 LIMIT ON NUMBER OF COPIES THE CLERK WILL CONFORM**

The Clerk will conform a maximum of two (2) copies of any document at the time of filing. Additional copies will be provided by photocopy and the established fee for copies will be charged. If conformed copies are to be returned by mail, a stamped, self-addressed envelope must be included.

*(Amended 07-01-09; adopted effective 01-01-03)*

**Chapter Eleven – ALTERNATIVE DISPUTE RESOLUTION (“ADR”)**

**1100 ADR COMMITTEE**

An ADR Committee is established pursuant to CRC 10.783 for guidance and oversight of all court alternative dispute resolution programs, including the Judicial Arbitration Program. Members of the ADR Committee and the ADR Program Administrator are appointed by the Presiding Judge.

*(Amended 07-01-09; adopted 07-01-98; amended effective 01-20-05)*

**1101 JUDICIAL ARBITRATION; MEDIATION**

**(a) [Matters Subject to Judicial Arbitration]** Any action which is not exempt from judicial arbitration pursuant to Code of Civil Procedure sections 1141.10 – 1141.16 or by other California statutes shall be subject to and referred for judicial arbitration or mediation *in lieu* of arbitration pursuant to the provisions of Code of Civil Procedure sections 1775 – 1775.13. Non-exempt actions may also be referred for judicial arbitration as determined by the judicial officer before whom the case is pending.

**(b) [Arbitration Administrator]** The ADR Administrator shall serve as Arbitration Administrator and shall establish such local forms, lists of arbitrators and other procedures necessary to implement the Judicial Arbitration Program to the extent not established by California statutes or Standards of Judicial Administration 10.70 – 10.72.

*(Amended 07-01-09; adopted effective 07-01-98; previously amended effective 01-20-05)*

**1102 COURT ADMINISTERED DISPUTE RESOLUTION (CADRe)**

**(a) [Service and Filing]** Plaintiff(s) shall include with service of complaints a copy of the Court Administered Dispute Resolution (CADRe) Program Information and a Stipulation and Order to Alternative Dispute Resolution (ADR) Process form pursuant to CRC 3.221(c). Not later than fifteen (15) calendar days before the 120-day case management conference (“CMC”) prescribed by rule 1309(d) of these local rules, all counsel and self-represented litigants shall file a completed Case Management Statement [CM-110] and serve it on all other parties. The court will make a determination of the amount in controversy at the CMC pursuant to Code of Civil Procedure section 1141.6.

**(b) [ADR Consultation]** Counsel and self-represented litigants may be required to attend a consultation with the CADRe staff within ten (10) court days of the 120-day CMC or as otherwise directed by the court. Parties and counsel shall be fully prepared to discuss the appropriate dispute resolution method(s) for the case with the court and CADRe staff.

**(c) [Timing, and Disposition, and Reporting]** If an ADR process is selected, counsel shall file a fully executed Stipulation and Order to Alternative Dispute Resolution Process form (“ADR Stipulation”) within ten (10) court days after the later of either (1) the 120-day CMC or (2) the CADRe consultation.

The parties shall conduct the ADR process within sixty (60) calendar days of filing the ADR Stipulation unless otherwise approved by the court. The neutral shall file a Statement of Agreement or Non-Agreement [ADR-100] within ten (10) court days of the final ADR session. All reports to the court by any mediator shall comply strictly with Evidence Code sections 1115, *et seq.* regarding disclosure of confidential or privileged information.

Cases that do not resolve through the use of an ADR process shall proceed to trial in accordance with these rules. Participation in an ADR process shall not affect time periods specified in the Trial Court Delay Reduction Act of 1990. Upon any settlement or other disposition of a case other than by trial, where an ADR process has occurred or is pending, notice of such disposition shall be given to all parties, the court, the arbitrator or other ADR neutral involved in the case, and to the CADRe staff as required by CRC 3.1385.

**(d) [Mediation in lieu of Judicial Arbitration]** Civil cases with an amount in controversy of \$50,000.00 or less that are subject to Judicial Arbitration may be ordered to limited mediation in lieu of judicial arbitration at the request of the parties or the discretion of the court. [Code of Civil Procedure sections 1141.10 – 1141.16 and 1775 – 1775.16].

*(Amended 07-01-09; adopted 01-01-98; previously amended effective 01-20-05)*

## **Chapter Twelve – APPELLATE DIVISION**

### **1200 COMPOSITION OF APPELLATE DIVISION**

The Presiding Judge recommends, and the Chief Justice of the California Supreme Court assigns judges to the appellate division and designates one of the judges as the presiding judge. Art. VI, sec. 4, Constitution of California; Code of Civil Procedure section 77(a); and, CRC 10.1100. The appellate division judges consider appeals in limited civil, misdemeanor and infraction cases, writ proceedings and trial of Small Claims Court cases on appeal in conformity with CRC 8.880 – 8.936.

*(Amended 07-01-09; adopted 07-01-98; previously amended effective 01-01-99)*

### **1201 USE OF TRIAL COURT FILE**

The original trial court file may be used instead of a clerk’s transcript on appeal in limited civil cases, misdemeanor and infraction appeals pursuant to CRC 8.833, 8.863 and 8.914. The clerk may transmit to the appellate division the complete trial court file with a copy of all docket entries. The original or a copy of the docket entries shall be retained in the trial court.

*(Adopted effective 07/01/09)*

### **1202 OFFICIAL ELECTRONIC RECORDING**

On stipulation of the parties or on order of the trial court pursuant to CRC 8.835, 8.837(d)(6), 8.868, 8.869(d)(6), 8.915 and 8.816, the original of an official electronic recording of the trial court proceedings, or a copy made by the court, may be transmitted to the appellate division clerk as the record of the oral proceedings without being transcribed. A written transcript of official electronic recordings may be prepared under CRC 2.952.

*(Adopted effective 07/01/09)*

### **1203 CLERK’S DUTIES**

- (1) The clerk shall retain custody of the original sound recording.
- (2) The clerk shall make the original sound recording available to the parties and counsel for listening in court facilities during normal business hours.
- (3) Within ten (10) court days after a Notice of Appeal is filed, the clerk shall prepare and label one copy of the original sound recording for each party and a copy for the court’s file; the copies shall be provided on magnetic, electronic or digital media.
- (4) The clerk shall promptly mail a copy of the sound recording to known counsel on appeal for each party. If the clerk has not received notice of the appointment or retention of counsel on appeal, the copy shall be mailed to trial counsel and to each party unrepresented at trial and on appeal.

*(Adopted effective 07/01/09)*

#### **1204 RETURNING COPY OF SOUND RECORDING**

Upon signing a stipulated final statement, or upon receiving a copy of the judge's certificate resolving disputed issues, or upon receiving notice of the filing of the record in the reviewing court, or at the request of the reviewing court, trial counsel and self-represented litigant on appeal shall deliver the copy of the sound recording to the Clerk for the use of any counsel on appeal; or, trial counsel shall deliver the copy to counsel on appeal and promptly file a notice with the appellate division stating that it has been delivered or will be delivered to counsel on appeal when the appeal is assigned.

*(Adopted effective 07/01/09)*

#### **1205 NOTICE OF ORAL ARGUMENT**

As soon as the written briefs of all parties are filed or the time for filing briefs has expired, the appellate division clerk shall send a notice of the time and place of oral argument to all parties. The notice must be sent at least twenty (20) calendar days before the hearing date. The presiding judge of the appellate division may shorten the notice period for good cause; in that event, the clerk must notify the parties immediately by telephone or any other expeditious method.

If the presiding judge of the appellate division orders oral argument by videoconference pursuant to Rule 1207, the clerk must advise all parties at least five (5) days prior to the hearing the location from which each judge of the Appellate Division panel assigned to the case will participate.

*(Adopted effective 07/01/09)*

#### **1206 ORAL ARGUMENT BY VIDEOCONFERENCE**

On application of any party or on the court's own motion, the presiding judge of the appellate division may order that oral argument be conducted by videoconference. An application from a party requesting oral argument by videoconference must be filed within ten (10) calendar days after the court sends notice of oral argument pursuant to Rule 1206(b)(1).

If oral argument by videoconference is ordered:

(1) All judges of the appellate division panel assigned to the case must participate in the entire oral argument either in person or by videoconference. The oral argument shall be open to the public at each location where a judge is participating.

(2) Unless otherwise ordered by the presiding judge, all parties must appear at oral argument in person.

(3) The appellate division must ensure that:

a. during oral argument, the participants are visible and their statements are audible to all other participants, court staff, and any members of the public attending the proceedings; and,

b. the source of any statements made by a participant is clearly identified.

(4) The parties shall not be charged a fee to participate in oral argument by videoconference.

*(Adopted effective 07/01/09)*

**Chapter Thirteen - GENERAL CIVIL COURT PROCEDURES**

**1300 CIVIL CASE CALENDARING**

*(Rule 1300 repealed effective 07-01-09; Adopted 07-01-98; previously amended effective 01-01-99)*

**1301 CIVIL LAW & MOTION CALENDARS**

**(a) [Calendaring]** Civil law and motion calendars and hearings ordinarily include, but are not necessarily limited to orders to show cause, defaults, demurrers, discovery motions, actions involving receiverships, injunctions, supplemental proceedings and similar cases. Hearings that cannot be accommodated on the law and motion calendars may be placed on the short cause trial calendar at the discretion of the assigned judicial officer. Law and motion hearings shall be determined on the basis of points and authorities, verified pleadings, affidavits and declarations, unless the court, for good cause shown, allows oral testimony and argument.

*(Amended 07-01-09; adopted 07-01-98; previously amended effective 01-01-99, and 01-01-03)*

**(b) [Tentative Rulings]** Tentative rulings in civil law and motion matters are posted pursuant to CRC 3.1308 and require notice of intent to appear. Tentative rulings are not required, but any judicial officer who does issue tentative rulings shall use this procedure. Tentative rulings shall be made available by telephone notice and, at the option of the judicial officer, by posting on the Court’s web site at <http://www.sbcourts.org/tentativeruling> not later than 3:00 p.m. on the court day preceding the scheduled hearing. The following telephone numbers will provide access to tentative rulings:

**Santa Barbara Civil Departments:**

Department 3	(805) 882-4512
Department 4	(805) 882-4727
Department 5	(805) 882-4732
Department 6	(805) 882-4734

**Santa Maria Civil Departments:**

Department 1	(805) 614-6424
Department 2	(805) 614-6467
Department 4	(805) 614-6439

*(Amended 07-01-09; adopted 07-01-98; previously amended effective 01-01-03)*

**1302 NOTICE OF MOTIONS IN LIMINE**

In civil jury trials, in addition to any other notice requirements, counsel shall give written notice of any *in limine* motions to avoid inconvenience to jurors.

**(a) [Filing of Notice]** The notice shall be filed not later than two (2) court days before the first trial call. If the case goes “off calendar” and is subject to the filing of a new At-Issue Memorandum, a new notice shall be filed not later than two (2) court days before the next trial date.

**(b) [Copy for Jury Staff]** The notice shall be accompanied at the time of filing with a copy, for the Jury Commissioner.

**(c) [Time Estimates]** The notice shall include the general subject(s) of the motion(s) and counsel's best estimate of the time that will be required to properly hear and resolve the motion(s).

*(Amended 07-01-09; adopted effective 07-01-98)*

### **1303 JUDGMENT DEBTOR EXAMINATION**

**(a) [Application, Issuance]** When judgment creditors apply for an order that judgment debtors appear and answer concerning their property pursuant to Code of Civil Procedure sections 708.110, *et seq.*, the Clerk shall issue an order, upon review of the application and direction of a judicial officer, commanding the judgment debtor to appear before a judicial officer of the court at a specified time and place and answer concerning his property.

**(b) [Supplemental Proceedings; Proof of Service]** Proof of service in supplemental proceedings on a debtor's examination must be submitted to the Clerk at least five (5) days prior to the hearing.

*(Amended 07-01-09; adopted effective 07-01-98)*

### **1304 FAILURE TO APPEAR FOR DEBTOR EXAMINATION**

When a warrant has been ordered due to failure of the judgment debtor to appear at the examination, the plaintiff has thirty (30) calendar days to file the declaration and obtain a warrant. If the warrant is not obtained within thirty (30) days, the plaintiff must obtain a new order to appear for examination and serve the judgment debtor.

*(Amended 07-01-09; adopted effective 07-01-98)*

### **1305 MANDATORY SETTLEMENT CONFERENCE; CRC 3.1380**

The Court adopts CRC 3.1380.

*(Amended 07-01-09; adopted 07-01-98; previously amended effective 01-01-99)*

### **1306 TRIAL BRIEFS**

Trial briefs setting forth the issues to be tried and any significant evidentiary issues likely to be presented, accompanied by points and authorities are required to be filed by all parties for all civil court trials with a time estimate of ninety (90) minutes or more and in all civil jury trials. In all cases where a trial confirmation date is set, the trial briefs shall be filed no later than the trial confirmation date. In all other cases, they must be filed at least three (3) court days prior to the date set for trial.

*(Amended 07-01-09; adopted effective 07-01-98)*

### **1307 DEFAULTS & UNCONTESTED MATTERS**

Civil defaults, settlements and uncontested matters shall be heard on the law and motion calendars and shall be scheduled at least five (5) court days prior to the requested hearing date. A hearing date may be obtained by a telephone request to the Clerk in the division where the case is pending. Any judicial officer may shorten the time requirement in unlawful detainer and other actions requiring immediate judicial determination.

*(Amended 07-01-09; adopted 07-01-98; previously amended effective 01-01-99)*

### **1308 UNLAWFUL DETAINER PROJECT**

*(Rule 1308 repealed effective 07-01-09; adopted 07-01-98; previously amended 01-01-99)*

### **1309 CIVIL LITIGATION ADMINISTRATION**

**(a) [Delay Reduction Policy]** This rule is adopted pursuant to the Trial Court Delay Reduction Act of 1990 (Government Code sections 68600 *et seq.*) and CRC 3.711 and 3.714, and shall apply to all general civil actions, and all limited civil actions specified except those actions excluded by Government Code sections 68608-68620 and such other actions specified by the court.

**(b) [Assignment of “All-Purpose” Judge; Case Management Noticing]** Upon filing of the complaint in general civil cases, a judge will be assigned randomly to hear the case for all purposes. A Case Management Conference (“CMC”) shall be scheduled one hundred twenty (120) calendar days from the date of filing the complaint and notice of the “all-purpose judge” assignment and the date set for the CMC will be sent to the Plaintiff.

All parties in the action shall be notified immediately by the plaintiff of the “all-purpose judge” assignment and of the date set for the CMC. A Proof of Service of the Notice shall be filed by the plaintiff within five (5) court days after service. The plaintiff shall be required to provide such notice to all parties, including, but not limited to, defendants, cross-defendants and intervenors. Failure to give notice and file proof thereof may result in the imposition of sanctions.

**(c) [Service of Complaint; Time Extensions]** Within sixty (60) days after filing the complaint, the plaintiff(s) in general and limited civil actions shall file proof of service upon the defendant(s). If the plaintiff(s) cannot with reasonable diligence serve process on all named defendants within that time period, the plaintiff(s) may do one of the following: **(1)** file a motion to extend time to serve the defendant(s) no later than sixty (60) calendar days after the date the initial complaint was filed. The motion shall be scheduled for hearing on the civil law & motion calendar within twenty (20) days after filing and such motion shall be accompanied by a declaration stating the reason(s) why the complaint cannot be timely served in accordance with this rule; or **(2)** file an application for an *ex parte* order to extend time for service of process within sixty (60) days, provided that plaintiff(s) use the application form approved by the Court. If the application for an *ex parte* extension is denied, the court shall order the applicant to appear on the civil law & motion calendar and show cause why the application should be granted. It is the policy of this court to disfavor delays in serving or granting extensions of time to answer any pleading.

**(d) [Case Management Conference]** All parties shall file a case management statement not later than fifteen (15) calendar days before the CMC in accordance with CRC 3.725 and rule 1102. At the CMC, the court shall consider, in addition to the other matters specified by CRC 3.727, ADR methods, including but not limited to mediation, all forms of arbitration, early settlement conferences, use of special masters or referees, private judicial proceedings and judges *pro tempore*. The case may be assigned to ADR prior to setting the case for trial. [See Chapter Eleven of these local rules.]

Counsel and self-represented litigants attending the CMC shall be thoroughly familiar with the case, able to inform the court of any aspect of the case that may assist the court in its determinations for processing the case through settlement or trial; and counsel shall have discussed ADR methods and settlement procedures with their clients have authority to act on behalf of their clients, and shall have entered this information on the case management statement.

The court shall make a determination whether the amount in controversy exceeds or is less than fifty thousand dollars (\$50,000.00) on the CMC order. In cases deemed by the court to have a value in excess of fifty thousand dollars (\$50,000.00), the court may order the parties to attend a continued Case Management and ADR (“CMADRESS”) orientation conference with a court-appointed facilitator. The facilitator will meet with the parties and their counsel to discuss the case with respect to issues of trial preparation, the volume of anticipated discovery, the potential costs of the litigation if pursued through trial, and assist them in deciding whether ADR would help resolve the dispute.

The parties will be given the opportunity to mediate their case at this conference if they choose. The parties will not have to pay for the services of the facilitator assigned to the case for the first three hours of the session. The facilitator for each case will be chosen by the CADRe Director from a list of mediators approved by the Court’s ADR Committee. The parties shall be responsible for scheduling the CMADRESS conference, which must be held within the time limits set by the court in the case management order.

The court will also schedule a follow-up CMC at the time of the CMADRESS assignment to ensure that the parties have scheduled and attended the session as required by the case management order. If the parties elect to pursue private ADR with their own facilitator and at their own expense, they must inform the court at the CMC and the court will exempt them from the CMADRESS conference and schedule a follow-up CMC to ensure that they have held their private mediation by the time set by the court. Parties attending the CMADRESS conference may continue mediation or other ADR with the assigned facilitator or any mediator after the CMADRESS conference, but they will be responsible for making a fee arrangement with the selected mediator for subsequent ADR sessions. Attendance at CMADRESS conferences shall be governed by CRC 3.874.

Requests for excused personal appearances must be directed to the assigned trial judge. The facilitator will be directed by the court to report to the CADRe Director on the CMADRESS conference with a form approved by the Court’s ADR Committee and provided to the facilitator upon assignment of the case, and the completed forms will then be placed in the court file.

If the court determines at the CMC that a case has a value of less than fifty thousand dollars (\$50,000.00), the court may assign the case to a limited CADRe mediation with a mediator

selected by the CADRe director at no expense to the parties. The court will schedule a follow-up CMC to ensure that the limited mediation occurs by the date set by the court at the original CMC. At any follow-up CMC to ensure that the parties have complied with the terms of the CMC Order, an Order to Show Cause (“OSC”) hearing may be set to determine if sanctions should be imposed for non-compliance. The court may then set a date for a mandatory settlement conference (MSC) and trial. Any requests for continuance of these dates must be directed to the assigned trial judge.

Any unlawful detainer case not resolved or set for trial within forty-five (45) calendar days after the date the complaint was filed may be set for CMC to determine the status of such case.

**(e) [Orders to Show Cause]** In general or limited civil cases, if proof of service of the complaint is not filed and no timely motion to extend the time for such action has been set for a hearing, the court may issue an OSC. At any OSC hearing or at any other hearing pursuant to this rule, the court may make appropriate orders to eliminate delay, including but not limited to, requiring the immediate service of pleadings; the limitation of discovery, law and motion, or other pretrial procedures; and, any other orders as may be required to cause the case to proceed expeditiously. The court shall not require shorter time periods than those specified in Government Code section 68616. If the court at any time finds that any party or attorney has not proceeded with due diligence, the court may impose any sanctions authorized by law or local court rules including, but not limited to, dismissal of the case or striking of the pleadings as well as monetary sanctions.

**(f) [Uninsured Motorist Cases]** The court may designate “Uninsured Motorist” cases pursuant to CRC 3.712(c). Such cases have, additional time to comply with the Rules for Differential Case Management, not to exceed one hundred eighty (180) days following such designation, providing that counsel files a declaration and order to designate the case as "Uninsured Motorist" within sixty (60) days after the complaint was filed. The declaration shall state that the case is a personal injury or property damage action filed against a defendant(s) who is an uninsured motorist and plaintiff(s) claim is subject to an arbitration provision of an insurance policy which applies to all or part of the loss claimed.

**(g) [Differentiation of Cases]** In the application of differential case management as specified by CRC 3.714, the court may modify the assigned case management plan at any time for good cause shown.

*(Amended effective 07-01-09; adopted 07-01-99; previously amended effective 07-01-01, 01-01-03, 01-20-05 and 07-01-08)*

## **Chapter Fourteen - FAMILY LAW RULES**

### **1400 FAMILY LAW CASE CALENDARING**

*(Former rule 1400 repealed effective 07-01-09; adopted 07-01-98; previously amended effective 01-01-99)*

### **1401 ACTIONS SUBJECT TO THESE RULES**

All proceedings filed in the following actions are governed by these rules:

- Actions subject to the Family Law Act, including cases where the Department of Child Support Services appears on behalf of a party
- Actions subject to the Uniform Divorce Recognition Act
- Actions subject to the Uniform Child Custody Jurisdiction and Enforcement Act
- Actions subject to the Uniform Parentage Act
- Actions subject to the Domestic Violence Prevention Act
- Actions subject to Family Code sections 4800 through 4854 (USA)
- Orders to Show Cause, motions or trials in actions brought by the Department of Child Support Services pursuant to Article 4 and 7 of the Welfare and Institution Code
- Adoption proceedings pursuant to Family Code section 8800
- Actions subject to Family Code Section 3900 (support of adult children or parents)
- Post-dissolution of marriage judgment actions involving omitted or reserved property issues
- Non-marital property rights actions consolidated with Family Law Act or Uniform Parentage Act proceedings.

*(Amended 07-01-09; adopted effective 07-01-98; previously amended effective 01/01/03)*

### **1402 INFORMATION & ASSISTANCE**

Counsel for all parties, and the Clerk for self-represented litigants shall provide the parties with a copy of these family law rules at the time an action is filed, or as soon thereafter as is practicable. The Clerk may provide other assistance to parties in family law cases only as required or permitted by statute, the CRC and these local rules.

*(Amended 07-01-09; adopted effective 07-01-98)*

### 1403 SANCTIONS FOR NON-COMPLIANCE

These local rules apply in the absence of a rule prescribed by the California Rules of Court. Strict compliance with these local rules is essential to the expeditious resolution of actions, and sanctions shall be imposed for non-compliance.

*(Amended 07-01-09; adopted effective 07-01-98)*

### 1404 COURT ORGANIZATION

All judges and commissioners are designated to hear family law actions, as assigned or reassigned by the Presiding Judge or Assistant Presiding Judge.

*(Amended 07-01-09; adopted 07-01-98; previously amended effective 01-01-99)*

### 1405 EX PARTE POLICIES

**(a) [Ex Parte Applications Disfavored]** *Ex parte* applications are disfavored. Whenever possible, *in lieu* of an *ex parte* order, the court will issue orders shortening time and schedule a hearing on regular family law and motion calendar. However, orders shortening time are also disfavored, and must be supported by a substantial showing of good cause.

**(b) [Determination Based on Pleadings]** *Ex parte* orders will be determined on the pleadings submitted. Requests for *ex parte* orders normally will be determined without giving either party an opportunity for oral argument or discussion.

*(Amended 07-01-09; adopted effective 07-01-98)*

### 1406 EX PARTE CALENDAR PROCEEDINGS

A hearing is required for all *ex parte* applications unless excused under rule 1407(b). A date and time for an *ex parte* hearing is obtained by telephonic request to the secretary or clerk of the judicial officer to whom the case has been assigned. A hearing will be scheduled at least twenty-four (24) hours after the request. In domestic violence cases, upon a showing of good cause, the court may grant leave for an earlier hearing. When a hearing is not required, the application shall be submitted to the *ex parte* clerk for processing.

*(Amended 07-01-09; adopted effective 07-01-98; previously amended effective 01-01-02)*

### 1407 EX PARTE NOTICE

**(a) [Notice Requirements]** The moving party shall give notice to the responding party immediately upon obtaining a date and time for the *ex parte* hearing. Such notice shall fully conform with the requirements CRC 3.1203, and shall be given during normal business hours, by telephone or personal delivery of written notice. The application and all moving papers shall be submitted to the *ex parte* clerk no less than four hours (4) before the time set for the hearing and the appropriate fee paid on submission. Except as provided in subsection (b) of this rule, notice shall be given for all *ex parte* applications, including those requesting orders shortening time and orders directing the parties to mediation.

**(b) [Exceptions to Notice Requirement]** The notice required by CRC 3.1203 may be excused only upon a showing of exceptional circumstances establishing to the satisfaction of the court the following facts by declaration: (a) giving of such notice would frustrate the very purpose of the order sought and lead the applicant to suffer immediate and irreparable injury; or (b) giving such notice is not possible following a good faith attempt.

A hearing is not required and notice need not be given for applications seeking: (a) to have an order or judgment signed, where the responding party has approved the same; (b) to have an order or judgment signed where a default proceeding was the basis upon which the order or judgment was made; (c) issuance of an Order to Show Cause ("OSC") which does not request relief pending the hearing; (d) re-issuance of an OSC; (e) a wage assignment after issuance of a support order; (f) approval of an *in forma pauperis* fee waiver application; and (g) restoration of a former name after entry of judgment.

The Court's Family Law Facilitator may, in assisting a self-represented litigant, obtain an order waiving the requirement to attend a parent education program or an order to attend a scheduled mediation, by *ex parte* application without notice and hearing. This waiver exception shall be limited to cases where the party is seeking a judgment in a default case, or where the residence of the party is geographically distant from any location where a court-approved parent education program is available, and the party has no opportunity to attend a comparable program.

**(c) [Contents of Notice]** The notice must specify the date and time of the *ex parte* hearing and include a detailed description of the relief sought. If the responding party is not represented by counsel, the notice must further advise the party that he or she has a right to be present, to be represented by counsel, and to submit a written response to the application.

*(Amended 07-01-09; Adopted effective 07-01-98; previously amended effective 01-01-02)*

#### **1408 SERVICE & FILING OF EX PARTE PLEADINGS**

Prior to the *ex parte* hearing, both sides shall discuss and attempt to settle all issues and positions to be raised at the hearing. All required pleadings (including a copy of the proposed order) shall be hand-delivered to the responding counsel (or self-represented litigant) and filed with the *ex parte* clerk at least four (4) business hours before the hearing. Responsive papers shall be delivered to the moving party and filed at the judge's chambers at or before the time of the hearing.

*(Amended 07-01-09; adopted effective 07-01-98)*

#### **1409 EX PARTE PLEADINGS REQUIREMENTS**

**(a) [Ex Parte Application / Declarations]** The *Ex Parte* Application shall include a declaration setting forth the details of the notice given (or of the facts establishing an exception to the notice requirement) and verifying that the discussions required by rule 1408 have occurred.

**(b) [Evidentiary Requirements]** Specific declarations must support requests for *ex parte* orders. Conclusions, feelings, wishes or fears will not adequately support an *ex parte* order. All declarations shall contain sufficient factual information within the personal knowledge of the

declarant to adequately support the relief requested. The court will consider only those issues supported by evidentiary declarations. A particular order will not be granted if there is an insufficient written factual showing. Evidentiary deficiencies cannot be corrected by verbal statements to the court.

**(c) [Emergency Nature of Request]** The evidentiary declarations shall contain facts that demonstrate why the matter is appropriately handled *ex parte* and not the court's law and motion calendar (with or without an order shortening time). Seeking *ex parte* relief in the absence of an emergency will result in the imposition of sanctions, and the filing of an application for *ex parte* relief shall be deemed a waiver of any right to further notice prior to the imposition of sanctions.

**(d) [Disclosure of Change of Status Quo]** There is an absolute duty to disclose the fact that a requested *ex parte* order will result in a change of the *status quo*. Absent such disclosure, attorneys' fees and costs incurred to reinstate the *status quo* may be awarded.

**(e) [Proposed Ex Parte Orders]** A proposed order setting forth the relief requested shall be served with the moving papers and presented to the judicial officer at the time of the *ex parte* hearing. In the event a proposed order is not signed, the judicial officer shall write the words "not signed" in the place reserved for the judicial officer's signature and the unsigned order shall be filed.

*(Amended 07-01-09; adopted effective 07-01-98)*

#### **1410 PARTICULAR EX PARTE ORDERS**

**(a) [Temporary Restraining Order ("TROs")]** Judicial Council forms shall be used when seeking a TRO. These forms include the Order to Show Cause, Application for Order and Supporting Declaration, and Temporary Restraining Orders (Family Law). Declarations in support of a TRO shall be drafted on a separate sheet and attached to the Application for Order form.

**(b) [Ex Parte Residence Exclusion Order]** *Ex Parte* Residence Exclusion Order will not be issued unless there is a clear showing that recent physical violence has occurred or that there is a threat of imminent physical violence. This showing shall include a full description, in detail, of the most recent instance(s) of physical harm, disposition toward violence, intoxication or use of drugs, and shall specify the date of each occurrence.

**(c) [Stay Away Order]** Requests for orders requiring a party to stay away from the residence shall indicate whether that party is residing in the residence or has moved and when he or she moved.

**(d) [Custody/Visitation Orders]** A party requesting an order establishing or modifying custody or visitation shall, by evidentiary declarations, establish the following: (a) the provisions of any existing order; (b) the actual custody arrangement; (c) the requested relief; (d) the immediate harm or irreparable injury; and (e) the status of any referral to Child Protective Services or law enforcement.

*(Amended 07-01-09; adopted effective 07-01-98)*

#### **1411 MOTIONS & ORDERS TO SHOW CAUSE**

- (a) **[Calendaring]** Prior to filing and scheduling, proposed dates for hearing an OSC and motions must be approved by the Clerk.
- (b) **[Mandatory Confirmation of Proceeding]** No less than forty-eight (48) hours prior to the scheduled hearing, the moving party shall notify the judicial assistant to the judicial officer to whom the case has been assigned, whether the hearing will proceed as scheduled.
- (c) **[Special Calendaring; TRO Pending Hearing]** When a TRO is granted pending a hearing, the hearing shall be set within twenty-five (25) days of the date of issuance of the TRO.
- (d) **[Special Calendaring; Mediation Without TRO]** If no TRO has been granted and mediation is required, the hearing shall be set at least five (5) court days after the mediation appointment.
- (e) **[Special Calendaring; TRO With Mediation]** If a TRO has been granted and mediation is required prior to the hearing pursuant to rule 1501 (b), the hearing shall be set within twenty-five (25) calendar days of the date of issuance of the TRO and at least five (5) court days after the mediation appointment. An *ex parte* order extending time is required to set the hearing more than twenty-five (25) court days after the issuance of a TRO and/or less than five (5) calendar days after mediation; parties are admonished to determine the availability of mediation appointments prior to seeking a TRO.

*(Amended 07-01-09; adopted effective 07-01-98)*

#### **1412 FILING & SERVICE OF MOTIONS & ORDERS TO SHOW CAUSE**

- (a) **[Moving Documents]** All moving documents must be filed with the Clerk and served in compliance with applicable Code of Civil Procedure sections prior to the scheduled hearing date, unless an order shortening time has been granted. When an OSC is issued by the court, it shall be signed and filed with the Clerk before it is served.
- (b) **[Responsive Documents]** All documents filed in response to an OSC or motion shall state in the caption "Response to Motion or OSC of Petitioner or Respondent Requesting..." and specify the relief. Such responsive papers shall be filed with the court and served at least ten (10) calendar days before the hearing. Any papers not timely filed will not be considered by the court. A party who has not filed a timely written response will not be permitted to present oral argument at the hearing.
- (c) **[Reply Documents]** All documents filed in reply to a response to an OSC or motion shall state in the caption "Reply to Response of Petitioner or Respondent to Motion or OSC of Petitioner or Respondent Requesting..." and then specify the relief. All reply papers shall be filed with the court and served at least five (5) calendar days before the hearing.
- (d) **[Proof of Service]** Proofs of service shall be filed with the court at least forty-eight (48) hours before the hearing.

*(Amended 07-01-09; adopted effective 07-01-98; previously amended effective 01-01-02)*

## **1413 HEARINGS ON MOTIONS & ORDERS TO SHOW CAUSE**

**(a) [Mandatory Settlement Attempt]** Prior to the scheduled hearing, counsel shall make good faith efforts to resolve the issues pending before the court, to exchange all information required by these rules, and to delineate those issues remaining to be presented to the court at the time of the hearing.

**(b) [Conduct of First Calendar Call]** At the first call of the calendar, counsel and self-represented litigants shall state their appearances and provide a time estimate for argument. If settlement discussions are continuing, the court shall be informed and the case may “trail” other cases on the calendar.

**(c) [Second Calendar Call]** At the second call of the calendar, counsel and self-represented litigants shall announce their appearances, recite any stipulated items for approval, clearly state all contested issues, and may briefly present argument on each contested issue.

**(d) [Exceeding Time Estimates]** If the time estimate made by the parties at the first call of the calendar is exceeded, the court may, in its discretion rule without further hearing; defer the matter to the end of the calendar if time permits; enter interim orders; continue the matter to the next available date; or order the matter off calendar.

**(e) [Objections]** The opposing party's presentation shall not be interrupted, other than with valid objections, and all remarks shall be directed to the court.

**(f) [Post-Ruling Argument]** Once the court has rendered its decision, the case shall not be reargued. Counsel may, however, question the court in order to clarify a ruling or correct a mistake.

**(g) [Time Limitations]** The law and motion calendar is designed for hearings estimated to take no longer than thirty (30) minutes. If it is anticipated that a longer hearing will be required, participants shall so advise the court at the law and motion hearing, and request that the matter be set on the court's short cause calendar.

**(h) [Presentation of Evidence - Limitations on Oral Testimony]** In granting or denying applications for orders, the court will determine contested issues based solely on the pleadings, admissible evidence contained in declarations timely filed with the court, and arguments. All declarations shall be received in evidence at the hearing, subject to objections and cross-examination. Oral testimony will not be permitted except in unusual circumstances. A party seeking to introduce oral evidence at the hearing shall comply with CRC 3.1306.

**(i) [Stipulated Continuance]** If the parties stipulate to a continuance of the hearing, the parties shall immediately advise the Clerk to the judicial officer to whom the case is assigned, by telephone no later than forty-eight (48) hours before the hearing and deliver a written stipulation to the judicial assistant by the start of the hearing.

**(j) [Contested Requests for Continuances]** Requests for continuances made at the time of the hearing are disfavored. If a stipulated continuance cannot be obtained, a motion for continuance shall be made at the earliest possible time prior to the hearing.

**(k) [Presence of Counsel]** Self-Represented litigants and counsel shall be present when a case is called for hearing, unless they are engaged in another department and have so advised opposing counsel and the Clerk to the judicial officer to whom the case is assigned.

**(l) [Non-Appearance of Moving Party]** If the moving party or counsel is not present at the time a case is called, the requested relief will ordinarily be denied and any affirmative relief requested by the responding party ordinarily will be heard as an uncontested matter.

**(m) [Non-Appearance of Responding Party]** If the responding party or counsel fails to appear at the time a case is called, and valid proof of timely service is presented, the court will hear the OSC or motion as an uncontested matter. If valid proof of timely service is not presented, the court may continue the hearing to allow the moving party to submit such proof or take the matter off calendar.

**(n) [Matters Taken Off Calendar]** After service of the moving papers, no case shall be taken off calendar without immediate telephone notice to the responding party and to the Clerk to the judicial officer to whom the case is assigned. Once responding papers requesting affirmative relief have been filed, no case shall be taken off calendar without the consent of the responding party.

*(Amended 07-01-09; adopted effective 07-01-98)*

#### **1414 PREPARATION OF ORDERS AFTER HEARING**

**(a) [Preparation and Approval of Order]** If a party is ordered to prepare a court order, that party shall serve the proposed order on the opposing party within ten (10) court days of the date of issuance of the decision. Within five (5) court days of its receipt, the opposing party shall approve the proposed order or decline to approve the order, stating alternate proposed language. If the parties are unable to agree on the language of the order, then either party may request a hearing.

**(b) [Failure to Approve Proposed Order]** If the responding party fails to approve or object to the proposed order with five (5) court days of its receipt, the preparing party then may transmit the proposed order to the Clerk for the judge's signature, accompanied by a declaration, with a copy to the opposing party, setting forth the applicable dates and explaining the circumstances.

**(c) [Failure to Prepare Proposed Order]** If the party ordered to prepare a court order fails to prepare and serve the order as required, then the opposing party may prepare a proposed order and transmit it to the Clerk for the judge's signature, accompanied by a declaration, with a copy to the opposing party, setting forth the applicable dates and explaining the circumstances.

*(Amended 07-01-09; adopted effective 07-01-98)*

#### **1415 SUPPORT COMPUTATIONS**

**(a) [Income-Based Computations]** Awards of child support and temporary spousal support allocate the income of the parties in an effort to meet the needs of all parties, recognizing that, in most cases, there is not sufficient income to sustain either party at the same standard of living that existed prior to separation

**(b) [Computation of Child Support]** Computation of child support will be strictly in accordance with state law. All orders for child support shall specify the amount of support for each minor child in accordance with Family Code section 4055(b)(7).

**(c) [Computation of Temporary Spousal Support]** The Court has adopted the Santa Clara County Support Schedule (“Schedule”) for the purposes of determining the amount of temporary spousal support. In calculating the parties' incomes and various offsets for the purpose of applying the Schedule, the court will apply the principles set forth in the state child support law.

**(d) [Income of New Mate or Non-Marital Partner; Temporary Support Proceedings]** Absent unusual circumstances, the income of a new spouse or of a non-marital partner of either party will not be considered in determining temporary support. If unusual circumstances are found to exist, the new spouse or third-party income shall not be added to the payor/payee's gross income when calculating support. Rather, to the extent such income reduces a party's basic living expenses, it will be considered a factor in rebutting the presumptively-correct amount of temporary child support under the state child support law or temporary spousal support pursuant to the Santa Clara Support Schedule.

*(Amended 07-01-09; adopted effective 07-01-98)*

#### **1416 FILING & SERVICE OF INCOME & EXPENSE DECLARATION**

An Income and Expense Declaration shall be filed by each party when support or attorneys' fees are at issue. If a previously filed Income and Expense Declaration is alleged to be current and is to be relied upon, a copy shall be attached to the moving or opposing papers. All blanks on the form shall be completed, and the best available information provided to the court. Notations such as "unk" for "unknown," "est" for "estimate," "N/A" for "not applicable" and "none" should be used to avoid leaving any blank information item. If attorneys' fees and/or costs are requested, the paragraph pertaining to attorney's fees must be completed.

*(Amended 07-01-09; adopted effective 07-01-98)*

#### **1417 FILING & SERVICE OF PAY STUBS**

All parties shall affix to their Income and Expense Declaration a copy of his or her last three pay stubs, if employed, or a schedule showing gross receipts less cash expenses for each business, if self-employed, or rental property. Any reference to a Social Security number on the pay stubs shall be obliterated.

*(Amended 07-01-09; adopted effective 07-01-98; previously amended effective 07-01-01, and 01-01-03)*

#### **1418 FILING & SERVICE OF SUPPORT CALCULATIONS**

**(a) [Declaration re Calculations of Support]** In all matters where child support or temporary spousal support is at issue, a supporting declaration must be filed and served by each party which shall set forth (a) that party's calculation of child support under the state child support law; and, (b) if spousal support is at issue, that party's calculation of temporary spousal support under the Santa Clara County Support Schedules. The declaration, when taken together with the Income

and Expense Declarations, shall contain admissible evidence establishing each fact necessary to the computation of support. In the absence of a computerized calculation of support, such declarations must also include admissible evidence establishing the applicable tax rates, taxes and tax calculations.

**(b) [Computerized Calculations of Support]** Computerized calculations of support may be attached to the Declaration required under local rule 1418(a).

1. The calculations must be based on the computer program currently in effect, including the latest released amendments to that program.
2. The DISSOMASTER program is utilized by the court. The court will take judicial notice of the provisions of the federal Internal Revenue Code, the California Revenue & Taxation Code and applicable regulations, and the accuracy of the amount of applicable taxes calculated by the DISSOMASTER program pursuant to Evidence Code sections 452(b), 453, 455(b) and 1500.5,
3. If the DISSOMASTER program is used, the "Formal Report" must be submitted.
4. If the DISSOMASTER program is used, the default "settings" established in each new version of the software must be utilized, including: FICA, FICA Hospital Insurance, Federal Self Employment Tax, State Disability Insurance, state income tax, and Santa Clara County Guideline Deductible Spousal Support. California shall be selected as the "Tax State," unless one of the parties resides in another state. The declaration must describe any differences in the assumptions ("settings") employed and those required by this rule.
5. The computation shall: compute child support under state law; and spousal support under the Santa Clara County Support Schedule; allocate Child Care Expenses equally between the parents; not base Guideline Child Support on adjusted nets; adjust nets for tax consequences of spousal support in fixed shares; and, release dependency exemptions via Internal Revenue Code Section 83327.
6. If a computer program other than DISSOMASTER is used, comparable assumptions and settings shall be used, and a comparable printout shall be provided.

*(Amended 07-01-09; adopted effective 07-01-98; previously amended effective 01-01-03)*

## **1419 EXCHANGE OF ADDITIONAL FINANCIAL DOCUMENTS**

**(a) [Moving Party's Obligations]** Absent issuance of a protective order, at the time of service of moving papers in any matter seeking child support, spousal support, attorneys fees or costs (other than matters commenced by the Department of Child Support Services under Family Code Sections 17402, 17404, 17400, 17416, and 17420, the moving party shall also serve each of the following documents in the moving party's possession or control. These documents shall not be filed with the court. Exact duplicates of the documents served and a proof of service shall be available at the time of the hearing to be introduced into evidence if requested and admissible.

**1. If the moving party is a wage earner or unemployed:**

- a. a copy of individual federal income tax returns for the past two (2) years, including all schedules;
- b. a copy of all personal bank account statements for the last twelve (12) months and a copy of the last three pay stubs;
- c. a copy of all W-2 and 1099 forms reflecting income received during the last twelve (12) months but not attached to individual tax returns;
- d. a copy of rule 1419; and,
- e. a declaration explaining the moving party's failure to comply with any of the foregoing requirements.

**2. If the moving party is self-employed:**

- a. a copy individual federal income tax returns for the past two (2) years, including all schedules;
- b. a copy of all W-2 and 1099 forms reflecting income received during the last twelve (12) months but not attached to individual tax returns;
- c. a copy of all periodic profit and loss statements and balance sheets prepared in the ordinary course of business for the last twelve (12) months;
- d. a copy of all business and personal bank account statements and corresponding check registers for the last twelve (12) months;
- e. a copy of all loan applications submitted to financial institutions or third persons on behalf of the moving party within the past twelve (12) months;
- f. a written offer to either supply a copy of the business books and records requested by the opposing party upon five (5) days notice or an offer to permit the opposing party or his or her attorney to inspect such books and records upon five (5) days notice;
- g. a copy of rule 1419; and,
- h. a declaration explaining the party's failure to comply with any of the foregoing requirements.

**3. If the moving party holds a thirty percent (30%) or more interest in any business entity:**

- a. a copy of individual federal income tax returns, including all schedules for the past two years;
- b. a copy of all W-2 and 1099 forms reflecting income received by the moving party or the business entity during the last twelve (12) months but not attached to tax returns;

- c. a copy of all periodic profit and loss statements and balance sheets prepared in the ordinary course of business for the business entity during the last twelve (12) months;
- d. a copy of all personal bank account statements and corresponding check registers for the last twelve (12) months;
- e. a copy of all loan applications submitted to financial institutions or third persons on behalf of the moving party within the past twelve (12) months;
- f. a written offer to either supply a copy of the business books and records requested by the opposing party upon five (5) days notice or an offer to permit the opposing party or his or her attorney to inspect such books and records upon five (5) days notice; and
- g. a copy of rule 1419; and
- h. a declaration explaining the party's failure to comply with any of the foregoing requirements.

**(b) [Responding Party's Obligations]** Absent issuance of a protective order, at the time of service of responsive pleadings in any matter seeking child support, spousal support, attorneys fees or costs, the responding party shall also serve each of the following documents as are in the responding party's possession or control or a declaration explaining the party's failure to comply with the following requirements. These documents shall not be filed with the court. Exact duplicates of the documents and a proof of service shall be available at the time of the hearing to be introduced into evidence if requested and admissible.

1. **If the responding party is a wage earner or unemployed**, the same documents as are required to be served by the moving party under rule 1419(a)1, unless such documents were previously served by the moving party.
2. **If the responding party is self-employed**, the same documents as are required to be served by the moving party under rule 1419(a)2, unless such documents were previously served by the moving party. The responding party shall offer to either supply a copy of the business books and records requested by the moving party upon two (2) days' notice or offer to permit the moving party or his or her attorney to inspect such books and records upon two (2) days' written notice.
3. **If the responding party holds a 30% or more interest in any business entity**, the same documents as are required to be served by the moving party under rule 1419(a)3, unless such documents were previously served by the moving party. The responding party shall offer to either supply a copy of the business books and records requested by the moving party upon two (2) days' notice or offer to permit the moving party or his or her attorney to inspect such books and records upon two (2) days' written notice.

(c) **[Automatic Protective Order]** Parties and counsel receiving documents served pursuant to this rule shall not release such documents or disseminate any information contained in those documents to any third party other than experts retained for the purposes of the family law proceeding.

(d) **[Sanctions]** Failure to serve documents in accordance with this rule will result in the imposition of sanctions or orders to pay reasonable attorneys' fees occasioned by the failure to comply.

*(Amended 07-01-09; adopted effective 07-01-98; previously amended effective 01-01-03)*

#### **1420 VOLUNTARY SETTLEMENT CONFERENCES**

(a) **[Court Participation; Prerequisites]** A voluntary settlement conference procedure adopted to promote the early disposition of family law actions, and to reduce the cost of family law litigation. Voluntary participation in this procedure shall be a good faith attempt to settle one or more contested issues only after the parties have attempted to settle the issues themselves and when the parties are prepared fully to discuss the issues fully with the Court. This procedure shall not be used as a substitute for discovery, settlement discussions between the parties, or preparation for a mandatory settlement conference.

(b) **[Filing of Joint Request]** To participate in a voluntary settlement conference, the parties shall file, in the department of the judicial officer requested to hear the conference, a Joint Request for Voluntary Settlement Conference. The Joint Request shall contain:

1. confirmation that the parties have met and conferred in a good faith effort to settle the contested issues; and that the probability of settling contested issues with the assistance of the court is substantial and,
2. a summary of the contested issues and the respective positions of the parties on those contested issues.

(c) **[Scheduling the Conference]** A voluntary settlement conference will be scheduled by the judge to whom the request is submitted and shall not be a ground for continuance of a calendar call or trial.

*(Amended 07-01-09; adopted effective 07-01-98)*

#### **1421 AT-ISSUE MEMORANDUM**

(a) **[Time of Filing]** A Joint Memorandum That Civil Case Is At Issue (“Joint At-Issue Memorandum”) need not be filed within 210 days of the filing of the Petition. However, within ten (10) days of any party’s request all parties shall cooperate in the preparation and filing of the Memorandum. If an opposing party declines to sign the Memorandum within ten (10) days of the request, the Memorandum may be filed with a declaration explaining the circumstances. The party opposing the filing of the Memorandum shall bear the burden of filing a motion to set aside the Memorandum.

**(b) [Filing Requirements]** Form SC2014 shall be used. Memoranda containing short cause estimates shall not be accepted for filing unless also accompanied by:

- (1) verification that all discovery has been completed;
- (2) a current property declaration, containing valuations for each asset and liability;
- (3) a current Income and Expense Declaration; and,
- (4) a declaration verifying that the parties and their counsel (if any) have met, face to face, in an attempt to settle the action, or stating good cause for the failure to hold such a meeting.

*(Amended 07-01-09; adopted effective 07-01-98; previously amended effective 01-01-03)*

### **1422 SHORT CAUSE TRIALS**

**(a) [Definition]** Short cause hearings are those that can be heard in one (1) day or less. These cases normally reach the short cause trial calendar when the parties file an at-issue memorandum and estimate that the time required for hearing will take one (1) day or less. Counsel should anticipate that one (1) day's trial time is roughly equal to six hours. A mistrial may be declared in any hearing that exceeds the one-day limit, and the case will be placed on the long cause calendar without preference.

**(b) [Setting for trial]** Upon receipt of a properly completed At-Issue Memorandum, the Case Management Conference will be scheduled at which the judge shall set the case for trial.

**(c) [Meet and Confer Requirement]** Mandatory Settlement Conferences are not scheduled for short cause cases; however, prior to trial, all parties and counsel shall have participated in a face-to-face meeting in an attempt to resolve the matter.

**(d) [Documents to be Filed and Served in Short Cause Cases]** No later than two (2) court days prior to the Short Cause Calendar, each party shall file and serve:

1. A trial brief, setting forth: the date of marriage; the date of separation; the minor children of the marriage and dates of birth for each child; the proposed custody and visitation schedule; the proposed child support and spousal support; the community property assets and liabilities; the proposed division of property and proposals for equalization; requested attorneys' fees and costs; requested confirmation of separate property; and requested restraining orders and miscellaneous orders. The brief shall also contain points and authorities relating to issues which involve complex or novel points of law.
2. If financial matters are at issue and the Income and Expense Declaration on file is not current, a current Income and Expense Declaration;
3. A copy of the relevant "Kelley Blue Book" pages for all vehicles whose value is at issue;
4. In the event the parties have been unable to divide their furniture, furnishings and personal effects by agreement, a jointly-prepared list of those items in dispute, including

a description of each item, both parties' positions concerning value and character, and the proposed disposition of each asset;

5. A summary of each party's claims for reimbursement or other charges, listing each claimed item by date, payment amount and payee.

*(Amended 07-01-09; adopted effective 07-01-98; previously amended effective 01-01-03)*

## **1423 LONG CAUSE TRIALS**

**(a) [Definition]** Long cause hearings are those which either party asserts cannot be heard in one (1) day or less.

**(b) [Case Management Conference]** After the filing of the At-Issue Memorandum in long cause cases, the parties will be notified of the date, time and place of a Case Management Conference when the action will be assigned dates for a Mandatory Settlement Conference and a trial.

**(c) [Mandatory Settlement Conference]** All discovery (including that involving expert witnesses) shall be completed in advance of the date set for the Mandatory Settlement Conference. Each party and the trial attorney for each party shall personally attend the conference. Failure of any person to prepare reasonably for, appear at, or participate in good faith in a settlement conference as required by these local rules or order of the court constitutes an unlawful interference with the proceedings of the court, punishable as contempt pursuant to CRC 2.30. Additionally, the court may order the non-performing party or counsel to pay the opposing party's reasonable expenses, including attorneys' fees, in addition to any other sanctions permitted by law. The court will avoid setting a family law Mandatory Settlement Conference before the same judge that will hear the trial.

**(d) [Documents to be Filed and Served Prior to Mandatory Settlement Conference]** No later than 5 (five) court days prior to the Mandatory Settlement Conference; both parties shall lodge with the court and serve on the other party:

1. A Mandatory Settlement Conference Statement which shall address all contested issues, and state a settlement proposal as to each contested issue. A recommended form for the Statement is attached in the Appendix to these rules. The Statement shall be deemed confidential (except as it may relate to the later trial on the issue of attorneys' fees or costs) and shall be withdrawn from the court file and returned to the submitting party at the conclusion of the conference.
2. A current Income and Expense Declaration; and, if child or spousal support is an issue, a current Dissomaster printout showing what each party believes to be the appropriate levels of support.

**(e) [Trial Date Assignment; Time Estimates]** At the Case Management Conference the judicial officer to which the case is assigned will ordinarily determine the date for trial, and counsel are expected to provide accurate estimates for trial time.

*(Amended 07-01-09; adopted effective 07-01-98)*

## **1424 TRIAL**

**(a) [Continuances]** Once a trial date is set, no continuances will be granted except upon noticed motion for good cause shown in the department to which the case has been assigned. It is not appropriate to request a continuance at the calendar call.

**(b) [Presence of Counsel]** Counsel shall be present at the time a case is called for trial; failure to be present will be deemed sufficient cause for ordering the case off calendar, proceeding to hear the matter in the absence of counsel, or the imposition of sanctions.

**(c) [Settled Cases]** A case will not be removed from the trial calendar unless either: (a) a written settlement agreement covering all issues is submitted to the court; or (b) the parties and counsel appear and recite an agreement covering all issues into the record in sufficient detail to enable the court to enforce such agreement.

**(d) [Exceeding Trial Time Estimates]** Failure to complete a trial within the time estimate given at the time of the trial calendar call may result in a mistrial whenever the court's calendar will be adversely affected by allowing time in excess of the estimate.

**(e) [Language Interpreter]** The party calling a witness for whom an interpreter is required shall arrange in advance for the interpreter's presence and shall be responsible for his or her compensation.

**(f) [Conference With Trial Judge]** At the mutual request of counsel prior to the commencement of trial, the court may conduct a brief, in-chambers conference to resolve questions concerning the order of proof, motions *in limine* or other issues related to the mechanics of trial. The time necessary for any pre-trial conference will be deemed part of the trial time for the purpose of estimating long and short cause matters.

**(g) [Marking Exhibits]** Counsel shall contact the Clerk to the judicial officer to whom the case is assigned, for instructions regarding the marking of exhibits.

**(h) [Trial of Requests for Fees, Costs and Sanctions]** Trial of a request for attorneys' fees, costs or sanctions under Family Code section 274 or Code of Civil Procedure section 128.5 shall be bifurcated from all other issues before the court and shall be conducted after the conclusion of the trial.

*(Amended 07-01-09; adopted effective 07-01-98)*

## **1425 FORM OF JUDGMENTS**

**(a) [Specific Recitals]** All orders concerning child custody, child visitation, child support, spousal support, injunctive relief, retention of jurisdiction, and attorney's fees shall be set forth as prescribed by the Judicial Council Judgment form. The division of the community estate and confirmation of separate property may be set forth either in the body of the Judgment or in an attached agreement incorporated by reference in the Judgment.

**(b) [Child Support Calculations]** All orders for child support shall specify the amount of support for each minor child in accordance with Family Code section 4055(b)(7).

*(Amended 07-01-09; adopted effective 07-01-98; previously amended effective 01-01-03)*

#### **1426 PREPARATION OF JUDGMENTS**

**(a) [Approval of Judgment]** The party ordered to prepare a Judgment shall serve opposing counsel with the proposed Judgment within twenty (20) days of the order. Within twenty (20) days of its receipt, opposing counsel shall approve or decline to approve the proposed Judgment, stating alternative proposed language. If the parties are unable to agree on the language of the Judgment, either party may request a hearing.

**(b) [Failure to Approve Proposed Judgment]** If the responding party fails to approve or object to the proposed Judgment within twenty (20) days of its receipt, the proposed Judgment may be transmitted to the Clerk for the judge's signature by the party ordered to prepare the Judgment accompanied by a declaration, with a copy to the opposing party, setting for the applicable dates and explaining the circumstances.

**(c) [Failure to Prepare Proposed Judgment]** If the party ordered to prepare the Judgment fails to prepare and serve the Judgment, then the opposing party may prepare a proposed Judgment and transmit it to the Clerk for the judge's signature, accompanied by a declaration, with a copy to the opposing party, setting forth the applicable dates and explaining the circumstances.

*(Amended 07-01-09; adopted effective; 07-01-98)*

## **Chapter Fifteen - FAMILY COURT SERVICES**

### **1500 OFFICE OF FAMILY LAW FACILITATOR**

**(a) [Office Established]** An office of Family Law Facilitator is established in each geographic region as required by the Family Law Facilitator Act, Division 14 of the Family Code.

**(b) [Additional Duties]** Attorney family law facilitators appointed by the court shall, in addition to the duties and services prescribed by Family Code section 10004, also provide and perform the duties and services permitted under Family Code section 10005 (a) and (b) as assigned by the Presiding or Assistant Presiding Judge supervising the region to which the facilitator is appointed.

*(Amended 07-01-09; adopted effective 07-01-98)*

### **1501 MEDIATION**

**(a) [Description; Purpose]** The purpose of family court mediation is to provide a confidential forum for separated parents to meet and discuss custody and visitation issues with a court-appointed mediator. The goal is to develop an agreed-upon parenting plan focused on the best interests of the children.

**(b) [Required Mediation]** Mediation by Family Court Services is required prior to any hearing on a contested issue of child custody or visitation. Mediation is also required when a court order or judgment provides for mediation at the request of either party, and when a court has ordered mediation, even though no motion is pending.

**(c) [Voluntary Mediation]** When a family law action has been filed, but no motion or Order to Show Cause (OSC) is pending, a mediation session may be scheduled upon the agreement of both parties to resolve any issue of custody or visitation.

*(Amended 07-01-09; adopted effective 07-01-98)*

### **1502 CONFIDENTIALITY**

All mediation proceedings shall be held in private and all communications between the parties and the mediator shall be deemed confidential. Statements made during mediation by the mediator, or by any party, witness or attorney, shall be inadmissible in future hearings; and proposed agreements prepared by the mediators shall not be attached to pleadings and filed with the court unless signed by all parties to the mediation, and by counsel for any represented party. The court may impose sanctions upon parties or counsel who attempt to introduce such statements in evidence. The mediator shall not be available as a witness in future proceedings, and no information shall be communicated by the mediator to the court other than the reports or recommendations described in rule 1503(d). By written agreement or stipulation made in open court, the parties may agree to waive confidentiality in future mediation sessions. However, disclosure of statements by minors is discouraged notwithstanding the waiver of the children's privilege by the holder(s) thereof.

*(Amended 07-01-09; adopted effective 07-01-98)*

## **1503 PROCEDURES**

**(a) [Scheduling Mediation]** Mediation shall be scheduled by the party seeking resolution of custody or visitation issues by calling the Mediation Appointment Secretary (“Secretary”) in the designated region. In the absence of an emergency, the party seeking resolution of custody or visitation issues shall confer with the other party in an attempt to schedule a mutually-acceptable date prior to calling the Secretary. In the event the parties cannot agree, the party seeking resolution shall schedule the mediation and it shall be the burden of the other party to seek a court order changing the mediation date or time.

**(b) [Notice of Mediation]** Within twenty-four (24) hours of obtaining a mediation appointment, the party seeking resolution shall file and serve on the other party a Notice of Mediation in the form provided in the Appendix to these local rules.

**(c) [Cancellation of Mediation]** Only the party who schedules a mediation may cancel it. If the other party is unable to attend the scheduled mediation, that party must reach an agreement with the scheduling party to re-schedule or obtain a court order canceling or re-scheduling the mediation. In the event the mediation will not proceed on the scheduled date, the scheduling party must notify the Secretary not less than three (3) court days prior to the scheduled mediation. Failure to provide three (3) days' notice of cancellation and/or failure to appear at a properly-noticed mediation may result in the imposition of sanctions against the responsible party or counsel.

**(d) [Reports of Mediator]** At the conclusion of mediation, the mediator shall advise the court whether a tentative agreement was reached in mediation; if no agreement was reached, whether further mediation should be or has been scheduled; whether counsel should be appointed for the child; and, whether a custody investigation is recommended.

**(e) [Agreements Reached in Mediation]** If a tentative agreement has been reached between the parties, the mediator shall prepare a written agreement and present it to the parties for approval. No agreement shall be presented to the court, nor shall the court approve any agreement until it has been signed by the parties and approved by their counsel.

*(Amended 07-01-09; adopted effective 07-01-98)*

## **1504 PARTICIPANTS**

**(a) [Parties Required to be Present]** The parties and their children are required to participate in mediation. Other interested persons may be included in the process at the mediator's discretion. In cases of domestic violence, a support person may be present at mediation as permitted by Family Code section 5519.

**(b) [Presence of Children]** Children six (6) years of age and older on the date of mediation shall be present. The parent having the child with him/her on the date of mediation is required to bring the child. If the child is twelve (12) years of age or younger, that parent shall also provide a person to supervise or remove the child after completion of the child's interview. Children under six (6) years of age shall not be brought to the Family Court Services Offices unless the mediator requires their presence. The mediator may excuse the presence of any child.

**(c) [Participation of Counsel]** Counsel shall be available by telephone during the entire mediation session. Counsel may be personally present at the commencement of mediation. The mediator has sole discretion to exclude attorneys from the mediation proceeding.

**(d) [Language Interpreters]** If an interpreter is required to assist the mediation process, it is the responsibility of the party needing the interpreter to provide one. A family member should not be used as the interpreter without the consent of the other party and opposing counsel. The interpreter shall interpret only and shall not offer opinions, suggestions or comments.

*(Amended 07-01-09; adopted effective 07-01-98)*

## **1505 PROHIBITIONS & SANCTIONS**

**(a) [Weapons and Recording Devices]** No weapons, tape recorders or electronic surveillance devices may be brought to the Family Court Services Office or to any Family Court mediation.

**(b) [Referrals to Attorneys]** In the event any party seeks a referral to an attorney, the mediator shall make no recommendation of private counsel but will advise the party that the services of the Family Law Facilitator are available.

**(c) [Abuse of Process; Sanctions]** The court may impose sanctions against parties and counsel for abuse of the mediation process, failure to properly schedule mediation, failure to give the required notice, failure to reasonably cooperate in scheduling a mediation, and failure to attend a properly scheduled mediation.

**(d) [Mediator Conflicts of Interest]** Absent full disclosure and consent, a mediator shall not participate in the mediation process if an attorney-client or psychotherapist-patient relationship exists or existed between the mediator and any party or counsel.

*(Amended 07-01-09; adopted effective 07-01-98)*

## **1506 CUSTODY EVALUATIONS**

**(a) [Documents Required From Parties; Sanctions]** When the court orders preparation of a custody investigation report pursuant to Family Code section 3111, each party shall complete and return to the Family Court Services Division the Custody Evaluation Instructions Packet prescribed by rule 1506(f). Failure to complete and return these documents within ten (10) days of the date the report was ordered by the court may result in a sanction not to exceed \$250.

**(b) [Appointment and Referral for Investigation]** The court will determine the necessity for appointment of custody investigators and evaluators, and any stipulations by parties or counsel to such appointment must be approved by the court. All court appointments for custody investigations, evaluations and reports, except in cases in which the parties have otherwise stipulated to a private investigator-evaluator, will be made by referral to the Family Court Services unit, which will designate the qualified investigator-evaluator. No investigation shall proceed without such an appointment and referring order of the court. The Court will assess and apportion the cost of custody investigations between the parties on an ability to pay basis.

**(c) [Investigator Conflict of Interest Disclosure]** All persons appointed to conduct custody investigations, including those performed by Family Custody Services or those performed by private investigator-evaluators by stipulation and order, shall be subject to the same conflict of interest disclosure provisions of these local rules, Standards of Judicial Administration, 5.255 and CRC 3.872 applicable to mediators. Such appointees shall also disclose any potential conflict of interests or other reason for inability or unsuitability to serve in such capacity. Unless stipulated by all parties and counsel, the appointment of a person as custody investigator-evaluator who has served as a mediator in the same case shall be avoided.

**(d) [Alternate Investigator; Peremptory Challenges]** Upon disclosure of a conflict of interest or other inability or potential unsuitability for service by any prospective investigator-evaluator, the Family Court Services unit shall be advised and shall designate an alternate investigator-evaluator. Peremptory challenges to court-appointed investigator-evaluators are not allowed.

**(e) [Investigator Contact With Attorneys, Parents and Children]** Following court order of appointment and referral for a custody investigation, neither party nor counsel shall initiate ex parte contact with the court-appointed investigator, subject to the ex parte contact prohibitions and restrictions of CRC 1257(d). To every extent possible and practicable, both parents shall be interviewed by the investigator-evaluator. Interviews of children in the presence of one parent should be followed by interviews in the presence of the other parent. In the sole discretion of the investigator-evaluator, taking into consideration the age of the children, the investigator-evaluator's ability to communicate with the children, and other relevant factors), children who are subjects of custody investigations: 1) may be interviewed alone and/or with their siblings; and, 2) the investigator-evaluator shall explain to each child interviewed the limitations on the confidentiality of statements made during interviews.

**(f) [Grievances Re: Court-Ordered Investigations]** In all cases in which a Family Code section 3111 custody investigation has been ordered, parties and counsel shall be furnished with a Custody Evaluation Instructions packet, which shall include the forms required by rule 1506(a) and shall also include notification that there is a grievance policy with directions. Parties having a complaint regarding a completed or pending custody investigation, including, but not limited to, alleged unprofessional or inappropriate acts on the part of the investigator-evaluator, shall register such grievance by completing a Client Complaint form, and filing it with the judicial officer to whom the case has been assigned. A copy of the filed Client Complaint form shall also be provided to the Family Court Services unit in the geographic region where the case is pending. The judicial officer to whom the case has been assigned shall review any complaints, attempt to resolve any that are justified and resolvable, and advise the complaining party or counsel of the disposition, either orally or in writing as expeditiously as possible. Parties or counsel who are dissatisfied with this disposition of their complaints may notice an appropriate motion to that effect in the department of the judicial officer who ordered the custody investigation. The motion shall specify the relief sought from the court.

*(Amended 07-01-09; adopted effective 07-01-98)*

## **1507 PARENT EDUCATION PROGRAMS**

**(a) [Requirement to Attend]** All parties to a family law proceeding in which there are minor children, including, but not limited to actions for parentage or legal separation, nullity,

dissolution of marriage, or actions to establish or modify custody or visitation, including uncontested cases, shall attend and complete program entitled “Parent Education and Co-Parenting Effectively” (“PEACE”). Parties shall attend prior to the first of the following events:

1. expiration of sixty (60) days following service of the pleadings that commence the proceeding; or
2. custody mediation provided through Family Court Services ; or
3. entry of any order or judgment involving custody or visitation.

**(b) [Purpose of Program and Description]** The purpose of the program is to provide education and encouragement for parents to engage fully in parenting and effective cooperation. The program will teach cooperative parenting skills with emphasis on the effects of custody and visitation litigation on children.

**(c) [Instructions, Registration and Fee for Attendance]** No fee will be charged for the program. Written instructions regarding the requirement of attendance and registration for the parenting education program shall be provided by the Clerk to any party filing any of the documents described in rule 1507(a). A copy of these written instructions shall be served on the opposing party by the filing party at the time of service of the documents described above.

**(d) [Attendance Before Mediation; Exceptions]** If any party has not completed the required parent education program by the date on which the mediation is scheduled, the mediation date may be reset to a later time to permit the party to attend the program. The mediator may proceed with the mediation if it is in the best interests of the children. In such a case, the mediator shall first require any party who has not attended the program and who has failed to obtain a waiver of the requirement, to sign a written stipulation, which will be incorporated in a court order, requiring that party to attend the required program not later than a specified date.

**(e) [Failure to Attend and Remedies]:**

1. If a party does not attend the parent education program as required by this rule, the other party may move the court for an order compelling attendance and for an award of attorney fees or other sanctions.
2. If one party does not attend the parent education program as required by this rule, and the other party seeks the entry of any order or judgment involving custody or visitation of minor children, the party seeking such order shall first move the court for an order compelling the other party to attend the program and for an award of attorney fees or other sanctions. If the court grants the order to compel attendance and the other party does not comply, then the court may, upon application and a showing of good cause, enter the requested order or judgment.
3. If the court enters an order or judgment for good cause when one party has not completed the program, the non-complying party may not seek any affirmative relief with respect to any child-related issue(s) until: (a) that party has completed the program, or (b) that party obtains leave of court to proceed by application with a showing of good cause.

**(f) [Exceptions to Requirement for Attendance]**

1. Nothing in this rule supersedes the right of the parties to seek *ex parte* relief as provided in these rules prior to attending the parent education programs.
2. If attendance at the “PEACE” program will be a hardship, the court may require and accept attendance by a party at an equivalent parent education program located in another county or state.
3. An order delaying or waiving the requirement of attendance at the parent education program may be obtained from the court upon a showing of good cause.

**(g) [Certification of Attendance]** The instructors of the “PEACE ” program shall provide attendees with a “Certificate of Attendance” verifying completion of the course by each attending party.

*(Amended 07-01-09; adopted 07-01-98, previously amended effective 01-01-99, 01-01-03, and 07-01-08)*

**1508 CO-PARENTING PROGRAMS**

**(a) Requirement to Attend**

The parties may be ordered to attend other parenting education programs. The parties shall attend when:

1. the court orders the parties to attend the program because the court determines a high degree of conflict exists consistent with the criteria prescribed by Family Code section 3190, or
2. the parents stipulate that they will both attend the program, or
3. the court orders both parents to attend based upon a recommendation from Family Court Services or a recommendation from a child custody evaluator that is made in accordance with the criteria set forth in section 3190.
4. The court may also order parties to attend classes in child development, child psychology, parenting and related topics.

**(b) Purposes of Programs**

The purposes of the programs are to provide instructional counseling to the parents to (1) reduce conflict, (2) reduce the children’s exposure to conflict between their parents, (3) educate parents about communication options and problem solving, (4) help parents understand their accountability under existing court orders, and (5) improve understanding of child development, parenting skills and the effect of parent conflict on children.

**(c) Failure to Comply**

Failure to comply with an ordered parenting education program shall result in an order to repeat the entire program or another appropriate sanction.

**(d) Fee for Attendance**

The parties shall be assessed a fee to defray the cost of the parenting program in an amount to be established by the court. Such fee shall be waived for any party who obtains an order from the court to proceed *in forma pauperis*. Any fees associated with any parenting education shall be allocated pursuant to court order.

**(e) Inadmissibility**

Statements made during parenting education by any attendee, instructor or either parent shall be inadmissible in future hearings. Sanctions shall be imposed upon a party and counsel who attempt to introduce such statements into evidence.

*(Amended 07-01-09; adopted effective 07/01/99; previously amended effective 07-01-08)*

## **Chapter Sixteen - MENTAL HEALTH RULES**

### **1600 MENTAL HEALTH CASE CALENDARING**

*(Rule 1600 repealed effective 07-01-09; adopted effective 07-01-98; previously amended effective 01-01-99)*

### **1601 CAPACITY HEARINGS FOR INVOLUNTARY MEDICATION**

**(a) [Filing of Petition]** Santa Barbara County Mental Health Department petitions for capacity hearings pursuant to Welfare & Institutions Code (“W&I”) section 5333 shall be filed with the Clerk or with the Deputy Clerk at the Psychiatric Health Facility (“PHF”), located at 315 Camino Del Remedio, Santa Barbara by 4:45 p.m. of each court day. The form of the Petition for Capacity Hearing shall be the form included in the Appendix to these local rules. A copy of the Petition shall be provided to the person who is the subject of the Petition and his or her advocate or counsel at the time it is filed.

If the filing of the petition is at the PHF, the Deputy Clerk shall promptly call the Clerk for assignment of a case number, and shall thereafter electronically transmit a fax of the Petition to the Clerk.

**(b) [Scheduling Capacity Hearings]** Upon the issuance of a case number, the Clerk or, if filed at the PHF, the Deputy Clerk shall give notice of the capacity hearing to the person who is the subject of the petition, and his or her advocate or counsel. The capacity hearing shall be held before a hearing officer at the PHF in accordance with the following local policy schedule developed by the Presiding Judge and the County Director of Alcohol, Drugs and Mental Health Services (“ADMHS”) to insure that all parties can appropriately respond to the petition:

- Petitions filed on Mondays and Tuesdays shall be heard on Wednesdays.
- Petitions filed on Wednesdays and Thursdays shall be heard on Fridays.
- Petitions filed on Fridays shall be heard on Mondays.

Earlier hearings can be calendared with the consent of all involved parties.

**(c) [Postponement of capacity hearings]** Postponement of capacity hearings may be made by the Clerk or Deputy Clerk in the event of the following hardships: petitions filed on or intervening weekends or legal holidays; untimely physical illness of hearing officer, patient, patient's counsel or advocate, attending physician, or treatment facility counselor or the physical unavailability of the patient at the PHF. In no event shall capacity hearings be held beyond seventy-two (72) hours of filing of the initial petition.

*(Amended 07-01-09; adopted effective 07-01-98)*

### **1602 CAPACITY HEARING DETERMINATIONS**

The person who is the subject of the capacity hearing shall be given oral notification of the determination at the conclusion of the hearing, by the hearing officer. As soon as thereafter as is

practical, the person, his or her counsel or advocate, and the director of the facility where the person is receiving treatment shall be provided with written notification of the hearing determination, which shall include a statement of the evidence relied upon and the reason for the determination. A copy of the ruling shall be submitted to the Clerk.

Upon completion of the capacity hearing, the Deputy Clerk at the PHF shall personally deliver the original Petition, if filed with the Deputy Clerk, and all other documents related to the hearing to the Clerk.

*(Amended 07-01-09; adopted effective 07-01-98)*

### **1603 CAPACITY HEARING APPEALS**

**(a) [Appeal of Capacity Hearing Determinations]** Appeal of a capacity hearing determination may be made to the Court by the patient or with the consent of the County Counsel, by the person who files the original petition W&I Code section 5334). The form to be used for an appeal made on behalf of the patient shall be the form included in the Appendix to these local rules.

Appeals of capacity hearing determinations shall be filed with the Clerk or with the Deputy Clerk by 4:45 p.m. of each court day.

If an Appeal is filed at the PHF, the Deputy Clerk shall promptly call the Clerk and shall thereafter fax a copy of the Appeal to the Clerk. Appeal case numbers shall be the same as the capacity hearing petition number.

All appeals to the Court shall be subject to *de novo* review and shall be heard within seventy (72) hours not including weekends and holidays.

**(b) [Representation on Appeal]** Upon request or upon court order, the Public Defender shall represent any person who is not financially able to employ counsel in appeal proceedings resulting from capacity hearing determinations. In cases where the patient's representative on appeal is the Public Defender, a copy of the Appeal shall be provided to the Public Defender.

*(Amended 07-01-09; adopted effective 07-01-98)*

### **1604 CAPACITY HEARING OFFICER QUALIFICATIONS & APPOINTMENT**

Capacity hearings shall be conducted by a judge, a commissioner or referee, or a court-appointed hearing officer. All commissioners, referees, and hearing officers shall be appointed by the court from a list of attorneys unanimously approved by a panel composed of the local ADMHS Director, the Public Defender, and the County Counsel or District Attorney designated by the Board of Supervisors. No employee of the county ADMHS or of any facility designated by the County and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation may serve as a hearing officer. All hearing officers shall receive training in the issues specific to capacity hearings.

*(Amended 07-01-09; adopted effective 07-01-98)*

## **1605 CERTIFICATION REVIEW HEARINGS FOR INVOLUNTARILY DETAINED PSYCHIATRIC PATIENTS**

**(a)(1) [Requirement for a Notice of Certification]** To detain a person involuntarily in a facility designated by the County and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation, placed under W&I Code section 5150 in such a seventy-two(72) hour treatment and evaluation facility for up to fourteen (14) days of intensive treatment (W&I Code section 5250); or for up to an additional fourteen (14) days of intensive treatment for suicidal persons (W&I Code section 5260); or, for up to an additional thirty (30) days of intensive treatment for gravely disabled persons (W&I Code section 5270.15), a Notice of Certification for such involuntary detention shall be executed designating the particular detention period applicable and the facts forming the basis of the need for such involuntary detention and intensive treatment.

**(a)(2)** The Notice of Certification shall be signed by two “professional persons” who personally participated in the evaluation. (Welfare & Institutions code sections 5251, 5261 and 5270.20).

**(b) [Form of Notice of Certification]** The Notice of Certification forms for W&I code sections 5250 and 5270.15 are prescribed in W&I code section 5252. The Notice form for W&I Code section 5260 is prescribed in W&I Code Sections 5262. Both forms are included in the Appendix to these Rules.

**(c) [Notice to the Court]** Upon the completion of the Notice of Certification form by the “two professionals”, the treating facility shall place an identification number in the top portion of the form. A copy of the form shall then be promptly faxed to the Clerk. The original form shall be personally delivered to the Deputy Clerk assigned to the treatment facility in which the patient is detained.

**(d) [Notice to Patient and Others]** A copy of the Notice of Certification for a hearing under W&I Code section 5250 shall be personally delivered to the Director of the approved treatment facility or his or her designee and to the patient certified. A copy shall be promptly provided either personally or by fax to the patient’s counsel, if any, the patient rights advocate and such other person(s) as the patient designates. (W&I Code section 5253). For the additional certifications under Welfare & Institutions code sections 5260 and 5270.15, the copy distribution above shall apply plus a copy to the County Counsel.

**(e)(1) [Time Elements for Hearings]** The Certification Review Hearings shall be held within four (4) days from the date on which the patient is certified to be detained involuntarily, to receive intensive treatment, or for additional detention for further intensive treatment. A patient certified under W&I Code section 5250 also shall have a certification hearing within seven (7) days of the original involuntary admission to the treatment and evaluation facility under the committing W&I Code section 5150.

**(e)(2)** Hearings may be postponed up to forty-eight (48) hours upon the request of the patient or his or her attorney or advocate.

**(e)(3)** A patient may bypass the certification review hearing by requesting a judicial review via *habeas corpus*.

*(Amended 07-01-09; adopted effective 07-01-99)*

### **1606 CERTIFICATION REVIEW HEARING DETERMINATIONS**

The person who is the subject of a certification review hearing shall be given oral notification of the determination at the conclusion of the certification review hearing by the hearing officer. As soon as thereafter as is practical, the person, his or her counsel or advocate, and the director of the facility where the person is receiving treatment, shall be provided with written notification of the certification review hearing determination, which shall include a statement of the evidence relied upon and the reason for the determination. Upon completion of the certification review hearing, the Deputy Clerk at the treatment facility shall deliver the original of the notice of certification, and all other writings and documents of the certification review hearing together with the original of the hearing officer's written determination to the Clerk.

*(Amended 07-01-09; adopted effective 07-01-99)*

### **1607 CERTIFICATION REVIEW HEARING APPEALS**

**(a)(1) [Appeal of Certification Review Hearing Determination]** Appeals of certification review hearings shall be filed with the Clerk or with the Deputy Clerk assigned at each facility designated by Santa Barbara County and approved by the State Department of Mental health as a facility for seventy-two (72) hour treatment and evaluation by 4:45 p.m. of each Court business day.

**(a)(2)** If the filing of an Appeal is at an approved treatment facility, the Deputy Clerk assigned at the treatment facility shall promptly call the Clerk or his or her designee for assignment of a case number and shall thereafter fax a copy of the Appeal to the Clerk.

**(a)(3)** Upon the filing of an Appeal, the Clerk or the Deputy Clerk at an approved treatment facility shall promptly provide a copy of the Appeal, either personally or by fax to the Director of the treatment facility or his or her designee, the patient's rights advocate, the patient's counsel, if any, the Public Defender and the County Counsel.

**(b) [Representation on Appeal]** Upon request, or upon court order, the Public Defender shall represent any person who is not financially able to employ counsel in appeal proceedings resulting from certification review determinations.

*(Amended 07-01-09; adopted effective 07-01-99)*

### **1608 CERTIFICATION REVIEW HEARING OFFICER QUALIFICATIONS & APPOINTMENTS**

The certification review hearing shall be conducted by either a court-appointed commissioner or referee, or a certification review hearing officer. The certification review hearing officer shall be either a state qualified administrative law hearing officer, a medical doctor, a licensed psychologist, a registered nurse, a lawyer, a certified law student, a licensed clinical social worker, or a licensed marriage, family and child counselor. Licensed psychologists, licensed social workers, licensed marriage, family and child counselors, and registered nurses who serve as certification review hearing officers shall have had a minimum of five (5) years experience in mental health. Certification review hearing officers shall be selected from a list of eligible persons unanimously approved by a panel composed of the Director of ADMHS, the Public

Defender, and the County Counsel or District Attorney designated by the Board of Supervisors. No employee of the ADMHS or of any facility designated by the county and approved by the State Department of Mental Health as a facility for seventy-two (72) hour treatment and evaluation may serve as a certification review hearing officer.

*(Amended 07-01-09; adopted effective 07-01-99)*

## **Chapter Seventeen – PROBATE RULES**

### **1700 PROBATE CASE CALENDARING**

*(Rule 1700 Repealed effective 07-01-09; adopted 07-01-98; previously amended 01-01-99)*

### **1701 CALENDAR POLICY**

**(a) [Venue]** All probate cases shall be assigned/scheduled to a region based upon the residence address of the decedent and pursuant to rule 203.

**(b) [Tentative Rulings]** Uncontested probate may be submitted on verified petitions and accounts pursuant to Probate Code section 1022. The judge assigned to the probate calendar will review all documents prior to the hearing date and will tentatively approve those cases that are in proper form and to which no objections have been filed. Those cases that are not in proper form or those in which the court can reasonably expect objections to be filed or in which the court has objections or concerns will not obtain tentative approval and an appearance at a hearing will be required. A list of all cases to be called on the probate, conservatorship and guardianship calendars will be posted on the Court's Internet web site [www.sbcourts.org](http://www.sbcourts.org) and by 3 p.m. of the day preceding the hearing with a notation whether tentative approval will be issued.

**(c) [Objections to Pre-Approved Matters]** At the time scheduled for hearing, all cases on the calendar will be called. If an objection is made when a case is called, the court will schedule a hearing on a future date to allow for the filing of written objections. If no objections are made when a case is called, or if written objections are not on file at the time of any new hearing date, the tentative ruling will be deemed the final order.

**(d) [Proposed Probate Orders]** Proposed orders or judgments shall be submitted on or before noon at least one week prior to the hearing.

*(Amended 07-01-09; adopted 07-01-98; previously amended effective 01-20-05)*

### **1702 EXECUTORS & ADMINISTRATORS**

**(a) [Petition for Letters]** Petition shall be filed on the approved Judicial Council form and shall have attached a legible copy of each document offered for probate as an exhibit. If the original will is attached to the petition, a legible copy is not required. In the case of a holographic will, a typed copy of the document shall be attached in addition to a copy of the handwritten original.

**(b) [Notice of Petition]** The petitioner or petitioner's attorney shall be responsible for publication of notice where required and where notice by mail is required to be given, petitioner or petitioner's attorney shall give the notice and file a proper proof of service. If no mailing is required, a statement to that effect shall appear on the proof of service.

**(c) [Proof of Wills]** Ordinarily, oral testimony will not be necessary to prove the will. In any uncontested proceeding, the evidence of one or more subscribing witnesses may be received by declaration or affidavit on the approved Judicial Council form.

**(d) [Foreign Wills; Ancillary Probate]** A petition to probate a foreign will must have attached a certified copy of the will and a certified copy of the order or decree admitting the will to probate outside this jurisdiction. If the will has been admitted to probate in a foreign country, the copies must be certified in the manner set forth in Evidence Code section 1530 and Probation Code section 361.

*(Amended 07-01-09; adopted effective 07-01-98)*

### **1703 BOND OF PERSONAL REPRESENTATIVE**

**(a) [Duties of Personal Representative]** Prior to issuance of letters, individual personal representatives shall read and file with the Clerk the Duties of Personal Representative form. Individual personal representatives shall not complete the Duties of Personal Representative form with their Social Security Number or Driver's License Numbers; these lines on this form shall be left blank. Corporate personal representatives are not required to file this form.

**(b) [When Required]** Bond shall be required in all cases unless waived by the will. Waiver of bond by heir and/or beneficiaries pursuant to Probate Code sections 8480 and 8481(a)(2) will be considered by the court and permitted on a case-by-case basis. If required, the bond must be approved by the judge after it is filed and before letters are issued.

**(c) [Bond Waiver for Sole Heir or Beneficiary]** If requested in the petition, bond will be waived when the personal representative is the sole heir or beneficiary.

**(d) [Amount of Bond]** If required, upon filing the Inventory and Appraisal, the personal representative or the attorney for the estate shall apply to the court for an increase or reduction in the amount of the bond.

**(e) [Letters of Personal Representative]** The personal representative shall take the prescribed oath of office and sign, date and file the letters anytime preceding or during the estate proceeding.

*(Amended 07-01-09; adopted effective 07-01-98; previously amended effective 07-01-00)*

### **1704 INVENTORY & APPRAISAL**

**(a) [Deadline for Filing]** Probate Code section 8800 requires the Inventory and Appraisal be filed within four (4) months after the appointment or within such further time as the court may allow after a showing of good cause. If the personal representative neglects or refuses to file the Inventory within the time prescribed, the court, upon notice, may revoke the personal representative's letters.

**(b) [Preparation of Inventory]** The Inventory and Appraisal shall conform to the requirements of Probate Code sections 8850 and 8900. Each Inventory item shall be clearly and concisely described in the manner set forth in the current version of the Probate Referee's Procedure Guide published by the California Probate Referee's Association. In the case of real property, the full legal description, street address, and Assessor's parcel number shall be included.

*(Amended 07-01-09; adopted effective 07-01-98; previously amended effective 07-01-00)*

### **1705 CREDITOR'S CLAIM**

- (a) **[Forms]** Claims shall be submitted on the form approved by the Judicial Council.
- (b) **[Claims Filed with the Court]** The personal representative shall allow or reject the claim by endorsement on the original or by filing a separate allowance or rejection of the claim.

*(Amended 07-01-09; adopted effective 07-01-98; previously amended effective 01-01-03)*

### **1706 SALES OF REAL OR PERSONAL PROPERTY**

- (a) **[Forms]** Petitions to Confirm Sales of Real Property shall be on the Judicial Council approved forms. Care must be taken to complete all applicable forms. Failure to do so may require continuance or re-notice of the petition.
- (b) **[Brokers Commissions on Real Property Sales]** The court will not approve a real estate commission in excess of 6% except in unusual cases where a larger commission is justified because of exceptional circumstances.
- (c) **[Real Property Descriptions]** A Petition to Confirm Sale of Real Property shall, in addition to the legal description, contain the street address or other familiar designation of property, and the County Assessor 's parcel number for the property.
- (d) **[Appearance by Attorney for Sales Confirmation]** In hearing petitions for confirmation of sale of real property and for sale of personal property where bidding is authorized, the court ordinarily will not proceed with confirmation of the sale in the absence of the attorney of record.
- (e) **[Sale of Personal Property; Appraisal]** Sales of personal property will not be approved or confirmed by the court unless the property has been appraised. When necessary, a partial inventory and appraisal may be filed for this purpose.
- (f) **[Additional Bond at Sale]** The Petition to Confirm Sale must set forth the amount of additional bond required as a result of the sale, or if the bond is waived or if no additional bond is required, must contain a statement to that effect.
- (g) **[Approval of Overbid on Credit Sales]** If the sale returned for confirmation is upon credit, a higher bid pursuant to Probate Code section 10262, whether on the same or additional credit terms, shall not be approved unless the personal representative or the personal representative's attorney informs the court that the overbid is acceptable.

*(Amended 07-01-09; adopted effective 07-01-98)*

### **1707 ACCOUNTS OF EXECUTORS & ADMINISTRATORS**

- (a) **[Waiver of Account]** The court will approve a final distribution without an account only when there has been strict compliance with Probate Code section 10954.

*(Amended 07-01-09; adopted effective 07-01-98; previously amended 07-01-00)*

## **1708 FEES OF EXECUTORS & ADMINISTRATORS**

**(a) [Basis for Computation]** Whether or not the accounting is waived, the Petition for Distribution shall state the amount of the statutory commissions requested to be paid to the personal representative and to the attorney. The petition shall set forth the basis and the computation of the statutory fees.

**(b) [Allowance on Account of Fees]** Allowances on account of statutory fees will be granted only in accordance with the actual work completed. In any event, the last 25% of the statutory fees will not ordinarily be allowed before the approval of the final account and decree of distribution.

**(c) [Extraordinary Fees]** Any application for fees for extraordinary services must set forth with particularity the nature of the extraordinary services rendered. In cases where the statutory fees are substantial, the court will consider the statutory fees in determining whether extraordinary fees are appropriate. Fees will not be allowed for services rendered with respect to non-probate assets such as life estates, joint tenancy, life insurance, etc.

*(Amended 07-01-09; adopted effective 07-01-98)*

## **1709 PRELIMINARY & FINAL DISTRIBUTION**

**(a) [Petition Detail]** The Petition for Distribution must list and describe in detail all property to be distributed either in the body of the petition or by a schedule attached to the petition and incorporated by reference. Description by reference to the inventory is not acceptable.

**(b) [Description of Distributees]** The Petition for Distribution must set forth in detail the precise manner in which the estate is to be distributed. A general allegation that the estate is to be distributed in accordance with the terms of the will is not sufficient. The petition must set forth the name of the distributee and a statement as to whether the distributee is a minor or adult. If the distributee is a minor, the age and date of birth must also be listed and a guardian, trustee, or parent must be identified.

**(c) [Intestacy]** Heirs who take by virtue of intestacy must be sufficiently described to permit the court to determine if the laws of intestate succession have been properly applied.

**(d) [Character of Community/ Separate Property]** The Petitions for Distribution shall contain an allegation as to the separate or community character of the property.

**(e) [Judgment of Distribution]** Judgments should be drawn so as to set forth the full plan of distribution. Judgments may not contain distribution plans which refer to the petition or any other document.

**(f) [Distribution to Minors]** If distribution to minors pursuant to Probate Code sections 3401 or 3412 is requested, documents indicating compliance with those sections must be filed before the Judgment of Distribution is signed. In all other cases of distribution to the guardian of the minor, the guardian shall sign the Receipt of Distribution.

**(g) [Debts]** Each Petition for Final Distribution shall contain an allegation which will enable the court to determine whether the personal representative has complied with the provisions of Probate Code section 11640 concerning payment of the estate debts.

**(h) [Non-Resident Beneficiaries]** If distribution is to be made to a non-resident beneficiary, the certificate required by Revenue and Taxation Code section 19513 must be filed before Judgment of Distribution will be signed.

*(Amended 07-01-09; adopted effective 07-01-98)*

## **1710 CONTESTED MATTERS; ORAL OBJECTIONS**

If an oral objection is made at the hearing on any petition, the court shall continue the hearing for a reasonable time to allow the filing of written objections. If the written objections are not filed within forty-eight (48) hours prior to the prescribed hearing date, the hearing will proceed.

*(Amended 07-01-09; adopted effective 07-01-98; previously amended effective 07-01-00)*

## **1711 MISCELLANEOUS PETITIONS & ORDERS**

**(a) [Petition for Family Allowance]** *Ex Parte* Petitions for Family Allowance for the benefit of the surviving spouse and/or minor disabled adult children will be accepted for review by the court if presented before the filing of the inventory. Except in unusual cases, the Order for Family Allowance will be made for a period commencing with the date of death and continuing until the inventory is filed, but not to exceed six (6) months. An *ex parte* petition from a person other than the personal representative will not be accepted for review by the court without the written consent of the personal representative.

A Petition for Family Allowance for the benefit of persons other than the surviving spouse and/or minor children will be heard on the regular probate calendar and will be considered only if notice has been given as required by Probate Code section 6541(c).

The petitioner must provide notice and schedule a hearing on a Petition for Family Allowance made more than six (6) months after qualification of the administrator or executor. An Order for Family Allowance must be limited to a specific period of time. The petition of the spouse seeking a family allowance shall contain a description of his or her separate property and a statement of such spouse's income from sources other than the estate. The petition must contain an itemized estimate of monthly expenses. Any petition for the benefit of any other person shall contain similar information.

**(b) [Petition for Instructions]** A Petition for Instructions is limited to those matters for which no other procedure is provided. It cannot be used in lieu of a Petition to Determine Heirship or a Petition to Determine Title to Property or a Petition for Distribution. The Petition for Instructions should set forth the matter on which the personal representative desires instructions in precise detail. The petition shall be accompanied by a proposed Order of Instructions which sets forth the instructions in clear and explicit language.

(c) **[Ex Parte Probate Orders]** All requests for *ex parte* orders must state whether a Request for Special Notice has been filed. If such a Request has been filed, notice must be given to the party requesting special notice or a duly executed waiver of notice must be filed.

(d) **[Orders Correcting Clerical Errors]** If, through any inadvertence, the minute order or the decree fails to state the order actually made by the court, and such inadvertence is brought to the attention of the court by affidavit, the court will, on its own motion, make a *nunc pro tunc* order correcting the mistake. The *nunc pro tunc* order must not take the form of an amended order and should be in substantially the following form: "Upon consideration of the affidavit or declaration of \_\_\_\_\_, to correct a clerical error, the (title of order to be corrected), is corrected on the court's own motion by striking the following: ' \_\_\_\_\_ ' and by inserting *in lieu* thereof \_\_\_\_\_."

The original order shall not be changed by the clerk, but will be used in connection with the *nunc pro tunc* order correcting it. To prevent further errors, a complete clause or sentence should be stricken even if it is intended to correct only one word or a single figure.

(e) **[Order Prescribing or Dispensing With Notice]** An order prescribing or dispensing with notice should be submitted to the judicial officer assigned to the probate calendar before the petition is filed. The proposed order should be accompanied by a declaration and points and authorities.

(f) **[Spousal Property Petition]** A Spousal Property Petition filed with the court must be supplemented with a separate Declaration Regarding Marital History and Property in support of the petition, including: date of the marriage of the deceased and surviving spouse, the court and case number of any legal proceeding regarding the marriage or assets of the deceased and surviving spouses, and, the history of the purchase of each assets itemized on the Spousal Property Petition including source of funds or loans, title to asset, etc. The declaration shall be executed by the surviving spouse under penalty of perjury.

*(Amended 07-01-09; adopted effective 07-01-98; previously amended effective 07-01-00)*

## **1712 GUARDIANSHIPS**

(a) **[Contents of Petition]** The Petition for Appointment of Guardian shall be on the form prescribed by the Judicial Council and shall comply with the provisions of Probate Code section 1510. A petitions by only one parent for Letters of Guardianship must be personally served on the other parent, together with notice of the hearing, at least fifteen (15) days before the hearing unless the petition is accompanied by a Consent to Appointment and Waiver of Notice signed by the other parent, or the petition sets forth the fact that the other parent is not living. In any action for guardianship of the person, a declaration under the Uniform Child Custody Jurisdictional Act shall be filed with the Petition for Appointment and at any time there is a change of address of the minor.

(b) **[Notice]** Notice shall be given by counsel for the petitioner to the persons listed and in the manner prescribed by Probate Code sections 1460 and 1511.

(c) **[Investigation]** An investigation shall be conducted pursuant to the provisions of Probate Code section 1513. The court investigator shall conduct an investigation and report to the court prior to the appointment of a guardian.

(d) **[Inventory and Appraisal]** The court requires strict compliance with Probate Code section 2610. An Inventory must be filed by the guardian of the estate in all cases. The Inventory should state whether there are any assets on hand. Each inventory item shall be clearly and concisely described. In the case of real property, a full legal description, street address, and Assessor's parcel number must be included.

(e) **[Accounts]** The account should include a list of all receipts and all disbursements of the guardian. If an item is not self-explanatory, an explanation must appear either in the Account or in the report accompanying the Account. Accounts should conform to the requirements set forth in this rule.

(f) **[Frequency of Accounts]** The First Account must be filed one year from the date of appointment. Thereafter, accounts must be filed bi-annually unless otherwise ordered by the court. The court will require strict compliance with Probate Code section 2620.

(g) **[Reports Accompanying Accounts]** The petition and account accompanying the guardian's accounts should contain a statement of the age, health, activity and whereabouts of the ward with an explanation of any unusual items appearing in the account. If the account shows expenditures not authorized by prior court order supporting declarations or testimony will be required before approval of the account.

(h) **[Support Obligation of Parents]** In all cases where guardianship funds are to be used for the ordinary expenses of supporting a minor, and where there is a parent living who has the obligation to support the minor, the guardian must obtain court approval prior to the expenditure of funds. A Petition for Authority to Expend Funds for Support may be included in the Petition for Appointment of a Guardian, or in any subsequent report of the guardian. Such requests must be accompanied by a detailed explanation (including financial statements, if necessary) of the parent's inability to support the child.

(i) **[Allowance of Fees]** No Petition for Fees will be considered until the Inventory and Appraisal has been filed. Petition for Fees pursuant to Probate Code section 2640 prior to the filing of the first accounting must include a complete and detailed statement of the services rendered which support the requested fees.

(j) **[Bond]** A bond will not be required for a petition for appointment of guardian of the person only. Bond will be required of all persons appointed as guardians of the estates of minors unless the guardian can establish that the requirement of bond should be dispensed with pursuant to the provisions of Probate Code sections 2323, 2324 or 2328.

(k) **[Investments by Guardian]** The court will not routinely grant the additional powers to the guardian pursuant to Probate Code sections 2590 and 2591. If a guardian wishes to invest or expend funds belonging to the ward, the guardian should petition the court for authorization. If expenditures or investments are made by the guardian without prior authorization, such acts will not be considered for approval except on settlement of account. Except in rare and unusual cases,

the court will not approve investment in unsecured loans or loans to a near relative unless secured.

**(l) [Final Account]** A guardian's report will normally not be approved if accompanied by a Waiver of Account unless the ward is present in court and available to testify.

*(Amended 07-01-09; adopted effective 07-01-98)*

### **1713 TEMPORARY GUARDIANSHIPS & CONSERVATORSHIPS**

(a) The Petition for Appointment of a Temporary Conservator/Guardian may be brought *ex parte* provided that the notice provisions of Probate Code section 2250(c) are satisfied, either by serving notice or by submission of a declaration showing facts sufficient to allow the court to determine that good cause exists to eliminate or alter the notice requirements, and provided that the following information is submitted:

1. the original and a copy of the petition and proposed order;
2. a detailed statement of facts in the petition establishing the necessity for the temporary guardianship/conservatorship; and,
3. an endorsed filed copy of the petition for appointment of the permanent conservator/guardian. If the attorney is informed that the petition for appointment of a permanent conservator/guardian will be contested, all known potential objectors shall be notified at least twenty-four (24) hours in advance of the time and place the petition for appointment of the temporary conservator/guardian will be presented.

*(Amended 07-01-09; adopted effective 07-01-98; previously amended effective 07-01-00)*

### **1714 CONSERVATORSHIPS**

**(a) [Contents of Conservatorship Petitions]** The Petition for Appointment of Conservator shall be on the form prescribed by the Judicial Council and shall comply with the provisions of Probate Code section 1821. When filing of the petition, the petitioner shall provide the Clerk an extra copy of each document filed and delivered to the court, including an Order Appointing Court Investigator.

**(b) [Notice of Hearing]** The petitioner or petitioner's attorney shall be responsible for preparation of the notice of hearing and where notice of hearing and where notice by mail is required to be given, the petitioner or petitioner's attorney shall give notice and file the required proof of service.

**(c) [Letters of Conservatorship]** Prior to issuance of the Letters of Conservatorship, conservators shall take the prescribed oath of office as conservator and sign, date and file the Letters of Conservatorship anytime during the hearing.

**(d) [Duties of Conservator]** Prior to issuance of the Letters of conservators shall purchase and read the "Handbook for Conservators" and complete and file with the Clerk the Duties of the

Conservator form. Private professional conservators as defined in Probate Code section 2341 are not required to purchase the handbook.

**(e) [Conservatorship Inventory and Appraisement]** The court requires strict compliance with the provisions of Probate Code section 2610 and the filing of the Inventory and Appraisal within ninety (90) days of the Conservator's appointment. Each inventory item shall be clearly and precisely described. In the case of real property the full legal description, street address and Assessor's parcel number must be included.

**(f) [Conservatorship Accounts]** Conservatorship accounts must conform to the requirements of the Probate Code for accountings. The hearing on the account shall be set no sooner than forty-five (45) days from the date of filing to allow the court Investigator sufficient time to complete the investigation.

If the guardian or conservator is a private professional or licensed guardian or conservator, the guardian or conservator shall lodge all original account statements showing the balance as of all periods covered by the accounting. Documents lodged pursuant to this local rule will be retained until the court's determination of the guardian's or conservator's account has become final, at which time the documents shall be returned to the depositing guardian or conservator or delivered to any successor appointed by the court.

**(g) [Conservatorship Investigation Costs]** In any conservatorship case where a court investigator has been appointed, the court will require evidence of compliance with the provisions of Probate Code section 1851.5 regarding the assessment of the investigation costs before a conservatorship is terminated and the conservator discharged.

**(h) [Appointment of Counsel for Conservatee]** If the court determines that it is in the best interests of the conservatee or the conservatee requests the appointment of counsel the court shall appoint counsel for the conservatee from the list of attorneys willing to accept such appointments maintained by the Clerk, any other attorney appropriate for such appointment or the Public Defender's Office. Within forty-eight (48) hours of the appointment, the court shall order a "meet and confer" for all counsel involved in the conservatorship proceeding, in person or by telephone.

*(Amended 07-01-09; adopted effective 07-01-98, previously amended effective 07-01-00, and 01-01-08)*

**Chapter Eighteen – SMALL CLAIMS RULES**

**1800 SMALL CLAIMS CASE CALENDARING**

*(Rule 1800 Repealed effective 07-01-09; adopted 07-01-98; amended effective 01-01-99)*

**1801 DISPUTE RESOLUTION**

In any Small Claims action, the parties may be referred to an Alternative Dispute Resolution (ADR) Officer by the assigned judicial officer on the date and time set for trial. When the court refers the a case for ADR on the date set for trial, and upon arrival of the parties in court, the ADR Officer will be present to accept the referral and. will attempt to settle the case. The case will be subject to the procedures and forms utilized for ADR proceedings. [See Chapter 11, these local rules] If ADR resolution does not occur, the parties will return to the courtroom to proceed to trial before the assigned judicial officer.

*(Amended 07-01-09; adopted effective 07-01-98)*

**1802 CONTINUANCES**

The court will grant continuances in Small Claims actions only for good legal cause. Upon a showing of good cause, the parties will be expected to agree to a new date for trial and to file court forms stating such agreement, or request that the court re-schedule the trial. Continuance dates will ordinarily be set not more than thirty (30) days after the original trial date.

*(Amended 07-01-09; adopted effective 07-01-98)*

## **Chapter Nineteen – CRIMINAL RULES**

### **1900 CRIMINAL CASE CALENDARING**

*(Rule 1900 Repealed effective 07-01-09; adopted 07-01-98; previously amended 01-01-99)*

### **1901 STAFFING, AVAILABILITY, PREPARATION, PROSECUTION & DEFENSE**

*(Rule 1901 Repealed effective 07-01-09; adopted 07-01-98; previously amended effective 01-01-99)*

### **1902 PRE-TRIAL SERVICES**

The Court has established Pre-Trial Services Units for investigation, and processing requests for setting of bail and release of arrested persons on their own recognizance and for recommendations to the court. This Unit provides the primary contact for arrested persons and law enforcement with the "after hours" duty judges for issuance of emergency orders, arrest and search warrants, own recognizance releases and setting of bail in accordance with the established bail schedule.

*(Amended 07-01-09; adopted 07-01-98; previously amended effective 01-01-99)*

### **1903 OWN RECOGNIZANCE BAIL REVIEW HEARINGS**

Hearings on applications for reduction of bail and own recognizance not less than one (1) full court day prior to the date of the hearing. Pre-Trial Services Unit staff may request a continuance of to complete their investigation and submission of their report. If a continuance is requested, the Pre-Trial Services staff will notify the defense and prosecuting attorneys promptly.

*(Amended 07-01-09; adopted effective 07-01-98)*

### **1904 MANDATORY APPEARANCES**

**(a) [Felony Cases]** Except as authorized by Penal Code Section 977(b), a defendant in a felony case must be personally present at all scheduled appearances, and at any other time ordered by the court. No felony case or hearing shall be canceled or continued without the defendant's presence in open court.

**(b) [Misdemeanor Cases]** Misdemeanor defendants may appear in person or by counsel unless the court orders a defendant to be present.

**(c) [Attorney of Record]** The attorney of record in any case must be personally present for all scheduled court appearances unless prior authorization to be absent is granted by the court.

*(Amended 07-01-09; adopted effective 07-01-98)*

**1905 ENTERING *NOLO CONTENDERE* OR GUILTY PLEA**

In all misdemeanor and felony cases, before a plea of guilty or *nolo contendere* is accepted, the defendant and the defendant's attorney shall execute and file a Court-approved form for waiver of constitutional rights.

*(Amended 07-01-09; adopted effective 07-01-98)*

**1906 SPECIAL CUSTODY ARRAIGNMENT SESSIONS**

Under special circumstances, the court may conduct an arraignment of a prisoner at the custody facility where the prisoner is confined. All hearings must be open to the public except those hearings authorized by law to be closed.

*(Amended 07-01-09; adopted effective 07-01-98)*

**1907 NOTICE OF MOTION; POINTS & AUTHORITIES**

Any motion requesting relief must be accompanied by a memorandum of points and authorities filed at least ten (10) calendar days prior to the hearing even when the opposing party waives the formality of written notice.

*(Amended 07-01-09; adopted effective 07-01-98)*

**1908 DISCOVERY**

The Court has promulgated a standing order of continuing mutual discovery pursuant to Penal Code sections 1054, *et seq.*

*(Amended 07-01-09; adopted effective 07-01-98)*

## **Chapter Twenty – JUVENILE CASES**

### **2000 JUVENILE CASE CALENDARING**

*(Rule 2000 Repealed effective 07-01-09; adopted 07-01-98; previously amended 01-01-99)*

### **2001 JUVENILE COURT PRESIDING JUDGE**

The juvenile court presiding judge shall establish policies and procedures relating to all juvenile court actions consistent with California statutes, the CRC and these local rules.

*(Amended 07-01-09; adopted 07-01-98, previously amended effective 01-01-99)*

### **2002 DETENTION FACILITIES**

**(a) [W&I Code Sec. 300 and 601 Minors]** Minors taken into temporary custody as persons described by Welfare & Institutions (W&I) Code sections 300 or 601 shall be delivered to and detained at Santa Barbara County Department of Social Services shelter care homes for W&I Code section 300 cases and to a Santa Barbara County Probation Department designated non-secure detention facility for W&I Code section 601 cases, respectively.

**(b) [W&I Code Sec. 602 Minors]** Minors taken into temporary custody as persons described by the provisions of W&I Code section 602 shall be delivered to and initially detained at the Santa Barbara Juvenile Hall facilities located in the appropriate North County or South County region consistent with rule 201.

### **2003 TRANSPORTATION OF MINORS**

Minors taken into temporary custody shall be transported by the law enforcement agency which has taken the minor into custody; provided, however, that in an emergency or if a probation officer or a child protective services caseworker has volunteered to accept responsibility for transportation of the minor, the law enforcement agency shall be relieved of the transportation responsibility. The law enforcement agency shall be responsible to provide information sufficient to complete the Juvenile Admission Record prescribed in rule 2004.

*(Amended 07-01-09; adopted effective 07-01-98)*

### **2004 INFORMATION PROVIDED AT TIME OF DELIVERY**

When a minor described by W&I Code section 602 is delivered to any designated detention facility, a Santa Barbara County Probation Department Juvenile Admission Record form shall either accompany the minor or be completed at the time custody is transferred. The information to complete the form shall be provided by a law enforcement officer having knowledge of the facts subjecting the minor to Juvenile Court jurisdiction, the facts of the apprehension and temporary custody of the minor, and, if continued detention is recommended by the law enforcement agency, the basis of such recommendation. The form shall be left with the Juvenile Hall receiving officer or the operator of either the shelter care home or non-secure facility.

*(Amended 07-01-09; adopted effective 07-01-98)*

## **2005 PROBATION DEPARTMENT DETENTION / RELEASE DECISIONS**

The Probation Department shall assign personnel on duty 24 hours a day, seven (7) days a week who are authorized to make the following release or detention decisions consistent with the criteria specified by W&I Code section 628.

- (a) designate placement of minors alleged to be subject to W&I Code section 601 jurisdiction minors at a non-secure detention facility in response to inquiries by law enforcement agencies;
- (b) release minors taken into temporary custody to a parent, guardian or responsible relative.
- (c) arrange placement in a non-secure facility for minors alleged to be subject to W&I Code section 602 jurisdiction who do not require 24-hour secure detention but are described in W&I Code section 628.
- (d) release to a parent, guardian or responsible adult on “home supervision “or electronic monitoring under terms and conditions agreed to in writing by the minors those who are alleged to be subject to W&I Code section 602 jurisdiction, who do not require 24-hour secure detention and who are not described in W&I Code section 628; and,
- (e) detain in a secure facility those minors alleged to be subject to W&I section 602 jurisdiction who are described in W&I Code section 628.

*(Amended 07-01-09; adopted 07-01-98)*

## **2006 RESERVED**

## **2007 FILING JUVENILE PETITIONS**

- (a) **[Filing Locations]** All Juvenile petitions and intercounty transfers shall be filed with the Clerk at the appropriate North County and South County region juvenile court facilities.
- (b) **[Occurrence Jurisdiction]** Petitions for both Santa Barbara County resident minors and for minors whose legal residence is outside the county shall be filed in the appropriate North County and South County region office of the Clerk where the circumstances alleged in the petition occurred.

*(Amended 07-01-09; adopted effective 07-01-98; amended effective 01-01-03)*

## **2008 PROBATION & SOCIAL SERVICES REPORTS**

Social study reports, whether prepared by the Probation Department or the Social Services Department, shall be made available to the Juvenile Court, and all parties or counsel within a reasonable time prior to the date scheduled by the court for hearings. The reports shall be filed in the same manner as juvenile petitions.

*(Amended 07-01-09; adopted effective 07-01-98)*

## **2009 COURT-APPOINTED COUNSEL IN DEPENDENCY CASES**

In all juvenile court proceedings filed pursuant to W&I Code section 300 the appointment and substitution or relief of counsel for the parties shall be governed by CRC 5.660 and by these local rules.

### **(a) Competency of Appointed Counsel**

1. Attorneys appointed to represent parties in dependency cases are required to meet the standards of training and competency prescribed in CRC 5.660. The juvenile court judicial officers may require proof that counsel have successfully completed the continuing education and training required by Rule 5.660.
2. Counsel failing to complete required continuing education, or otherwise demonstrating a lack of such professional skill, learning, and ability as is required to fulfill competently the responsibilities of appointed counsel for parties in dependency cases, will be prohibited by the court from further appointment, until these requirements are met.
3. These standards do not apply to privately retained counsel.
4. The assignment to appear in a dependency case on behalf of a party represented by a public office, including the Attorney General, District Attorney, Public Defender and County Counsel, constitutes an implied certification to the court that in the opinion of the head of the agency, the assigned deputy possesses the skill, learning, experience, and training required by these rules and appropriate to the representation undertaken. No other or further certification is required in the absence of particular evidence of a lack of qualifications required by Rule 5.660.

*(Amended 07-01-09; adopted effective 07-01-99)*

### **(b) Review and Resolution of Complaints by Parties**

Complaints by parties concerning the adequacy of representation by appointed counsel shall be referred to the court when informal discussion between counsel and the client does not resolve the complaint to the client's satisfaction. All appointed counsel have the duty to bring unresolved complaints regarding representation to the attention of the judicial officer to whom a case is assigned. Counsel have the duty to tell parties dissatisfied with their representation of their right to bring the matter to the attention of the court. When necessary to protect the privacy of the complaining party or the confidentiality of information protected by the attorney-client privilege, the court will examine the complaint of the party *in camera*, by procedures analogous to a hearing in criminal cases pursuant to *People v. Marsden* (1970) 2 Cal.3d 118.

### **(c) Procedures to Inform Court of Interests of Dependent Child**

All counsel have a continuing duty to advise the court of any information bearing upon the best interests of a minor subject to dependency proceedings that is not privileged under applicable law. However, counsel have no duty under this rule to disclose information

adverse to the interest of counsel's client, where such disclosure would violate a privilege or the Rules of Professional Conduct.

**2010 COURT-APPOINTED SPECIAL ADVOCATES (CASA)**

**(a) [Adoption and Oversight of CASA Program]** The court designates CASA of Santa Barbara to recruit, screen, select, train, supervise, and support lay volunteers for appointment by the court to help define the best interests of the child in juvenile court dependency and wardship proceedings. CASA of Santa Barbara shall comply with CRC 5.655.

**(d) [CASA Reports; Distribution]** Court-appointed CASA volunteers shall submit a written court report for all hearings; for filing with the court no later than two court days prior to a hearing. Copies shall be served on attorneys for the parties and the child welfare case worker or probation officer, as appropriate.

No copies of CASA reports will be distributed to foster parents, group homes, or any other parties or organizations not specifically provided herein except as may be required by California statutes, the CRC, these local rules or upon order of a Judge of the Juvenile Court.

*(Amended 07-01-09; adopted effective 07-01-03)*

**2011 SETTLEMENTS, DISCOVERY & OTHER PROCEDURES**

**(a) Settlement Conference**

The court will set a pretrial (readiness and settlement) conference for every contested action. Cases will not ordinarily be scheduled for a contested hearing until all parties who have appeared in the action have been served with the report and recommendation of the petitioner.

**(b) Discovery**

1. All discovery materials should be exchanged between the parties and served upon all other parties who have appeared in the action no later than the pretrial conference.
2. When a witness with relevant evidence is discovered after the pretrial conference, the party who seeks to present the testimony shall serve all parties who have appeared in the action with appropriate discovery information on the next court day.

*(Adopted 07-01-09; formerly subsection (a) of rule 2009, adopted effective 07-01-98)*

## **Chapter Twenty-One – TRAFFIC CASES**

### **2100 TRAFFIC CASE CALENDARING**

*(Rule 2100 Repealed 07-01-09; adopted effective 07-01-90; amended effective 01-01-09)*

### **2101 MINISTERIAL AUTHORITY OF CLERK**

The Clerk is authorized to process bail forfeitures, proofs of correction, initial continuances, traffic school referrals and other ministerial or minor discretionary matters to the extent permitted by law and subject to the directions, policies and procedures of the region where a case is pending. CRC 4.104 Vehicle Code section 41501 and 42005].

*(Amended 07-01-09; adopted 07-01-98; previously amended effective 01-01-99, and 01-01-03)*

### **2102 CONTINUANCES BY CLERK**

The Clerk has authority to grant extensions of court appearances for traffic infractions, including mechanical defects charges, for not more than thirty (30) calendar days after the date noted on the citation for the first scheduled appearance. The Clerk shall not grant extensions of any court appearances in misdemeanor offenses without approval of a judicial officer.

*(Amended 07-01-09; adopted effective 07-01-98; previously amended effective 01-01-03, and 07-01-03)*

### **2103 TRAFFIC CITATION RELEASES**

All persons released on their promise to appear in infraction cases by a law enforcement agency shall be required to appear for arraignment in court between twenty-one (21) and thirty (30) calendar days after issuance of the notice to appear.

*(Amended 07-01-09; adopted effective 07-01-98)*

### **2104 RELEASE ON BAIL**

All persons released on bail by a law enforcement agency in a misdemeanor traffic action shall be required to appear in the traffic court not more than thirty (30) calendar days after the acceptance of bail.

*(Amended 07-01-09; adopted effective 07-01-98)*

### **2105 TRAFFIC SCHOOL**

Successful completion of a certified traffic school program is permitted as a method of disposition and dismissal of specified traffic infractions consistent with directions provided by the Clerk. Upon posting bail and paying an additional administrative fee, the Clerk may authorize traffic school attendance without further approval of a judicial officer. [Vehicle Code section 42007]

*(Amended 07-01-09; adopted 07-01-98; previously amended effective 01-01-99)*

## **2106 TRIAL BY WRITTEN DECLARATION**

A defendant may elect a trial by written declaration on an alleged violation of a Vehicle Code infraction or any local ordinance adopted pursuant to Vehicle Code section 40902.

*(Amended 07-01-09; adopted effective 07-01-98)*

## **2107 FAILURE TO APPEAR; TRIAL BY WRITTEN DECLARATION**

**(a) [Failure to Appear; Proceeding In Absentia]** Failure to appear as promised (FTA) on a traffic infraction will result in the Court deeming that the defendant has consented that the Court may proceed *in absentia*, in a trial by written declaration pursuant to Vehicle Code section 40903, and the case will be adjudicated solely on the merits of the citing document. The Court will notify the defendant of the disposition of the case and the amount of imposed fines and penalties, and a notice of conviction shall be reported to the California Department of Motor Vehicles.

**(b) [Late Charges on Failure to Pay]** A civil assessment in the amount of three hundred dollars (\$300.00) will be added to any sums not paid within twenty (20) calendar days of mailing the notice prescribed in subsection (a) [Penal Code sec. 1214.1].

**(c) [License Renewal Hold]** Failure to pay (FTP) a fine will result in the court notifying the Department of Motor Vehicles (DMV) pursuant to Vehicle Code section 40509.5 of such failure. The DMV will then suspend the driver's license pursuant to Vehicle Code section 13365.

*(Amended 07-01-09; adopted effective 07-01-98)*

**APPENDICES**

**APPENDIX 1: COURT GEOGRAPHIC JURISDICTION MAP**

[http://www.sbcourts.org/general\\_info/SuperiorCourtJurisdiction.gif](http://www.sbcourts.org/general_info/SuperiorCourtJurisdiction.gif)

**APPENDIX 2: SPECIAL LOCAL COURT FORMS**

[http://www.sbcourts.org/general\\_info/forms.htm](http://www.sbcourts.org/general_info/forms.htm)

**APPENDIX 3: SUPERIOR COURT SERVICES, FILING FEES & CHARGES**

[http://www.sbcourts.org/general\\_info/fees/](http://www.sbcourts.org/general_info/fees/)

**APPENDIX 4: APPROVED COURT SERVICE VENDOR RATE & FEE SCHEDULE**

(For Non-Employee, Professional and Specialized Personal Services TO the Courts)

[http://www.sbcourts.org/general\\_info/fee\\_sched.htm](http://www.sbcourts.org/general_info/fee_sched.htm)

**APPENDIX 5: GUIDELINES FOR ATTORNEYS PRACTICING BEFORE THE  
SANTA BARBARA COUNTY TRIAL COURTS**

[http://www.sbcourts.org/general\\_info/APPENDIX5.pdf](http://www.sbcourts.org/general_info/APPENDIX5.pdf)

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