



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, 2018

LOCAL RULES OF COURT
EFFECTIVE: July 1, 2018

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SUPERIOR COURT ORGANIZATION & LOCATIONS

- JULY 1, 2018 -

COURT LOCATIONS
Address / Phone, FAX

Judicial Officers / Managers

SOUTH SANTA BARBARA COUNTY LOCATIONS:

Darrel E. Parker, *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

Donna Geck, Judge

Brian Hill, Judge

James Herman, Judge

Pauline Maxwell, Judge

Colleen Sterne, Judge

Mark Hanson, *Manager*

Figueroa Building

118 East Figueroa Street
Santa Barbara, CA 93101
(805) 882-4735
FAX (805) 882-4647

Filings Of

Criminal,
Traffic, Infractions,
Appeals

Thomas Adams, Judge

Clifford Anderson III, Judge

Michael Carrozzo, Asst. Presiding Judge

Jean Dandona, Judge

Von Deroian, Commissioner

Raimundo Montes de Oca, Judge

Angela Braun, *Manager*

Juvenile – Santa Barbara

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

Filings Of

Juvenile Petitions

Jean Dandona, Judge

NORTH SANTA BARBARA COUNTY LOCATIONS:

Darrel E. Parker, *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

Jed Beebe, Judge

Von Deroian, Commissioner

Arthur A. Garcia, Judge

James F. Rigali, Judge

Timothy J. Staffel, Judge

Ellen Scott, *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

Patricia Kelly, Presiding Judge

Kay Kuns, Judge

Gustavo Lavayen, Judge

John F. McGregor, Judge

James Voysey, Judge

Sheryl Edwards, *Manager*

Juvenile-Santa Maria

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

Filings Of

Juvenile Petitions

Arthur A. Garcia, 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

TBD, Judge

Carmen Hay, *Supervisor*

Solvang Building

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

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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Santa Barbara, CA 93101
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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.” A map depicting this geographic division is contained in “Appendix 1” of these local rules.

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.

(Amended effective 07-01-18; adopted 07-01-98; previously amended effective 07-01-09 and 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. The title of the Court required to be placed on the first page of documents pursuant to CRC 2.111 includes the name of the appropriate Court division.

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.

(Amended effective 07-01-18; adopted 07-01-99 previously amended effective 07-01-09 and 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. With respect to documents which are not required to be e-filed under Local Rule 1012, the Clerk shall not refuse to accept for filing a document delivered to the Clerk’s Office in a division different from the appropriate filing venue, provided that the document is otherwise legally acceptable for filing.

(Amended effective 07-01-18; adopted 07-01-98; previously amended effective 07-01-09 and 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 COURT EMPLOYMENT CONFLICT OF INTEREST CODE

(a) [Adoption of Code] The Santa Barbara County Superior Court hereby adopts this Conflict of Interest Code, as provided by Article 3, commencing with Section 87300, of the California Government Code; which hereby incorporates, by reference, Title II Section 18730 of the California Code of Regulations, and any subsequent amendments thereto.

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

(c) **[Place of Filing; Filing Officer]** The Superior Court Executive Officer and Clerk of the Court 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 required Statement of Economic Interests forms required by this Rule, the Court’s Human Resources 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 Superior Court of Santa Barbara County hereby adopts the following appendices to the Standard Code:

**APPENDIX I
DESIGNATED EMPLOYMENT CLASSIFICATIONS**

Judges and Court 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, as set forth in Appendix II:

CLASSIFICATION	DISCLOSURE CATEGORY
Superior Court Executive Officer	1, 2
Assistant Superior Court Executive Officer	1, 2
Information Technology Director	1, 2
Chief Financial Officer	1, 2
Procurement Specialist	1, 2
Procurement Specialist Senior	1, 2
Human Resources Manager	1, 2
Legal Research Attorney	3
Legal Research Attorney Senior	3
Legal Research Attorney Supervisor	3
Family Law Facilitator	1, 2
Family Custody Mediator	1, 2
Family Custody Mediator Sr	1, 2
Family Custody Supervisor	1, 2
Court Investigator	1, 2
Consultants	1

**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 these Courts 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 Section 87103 of the Government Code, 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 Section 4(c) of the Standard Code. An employee who disqualified himself or herself from participating in a case or assignment in which he or she had a financial interest, shall disclose the case or assignment and the disqualifying interest, and file the statement with the Filing Officer.

(Adopted 07-01-98. As amended, eff. 01-01-11)

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

Rule number 605 is reserved for future use.

(Rule 605 repealed effective 07-01-18; adopted 07-01-98; previously amended effective 07-01-09 and 01-01-03.)

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

Rule number 701 is reserved for future use.

(Rule 701 repealed effective 07-01-18; adopted 07-01-98; previously amended effective 07-01-09, 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

Rule number 705 is reserved for future use.

(Rule 705 repealed effective 07-01-18; adopted 07-01-98; previously amended effective 07-01-09, 01-01-01 and 01-01-08)

706 COMPROMISE OF CLAIMS; ATTORNEY'S INTEREST DISCLOSURE

Rule number 706 is reserved for future use.

(Rule 706 repealed effective 07-01-18; adopted effective 07-01-98; amended 07-01-09)

707 CIVIL DEFAULT CASES; ATTORNEY FEES

(a) Reasonable Attorney Fees. In default cases, when the obligation sued on provides for the recovery of reasonable attorneys' fees, the following schedule will apply to the principal amount of the judgment unless otherwise provided by law or determined by the court:

\$0.01 to \$1,000, \$250;
\$1,000.01 to \$5,000, \$250 plus 20% of the excess over \$1,000;
\$5,000.01 to \$10,000, \$1,050 plus 15% of the excess over \$5,000;
\$10,000.01 to \$15,000, \$1,800 plus 10% of the excess over \$10,000;
\$15,000.01 to \$50,000, \$2,300 plus 5% of the excess over \$15,000;
\$50,000.01 to \$100,000, \$4,050 plus 2% of the excess over \$50,000;
Over \$100,000, \$5,050 plus 1% of the excess over \$100,000.

When the plaintiff is entitled to an award of attorneys' fees in an unlawful detainer default judgment, the sum of One Thousand Dollars (\$1000.00) will be awarded.

(b) Attorney Fees Different From Schedule. A party may apply for award of attorney fees in excess of the applicable fee determined under subdivision (a) by appropriate request supporting the higher award as provided by CRC 3.1800(a)(9). The Court may, in exercise of its discretion and in compliance with applicable law, award attorney fees in an amount greater than or less than the applicable fee determined under subdivision (a).

(c) Application of Rule. This local rule does not apply to applications for an award of attorney fees under Probate Code sections 3600-3601. This local rule shall not be construed to permit an award of attorney fees where otherwise prohibited or limited by law.

(Amended 07-01-18; adopted effective 07-01-98; previously amended effective 01-01-16 and 07-01-09)

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 supervisorial district in which the applicant resides. The Clerk shall randomly draw an appropriate number of applicants as directed by the Court from each supervisorial 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

Rule number 803 is reserved for future use.

(Rule 803 repealed effective 07-01-18; adopted effective 07-01-99; amended 07-01-09)

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

Parties seeking a continuance of any matter must apply to the Court in the manner provided by law, i.e., by stipulation, by ex parte application, or by noticed motion. Except where otherwise required by law, continuances are granted or denied in the court's discretion and are not granted solely on the basis of the stipulation of the parties. The Clerk is not authorized to continue a matter without an order from the Court.

(Amended 07-01-18; adopted effective 07-01-98; previously amended effective 07-01-99)

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

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 07-01-18; adopted effective 07-01-98; previously amended effective 07-01-09)

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) Counsel or self-represented parties may appear by telephone as permitted by CRC 3.670. Those appearing by telephone must be at the telephonic appearance at least five minutes prior to the time set for the hearing.
- (b) Telephone appearances are provided through a private vendor under agreement with the Court. Those wishing to appear by telephone must comply with CRC 3.670, arrange for the appearance with the vendor, and follow the vendor's instructions for the appearance. Contact information for the telephonic conference vendor is available on the Court's website: sbcourts.org.

(Amended 07-01-18; adopted effective 07-01-98; previously amended effective 07-01-09 and 01-01-99)

1006 AVAILABLE COURT REPORTING SERVICES

Subject to Government Code section 68086 and CRC 2.956, official reporting services are normally available in all Departments of the Court for trials and all other proceedings in civil cases, excepting small claims hearings and ex parte proceedings.

(Adopted effective 07-01-18; former Rule 1006, adopted 07-01-98, was repealed effective 07-01-09)

1007 ADMINISTRATIVE RECORDS IN ADMINISTRATIVE WRIT CASES

(a) **[Form of Record]** In any proceeding brought under Code of Civil Procedure section 1094.5 or otherwise requiring the lodging or filing of an administrative record, the administrative record should, if feasible, be lodged electronically as a permissible e-filing under Local Rule 1012. Otherwise, an electronic version of the administrative record should be lodged in tangible form (i.e., on a thumb drive, CD, or DVD) in lieu of or in addition to a hardcopy version of the administrative record.

(b) **[Confidential Records]** If any part of the administrative record is confidential, the party lodging the administrative record must clearly identify and separate the record into a public access version, if any part is not confidential, and a confidential version. The confidential version shall be lodged provisionally under seal. If the confidential part of the administrative record is confidential by law, the party lodging the administrative record shall include in its notice of lodging both a statement that the confidential version of the administrative record is confidential by law and a citation to the authority for confidentiality. Otherwise, the parties shall comply with CRC 2.550 and 2.551.

(Adopted effective 07-01-18; former Rule 1007, adopted 07-01-98, was repealed effective 07-01-09)

1008 DIRECT FILING BY FAX

(a) [Fax Filing Requirements] Except for documents subject to mandatory e-filing under Local Rule 1012, any party may file documents by fax directly to the Court. Direct filing by fax must be made in full compliance with Code of Civil Procedure section 1010.5 and CRC 2.300 – 2.306. Where feasible and optional, parties are strongly encouraged to e-file rather than fax file documents.

(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 07-01-18; adopted effective 07-01-98; previously amended effective 07-01-09, 01-01-03 and 01-01-99)

1009 EX PARTE ORDERS

All applications for ex parte orders shall comply with CRC 3.1200-3.1207 and shall be e-filed where mandatory under Local Rule 1012. Applications which are not required to be e-filed under Local Rule 1012 shall be filed in the Clerk’s office of the appropriate court division where the case is pending.

(Amended 07-01-18; adopted effective 07-01-98; previously amended 07-01-09)

1010 COURT RECORDS MANAGEMENT & ACCESS

Access to review records in the court’s public electronic and non-electronic files is available at the Clerk’s Office under the supervision of court personnel as provided by law. Copies of such records are available from the Clerk upon request, subject to any established court charge.

(Amended 07-01-18; adopted effective 01-20-05; previously amended 07-01-09; 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

For documents not e-filed, 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 07-01-18; adopted effective 01-01-03; previously amended 07-01-09)

1012 E-FILING

(a) Scope.

(1) Mandatory E-Filing. Except as set forth in subdivision (a)(2), all documents presented for filing in all civil cases, including limited, unlimited, complex, small claims, family law, and probate, must be electronically filed (e-filed) with the court as provided in Code of Civil Procedure section 1010.6 and California Rules of Court, rules 2.250 through 2.261.

(2) Exceptions to Mandatory E-Filing. The following documents are not subject to mandatory e-filing under subdivision (a)(1):

(i) Documents presented for filing by a self-represented party. Although not required, self-represented parties are encouraged to e-file documents.

(ii) Documents ordered by the court as exempt from e-filing. A party may seek a court-ordered exemption by ex parte application for reason of undue hardship, significant prejudice, or other good cause.

(iii) Documents and other materials that are not feasibly converted to electronic form by scanning, imaging, or other means.

(iv) Documents lodged with the court provisionally under seal pursuant to California Rules of Court, rule 2.551, or lodged with the court as confidential documents such as settlement conference briefs or documents lodged for any other reason.

(v) Documents with jurisdictional time limits, including notices of appeal, motions for new trial, motions for JNOV, motions to quash service for personal jurisdiction, and petitions for writs. Although not required, e-filing of these documents is encouraged.

(vi) Original documents required for a proceeding, including bench warrants, subpoenaed documents, affidavits re real property of small value, bonds, undertakings, account statements submitted by a conservator, letters (probate, guardianship, conservatorship), and wills and codicils (for filing or safekeeping).

(vii) Documents presented for filing in cases under seal.

(3) Procedure for Excepted Documents. Unless otherwise ordered by the court, documents listed in subdivision (a)(2)(i), (ii), (iv), (v), and (vii) may be permissively e-filed with the court at the election of the filing party. Documents excepted from mandatory e-filing under subdivision (a)(2), and not permissibly e-filed, are to be filed or lodged with the court as provided by the Code of Civil Procedure and California Rules of Court for documents not e-filed.

(b) Procedure for E-Filing.

(1) Use of Approved Provider. The electronic filing of documents required by this rule must be effected through a court-approved electronic filing service provider. A list of approved electronic filing service providers is available on the court's website: sbcourts.org. In addition to terms required by the California Rules of Court, the court's contract with an electronic filing service provider may require that documents e-filed meet court-provided specifications.

(2) E-Filing Fees. Electronic filing service providers may charge reasonable fees in addition to any filing fees required by the court. Any party who has received a fee waiver from the court, or who has otherwise obtained an order of the court waiving such fees, is exempt from the fees and costs associated with electronic filing.

(3) Courtesy Copies. The court may by order require the delivery of paper courtesy copies of e-filed documents.

(4) E-Service. Unless otherwise ordered by the court, electronic service of e-filed documents is optional as provided in California Rules of Court, rules 2.251 and 2.253.

(c) Format of E-Filed Documents.

(1) Required Formatting. All electronic documents must be in text searchable format and must comply with the formatting and content requirements of the California Rules of Court for electronic documents, including particularly CRC 3.1110(f)(4) requiring electronic bookmarks. Additional formatting requirements are set forth on the court's website: sbcourts.org.

(2) Compliance. Compliance with all of the formatting requirements for electronic documents is extremely important for the court's timely consideration of e-filed documents. In cases of noncompliance, the court may, in its discretion, order any, or all, of the following in addition to any other sanction permitted by law: (i) the noncomplying document to be stricken as improperly filed; (ii) the continuance of the hearing to which the noncomplying document pertains; or, (iii) the imposition of monetary sanctions for violation of the California Rules of Court or these Local Rules, following adequate notice and an opportunity to be heard.

(Amended 07-01-18; Adopted effective 01-01-16)

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 COURT ADMINISTERED DISPUTE RESOLUTION (CADRe)

(a) [Arbitration Administrator] The ADR Administrator shall serve as ADR program administrator for all court administered ADR as provided in CRC 10.783, including serving as Arbitration Administrator for judicial arbitration. The ADR Administrator shall establish such local forms, lists of arbitrators and other procedures necessary to implement the Judicial Arbitration Program, and other court administered ADR programs to the extent not otherwise provided by law or the Standards of Judicial Administration.

(b) [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).

(c) [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.

(Amended 07-01-18; adopted effective 07-01-98; previously amended effective 07-01-09 and 01-20-05)

1102 CADRe METHODS

(a) [Applicability of Certain Methods] The Court will make a determination of the amount in controversy at the CMC pursuant to Code of Civil Procedure sections 1141.16 and 1775.5.

(b) [Amount in Controversy Does Not Exceed \$50,000] Where the Court determines that the amount in controversy does not exceed \$50,000 for each plaintiff, the court shall order the parties to engage in either of the following ADR processes unless exempt by law:

- (1) Judicial arbitration pursuant to Code of Civil Procedure section 1141.10 et seq. and CRC 3.810 et seq.; or,
- (2) Limited Mediation in lieu of judicial arbitration pursuant to Code of Civil Procedure section 1775 et seq. (“CADRe Limited Mediation”) subject to program rules, at the request of the parties or in the discretion of the court.

(c) [Amount in Controversy Exceeds \$50,000] Where the Court determines that the amount in controversy exceeds \$50,000, the Court may order the parties to attend a continued Case Management and ADR Early Settlement Session (“CMADRESS”) orientation conference with a court-appointed neutral. The neutral will meet with the parties and their counsel to discuss the case with respect to issues of trial preparation, the volume of anticipated discovery, and the potential costs of the litigation if pursued through trial, and to 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 neutral assigned to the case for the first 1.5 hours of the session. The neutral 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.

(d) [Settlement Conferences] The Court may order one or more mandatory settlement conference in all cases to be conducted pursuant to CRC 3.1380. At the request of the parties, the Court may in its discretion order mediation in addition to or in lieu of a mandatory settlement conference.

(e) [Stipulations] The parties may stipulate to ADR processes in addition to or different from CADRe processes ordered by the Court. If an ADR process is stipulated, 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. If the parties elect to pursue private ADR with their own neutral and at their own expense, they must inform the Court at the CMC and the Court will exempt them from the CMADRESS conference. Parties attending the CMADRESS conference may continue mediation or other ADR with the assigned neutral 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.

(f) [Participation] All parties are required to participate in court ordered ADR processes in good faith. Personal attendance at the CMADRESS and mandatory settlement conferences is required of all parties, their attorney and any claims representatives, except for defendants who are fully insured and represented by a claims agent for their insurance carrier and who do not have to consent to a settlement. Requests for excused personal attendance must be directed to the Mandatory Settlement Conference Judge.

(Amended 07-01-18; adopted 01-01-98; previously amended effective 07-01-09 and 01-20-05)

1103 ADR TIMING AND COMPLETION

(a) [Timing] 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.

(b) [Court Monitoring] At the time an ADR process is ordered by the Court, or at any time in the Court’s discretion, the Court may schedule a follow-up CMC or order to show cause to ensure that the ADR process has been completed by the time set by the Court. Any continuance of dates scheduled for ADR, including mandatory settlement conference dates and completion dates, must be directed to the assigned trial judge. Participation in an ADR process shall not affect time periods specified in the Trial Court Delay Reduction Act.

(c) [Settlement] 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) [Follow-Up Reports] The neutral will be directed by the Court to report to the CADRe Director on the CMADRESS conference using a form approved by the Court’s ADR Committee and provided to the neutral upon assignment of the case. The completed forms will be filed with the Court.

(Adopted effective 07-01-18)

1104 PROCEDURES FOR HANDLING COMPLAINTS ABOUT COURT PROGRAM MEDIATORS

(a) Application

This rule establishes the court’s procedures for receiving, investigating, and resolving complaints about mediators in the court’s mediation program for general civil cases, as required by rule 3.868 of the California Rules of Court. Nothing in this rule should be interpreted in a manner inconsistent with rules 3.865–3.862 of the California Rules of Court or as limiting the court’s inherent or other authority, in its sole and absolute discretion, to determine who may be included on or removed from its list of mediators or who may be recommended, selected, appointed, or compensated as a mediator by the court. This rule also does not limit the court’s authority to follow other procedures or take other actions to ensure the quality of mediators who serve in the court’s mediation program in contexts other than when addressing a complaint. The failure to follow a requirement or procedure in this rule will not invalidate any action taken by the court in addressing a complaint.

(b) Definitions

As used in this rule:

(1) “The rules of conduct” means the Rules of Conduct for Mediators in Court-Connected Mediation Programs for Civil Cases set out in rules 3.850–3.860 of the California Rules of Court.

(2) “Court-program mediator” means a mediator who:

(A) Has agreed to be included on the court’s list or panel of mediators for general civil cases and is notified by the court or the parties that he or she has been selected to mediate a case within the court’s mediation program; or

(B) Has agreed to mediate a general civil case in the court’s mediation program after being notified by the court or the parties that he or she was recommended, selected, or appointed by the court or will be compensated by the court to mediate that case.

(3) “Inquiry” means an unwritten communication presented to the court’s complaint coordinator indicating that a mediator may have violated a provision of the rules of conduct.

(4) “Complaint” means a written communication presented to the court’s complaint coordinator indicating that a mediator may have violated a provision of the rules of conduct.

(5) “Complainant” means the person who makes or presents a complaint.

(6) “Complaint coordinator” means the person designated by the presiding judge to receive complaints and inquiries about the conduct of mediators.

(7) “Complaint proceeding” means all of the proceedings that take place as part of presenting, receiving, reviewing, responding to, investigating, and acting on any specific inquiry or complaint.

(8) “Mediation communication” means any statement that is made or any writing that is prepared for the purpose of, in the course of, or pursuant to a mediation or a mediation consultation, as defined in Evidence Code section 1115, and includes any communications, negotiations, and settlement discussions between participants in the course of a mediation or a mediation consultation.

(c) Confidentiality

(1) Preserving the confidentiality of mediation communications

All complaint proceedings will be conducted in a manner that preserves the confidentiality of mediation communications, including but not limited to the confidentiality of any communications between the mediator and individual mediation participants or subgroups of mediation participants.

(2) Confidentiality of complaint proceedings

All complaint proceedings will occur in private and will be kept confidential. No information or records concerning the receipt, investigation, or resolution of an inquiry or a complaint will be open to the public or disclosed outside the course of the complaint proceeding except as provided in rule 3.871(d) of the California Rules of Court or as otherwise required by law.

(d) Submission of inquiries and complaints to the complaint coordinator

All inquiries and complaints should be submitted or referred to the complaint coordinator.

(e) Addressing inquiries

If the complaint coordinator receives an inquiry, the coordinator must inform the person making the inquiry that the complaint procedure provides for investigation of written complaints only and that the person should submit a written complaint if he or she wants the court to conduct an investigation or take action. If the person does not submit a complaint, the complaint coordinator may prepare a written summary of the inquiry.

(f) Acknowledgment and preliminary review of complaints

(1) Acknowledgment of complaints

When the complaint coordinator receives a complaint, the coordinator will send the complainant a written acknowledgment of this receipt.

(2) Preliminary review of complaints

(A) The complaint coordinator will review each complaint to determine whether it warrants investigation or can be promptly, informally, and amicably resolved or closed. The coordinator may:

(i) Informally contact the complainant to obtain clarification or additional information or to provide information that may address the complainant's concern.

(ii) Communicate informally with the mediator to obtain the mediator's perspectives.

(B) If it appears to the complaint coordinator that the mediator may have violated a provision of the rules of conduct, the complaint coordinator must inform the mediator about the complaint and give the mediator an opportunity to provide an informal response.

(C) The complaint coordinator may close a complaint without initiating an investigation if:

(i) The complaint is withdrawn by the complainant;

(ii) No violation of the rules of conduct appears to have occurred or the complaint is without sufficient merit to warrant an investigation;

(iii) The conduct alleged would constitute a very minor violation of the rules of conduct, the coordinator has discussed the complaint with the mediator, and the mediator has provided an acceptable explanation or response; or

(iv) The complainant, the mediator, and the complaint coordinator have agreed on a resolution to the complaint.

(3) Notification of closure

If the complaint coordinator closes a complaint without initiating an investigation, the coordinator must send the complainant notice of this action.

(g) Appointing an investigator or a complaint committee

The presiding judge will appoint an investigator who has experience as a mediator and is familiar with the rules of conduct, or a complaint committee that includes at least one such individual, to investigate and make recommendations concerning any complaint that is not resolved or closed by the complaint coordinator as a result of the preliminary review.

(h) Investigations

(1) Application

The procedures in this rule apply only if a complaint is not resolved or closed through the preliminary review or if the complaint coordinator initiates an investigation under (3).

(2) Referral of a complaint for investigation

If a complaint is not closed as a result of the preliminary review, the complaint coordinator will refer it to the investigator or complaint committee for investigation. The complaint coordinator will provide the investigator or complaint committee with a summary of the preliminary review that includes:

(A) A copy of the complaint;

(B) A copy or summary of any response from the mediator;

(C) A list of any violations of the rules of conduct that it appears may have occurred; and

(D) Copies of any previous complaints about the mediator and any written summaries of inquiries that are relevant to the current complaint.

(3) Initiation by the complaint coordinator

The complaint coordinator may initiate an investigation based on information received from any source, including an inquiry, indicating that a mediator may have violated a provision of the rules of conduct. To initiate the investigation, the complaint coordinator must refer the information received to an investigator or complaint committee with a list of the violations of the rules of conduct that it appears may have occurred.

(4) Mediator's notice and opportunity to respond

(A) The investigator or complaint committee must provide the mediator with a copy of the materials provided to the investigator or complaint committee by the complaint coordinator under (2) or (3).

(B) The mediator will be given an opportunity to respond to the complaint and the list of apparent violations.

(5) Preparing report and recommendation

The investigator or complaint committee will conduct the investigation that the investigator or complaint committee considers appropriate. Thereafter, the investigator or complaint committee will prepare a written report that summarizes the investigation and states the investigator's or complaint committee's recommendation concerning the final decision on the complaint. The investigator or complaint committee may recommend one or more actions that are permissible under rule 3.870 of the California Rules of Court.

(6) Informing mediator of recommendation

The investigator or complaint committee may inform the mediator of its recommendation and inquire whether the mediator accepts that recommendation. If the mediator accepts the recommendation, the investigator's or complaint committee's report must indicate this.

(7) Submitting report and recommendation

The investigator or complaint committee must submit its report and recommendation to the complaint coordinator. The complaint coordinator must promptly forward a copy of the report and recommendation to the presiding judge or to his or her designee.

(i) Final decision on a complaint that was investigated

(1) Responsibility for final decision

The presiding judge is responsible for making the final decision about the action to be taken on any complaint that was investigated under subdivision (h) or for designating another judicial officer or a committee that includes a judicial officer to perform this function.

(2) Acting on recommendation

(A) Within 30 days after the investigator's or complaint committee's recommendation is forwarded to the presiding judge or the presiding judge's designee, the presiding judge or designee may submit to the complaint coordinator a decision:

(i) Affirmatively adopting the investigator's or complaint committee's recommendation as the final decision on the complaint; or

(ii) Directing a different action that is permissible under rule 3.870 of the California Rules of Court.

(B) If the presiding judge or his or her designee does not submit a decision within 30 days after the complaint committee's recommendation is forwarded, as provided in (A), the investigator's or complaint committee's recommendation will become the final decision on the complaint.

(3) Notification of final action

The complaint coordinator must promptly notify the complainant and the mediator in writing of the final action taken by the court on the complaint.

(4) Authorized disclosures

After the decision on a complaint, the presiding judge, or a person whom the presiding judge designates to do so, may authorize the public disclosure of information or records concerning the complaint proceeding that do not reveal any mediation communications. The disclosures that may be authorized under this subdivision include the name of a mediator against whom action has been taken, the action taken, and the general basis on which the action was taken. In determining whether to authorize the disclosure of information or records under this subdivision, the presiding judge or designee should consider the purposes of the confidentiality of complaint proceedings stated in rule 3.871 of the California Rules of Court.

(j) Interim suspension pending a final decision on a complaint

If the preliminary review or the investigation indicates that a mediator may pose a threat of harm to mediation participants or to the integrity of the court's mediation program, the presiding judge or the other judicial officer or committee designated by the presiding judge to make the final decision about the action to be taken on any complaint may suspend the mediator from the court's panel or list pending final decision on the complaint. The complaint coordinator may make a recommendation to the presiding judge or the designee regarding such a suspension.

(Adopted effective 07-01-18)

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. (Cal. Const., art. VI, § 4; Code Civ. Proc., § 77, subd. (a); 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. Pursuant to Code of Civil Procedure section 77, subdivision (h), appeals from convictions of traffic infractions may be heard and decided by one judge of the appellate division designated by the presiding judge of the appellate division.

(Amended 01-01-18; adopted 07-01-98; previously amended effective 07-01-09, and 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 8.916, 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)

1207 RECORD ON APPEAL

(a) Burden of Providing the Record

Appellant has the burden of ensuring that the Appellate Division has an adequate record for review. Any party who desires the court to review testimony must provide a reporter's transcript, an agreed statement, or a statement on appeal. (Cal. Rules of Court, rule 8.834, 8.836 and 8.837) Any party desiring the court to review exhibits must cause the exhibits to be transmitted to the Appellate Division. (Cal. Rule of Court, rule 8.843)

(b) Reporter's Transcript or Statement

Appellant has the burden of ensuring that the Appellate Division has an adequate record for review of the issues being on appeal. If this includes a record of the oral trial proceedings, the appellant must timely file a notice of election to proceed on appeal with either the reporter's transcript or a statement on appeal (Cal. Rule of Court, rule 8.864 and 8.915).

(c) Exhibits

Any party who wants the Appellate Division to consider exhibits that were admitted, refused, or lodged in the trial court, must comply with California Rule of Court, rule 8.870 or 8.921.

(Adopted effective 07-01-14)

1208 BRIEFS

(a) Time for filing

After the record on appeal has been certified, the Appellate Division will issue a notice

setting the briefing schedule. (Cal. Rules of Court, rule 8.881, 8.925.)

(b) Failure to Comply

The failure of the appellant in a civil, misdemeanor, or an infraction appeal to timely file an opening brief will result in a clerk's notice of default, and the failure to cure the default may result in dismissal of the appeal. The failure of the respondent in a civil case to file its brief may result in the appeal being decided on the appellant's brief and any oral argument by appellant. The failure of the defendant, who is the respondent in a misdemeanor or infraction appeal, to timely file a brief, will result in a clerk's notice of default, and the failure to cure the default will result in the appeal being decided on the appellant's brief and any oral argument by appellant. (Cal. Rule of Court, rule 8.882, subd. (c), and 8.927(b).)

(c) Content and Format

All briefs filed in a civil or misdemeanor appeal must comply with California Rules of Court, rule 8.883, and in an infraction appeal with rule 8.892. Briefs must be two-hole punched at the top and stapled on the top left corner.

No attachments to the briefs, including exhibits, are permitted. (Exhibits may be lodged with the Court pursuant to California Rules of Court, rule 8.870 or 8.921 but not attached to the brief). Parties must provide an original of the brief and three additional copies to the clerk.

(d) Length

Unless permission is obtained from the Presiding Judge of the Appellate Division, briefs in a civil or misdemeanor appeal shall not exceed 6,800 words, including footnotes, if produced by a computer, or 20 pages if produced by a typewriter; and in an infraction appeal must not exceed 5,100 words, including footnotes, if produced by a computer, or 15 pages if produced by a typewriter. (Cal. Rules of Court, rules 8.883(b), (d), 8.928(b), (d).)

(e) Service

A copy of all briefs must be served on opposing counsel (Cal. Rules of Court, rule 8.882(e), and 8.927(c).)

(f) Wende Briefs:

People v. Wende shall be cited on the cover, or the first page if there is no cover, of any brief requesting the Appellate Division to review the record on appeal to determine if there are any arguable issues that may require briefing (*People v. Wende* (1979) 25 Cal. 3d 436).

(Adopted effective 07-01-14)

1209 RULING ON REQUESTS, APPLICATIONS AND MOTIONS

The Court will rule on the requests, applications and motions made pursuant to this rule after an opposition has been filed or the time to file an opposition has expired. Rulings are made without hearing. The court may, however, on the request of a party or on its own motion, place a matter on calendar for hearing (Cal. Rules of Court, rule 8.808(a)(b)).

(a) Extension of Time

An application for extension of time to file a brief must be filed in the Appellate Division before the brief is due and must be supported by good cause (Cal. Rules of Court, rules 8.810, 8.811 and 8.882(b)(3)).

(b) Late Filing

Any brief or other filing after it is due will not be accepted for filing without a court order permitting the late filing.

An application for relief from a late filing must be filed in the appellate division with a proposed order.

(c) Relief from Dismissal

Requests for relief from default or to vacate a dismissal shall be accompanied by a declaration establishing good cause, and by a proposed order.

(d) Motions, request and application

Any motions, requests and application must be accompanied by a proposed order.

(Adopted effective 07-01-14)

Chapter Thirteen - GENERAL CIVIL COURT PROCEDURES

1300 LAW AND MOTION HEARING CALENDARING

Unless otherwise ordered by the Court, civil law and motion hearings are to be set on the civil law and motion calendar of the department to which the matter is assigned. It is the responsibility of the filing party to ensure that the Court is available to hear the matter on the applicable civil law and motion calendar and that the matter is timely filed and served with notice of the hearing date and time.

(Adopted effective 07-01-18; former Rule 1300, adopted 07-01-98, was repealed effective 07-01-09)

1301 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/os/tr/> not later than 3:00 p.m. on the court day preceding the scheduled hearing. As set forth in CRC 3.1308, if the court has not directed argument, oral argument must be permitted only if a party notifies all other parties and the court by 4:00 p.m. on the court day before the hearing of the party's intention to appear. A party may obtain tentative rulings and provide notice to the court of intention to appear using the following telephone numbers:

Santa Barbara Civil Departments:

Department 3	(805) 882-4570
Department 4	(805) 882-4590
Department 5	(805) 882-4570
Department 6	(805) 882-4590

Santa Maria Civil Departments:

Department 1	(805) 614-6500
Department 2	(805) 614-6500
Department 4	(805) 614-6515

(Amended 07-01-18; adopted 07-01-98; previously amended effective 07-01-09 and 01-01-03)

1302 NOTICE OF MOTIONS IN LIMINE

Rule number 1302 is reserved for future use.

(Rule 1302 repealed effective 07-01-18; adopted effective 07-01-98; amended 07-01-09)

1303 JUDGMENT DEBTOR EXAMINATION PROCEEDINGS

(a) [Application for Examination] A judgment creditor shall apply for an order requiring the judgment debtor or a third party to appear for examination pursuant to Code of Civil Procedure sections 708.110 or 708.120 using Judicial Council form EJ-125 (or successor form). It is the judgment creditor's responsibility to complete the proposed order portion of the form, including the date and time of the examination hearing, and to verify that the court is available at such date and time for the examination. Examinations are to be set in the department to which the case is assigned. A natural person must be named in the order for examination proceedings on behalf of a corporation, limited liability company, partnership, or other entity, unless the court for good cause orders otherwise.

(b) [Proof of Service of Order] Proof of service of an order requiring the judgment debtor or a third party to appear for examination pursuant to Code of Civil Procedure sections 708.110 or 708.120 must be filed with the court at least three (3) court days prior to the examination.

(c) [Continuance of Examination Hearing] Unless otherwise ordered by the court, continuances of an examination hearing will be granted only where: (i) both the applicant and the person to be examined appear on the date of the examination, (ii) the applicant and the person to be examined stipulate in writing to a continuance, or (iii) proof of timely service of the order has been filed prior to the request for a continuance and the applicant declares that the person to be examined has agreed to appear at the continued date. If timely service has not been effected, the court may set a new examination date upon request of the applicant but a new order for examination must be submitted to the court and the new order served as required as required by applicable law.

(d) [Failure to Appear at Hearing by Applicant] If the applicant fails to appear at the hearing and the person named in the order appears, the proceeding will be taken off calendar without costs awarded to the applicant. Except as otherwise ordered by the court, no further hearing will be scheduled except upon application for a new order with the further hearing scheduled no earlier than 120 days from the date of the originally scheduled hearing.

(e) [Failure to Appear at Hearing by Person Ordered to Appear]

(1) [Alternative Nonexclusive Remedies] If the person ordered to appear for examination fails to appear after timely service of the order for examination, the court may enforce the order to appear by any means permitted by law, including the issuance of a warrant of attachment pursuant to Code of Civil Procedure section 1212 and punishment for contempt and the issuance of a civil warrant pursuant to Code of Civil Procedure section 1993 and the imposition of fines or other monetary sanctions. A judicial officer of this court may express a preference that a particular remedy be employed before or in lieu of any other remedy; however, unless otherwise provided by law, all available remedies are nonexclusive and cumulative to each other, so that notwithstanding any stated preference or prior remedy employed, the court may invoke any otherwise appropriate remedy or remedies.

(2) [Code of Civil Procedure Section 1993 Procedures]

(i) [First Failure to Appear] If the person ordered to appear for examination fails to appear and proof of service of the order has been timely filed, upon application of the

judgment creditor at the time scheduled for the appearance or within 30 calendar days thereafter, the court pursuant to section 708.170, subdivision (a)(1)(B), may enforce the order by a warrant issued pursuant to Code of Civil Procedure section 1993. Pursuant to section 1993, subdivision (a)(2), prior to the issuance of the warrant, the court shall issue a “failure to appear” notice informing the person ordered to appear that a warrant may issue. The “failure to appear” notice shall be in the form of Local Form SC-2068, which shall be completed by the applicant and submitted to the court for signature and mailing. The “failure to appear” notice shall set a new examination date and time at which the person to be examined shall be required to appear.

(ii) [Subsequent Failure to Appear] If the person ordered to appear for examination fails to appear on the date identified in the letter, the court, upon application of the judgment creditor, may issue an arrest warrant pursuant to Code of Civil Procedure section 1993 and may impose fines or civil assessments as provided by law.

(3) [Limitations on Issuance of Warrants] A warrant shall issue if a judgment creditor has completed and filed all necessary papers for the issuance of a warrant and paid all required fees within 30 days of the last scheduled examination hearing at which the person subject to the warrant was ordered to appear but failed to do so. Otherwise, the judgment creditor must obtain and serve a new order to appear for examination to be scheduled no earlier than 120 days from the date of the last scheduled examination hearing except as otherwise ordered by the court.

(f) [Obtaining Exceptions] Where exceptions to this rule are permitted upon order of the court, a party seeking such exception shall apply for the exception by stipulation, by ex parte application, or by noticed motion, and such application or motion shall be supported by a declaration showing good cause.

(Amended 07-01-18; adopted effective 07-01-98; previously amended effective 07-01-09)

1304 FAILURE TO APPEAR FOR DEBTOR EXAMINATION

Rule number 1304 is reserved for future use.

(Rule 1304 repealed effective 07-01-18; adopted effective 07-01-98; previously amended effective 07-01-09)

1305 MANDATORY SETTLEMENT CONFERENCE; CRC 3.1380

Rule number 1305 is reserved for future use.

(Rule 1305 repealed effective 07-01-18; adopted 07-01-98; previously amended effective 07-01-09 and 01-01-99)

1306 TRIAL BRIEFS

Rule number 1306 is reserved for future use.

(Rule 1306 repealed effective 07-01-18; adopted effective 07-01-98; previously amended effective 07-01-09)

1307 UNCONTESTED MATTERS

(a) [Stipulations] Stipulations for a court order are filed with the court without setting a hearing date. The court will accept, modify, or reject the stipulation for an order in chambers without a hearing. The court does not accept stipulations to continue trial except by ex parte application.

(b) [Default Judgments]

(1) [Clerk's Judgment] A request for default judgment by the court clerk (Code Civ. Proc., § 585, subd. (a)) is made by submitting the request on Judicial Council form CIV-100 (or successor form) without requesting a court hearing.

(2) [Court Judgment by Declaration] Where live testimony is not required by law or by court order, the preferred procedure for applications for court judgment on default is by declarations pursuant to Code of Civil Procedure section 585, subdivision (d). The party applying for the default judgment shall concurrently file the application, all supporting documents, and proposed judgment with the court. After the application and supporting documents are filed, the court may: (i) enter the judgment as proposed; (ii) enter judgment as modified by the court to reflect the court's findings under section 585; (iii) set a hearing on the application for default judgment (usually on the on the regular law and motion calendar of the department to which the case is assigned); (iv) request further documentation, argument, or explanation from the party applying for the judgment; (v) deny the application; or, (vi) make other orders appropriate for the disposition of the application for default judgment.

(3) [Court Judgment by Live Testimony] Except as provided in subdivision (b)(4) or otherwise ordered by the court, where an application for court judgment on default is sought through the presentation of live testimony, the hearing shall be set on the regular law and motion calendar of the department to which the case is assigned. It is the responsibility of counsel to arrange to set the hearing through the calendar clerk. Unless otherwise ordered by the court, the application and all supporting documentary evidence must be filed with the court at least five court days prior to the hearing.

(4) [Court Judgment in Unlawful Detainer Cases] In cases of unlawful detainer or other action brought under chapter 4 of title 3 of part 3 of the Code of Civil Procedure (commencing with section 1159), the following rules apply:

(i) Default judgment for possession only is obtained by request for a clerk's judgment as provided in subdivision (b)(1).

(ii) Default judgment for relief other than for possession only is obtained by application for a court judgment. The plaintiff may elect to proceed by declaration or by live testimony. A court judgment by declaration is obtained as provided in subdivision (b)(2). Unless otherwise ordered by the court, to obtain a court judgment by live testimony, the plaintiff must arrange for a hearing on the application through the calendar clerk, and must file the application and all supporting papers, at least five court days prior to the hearing. The hearing on the application will be heard on the first available unlawful detainer calendar (or civil law and

motion calendar if there is no regular unlawful detainer calendar) in the department to which the case is assigned.

(c) **[Scheduling Changes]** The court may, in its discretion, shorten the times set forth herein, or specially set the hearing or disposition of any matter addressed by this rule, on its own motion or upon ex parte application supported by a declaration showing good cause therefor.

(Amended 07-01-18; adopted 07-01-98; previously amended effective 07-01-09 and 01-01-99)

1308 PROCEDURES AND REMAND FROM FEDERAL COURT

After an action is removed to federal court, remand from the federal court to the state court is effected when the federal court clerk sends a certified copy of the order on remand to the clerk of the superior court. Documents filed in federal court after removal are not provided to the superior court. To complete the superior court's file after remand, within 30 days of the filing of the order of remand, each party shall file a declaration describing the material pleadings that party filed in the federal action and the pertinent orders or rulings entered in the federal action. Certified or conformed copies of all such pleadings and papers shall be attached to the declaration.

(Adopted effective 07-01-18; former Rule 1308, adopted 07-01-98, was repealed effective 07-01-09)

1309 CIVIL LITIGATION ADMINISTRATION

(a) **[Delay Reduction Policy]** This rule is adopted pursuant to the Trial Court Delay Reduction Act (Gov. Code, § 68600 et seq.) and CRC 3.711 and 3.714. This rule applies to all general civil actions and all limited civil actions specified, except for those actions excluded by the Trial Court Delay Reduction Act or 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. In the event a case is transferred from another county or from another division of this Court, unless otherwise ordered by the Court, a CMC shall be scheduled within ninety (90) calendar days from receipt of the file by the Clerk of the transferee court. 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.

(c) **[Case Management Conferences]** The Court conducts case management conferences in accordance with the case management rules set forth in CRC 3.720 et seq.

(1) **[Case Management Conference Statements]** Unless expressly exempted by the Court, counsel or self-represented litigants are required to meet and confer as set forth in CRC 3.724 and to file case management conference statements no later than 15 calendar days prior to the CMC as set forth in CRC 3.725.

(2) [Conduct of Case Management Conferences] At the CMC, the Court will evaluate the management of the case, and will consider and take appropriate action with respect to the matters specified in CRC 3.727. Counsel and self-represented litigants attending the CMC shall be thoroughly familiar with the case and 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.

(3) [Alternative Dispute Resolution] At the CMC, the Court will consider and discuss alternative dispute resolution (ADR) methods and settlement procedures. Prior to the CMC, counsel shall have discussed ADR methods and settlement procedures with their clients, shall have authority to act on behalf of their clients with respect to ADR processes, and shall have entered this information on the case management statement. ADR processes include, as applicable, ‘Case Management Alternative Dispute Resolution Early Settlement Session’ (CMADRESS), ‘CADRe Limited Mediation,’ judicial arbitration, mediation, neutral evaluation, binding arbitration, judicial reference, and mandatory and voluntary settlement conferences, as provided in the Code of Civil Procedure, the CRC, and chapter 11 of these local rules. As appropriate, the Court may order the parties to participate in one or more ADR processes, make orders to facilitate ADR processes stipulated by the parties, and may make orders to ensure ADR processes have been timely completed.

(Amended effective 07-01-18; adopted 07-01-99; previously amended effective 01-01-12, 07-01-09, 07-01-08, 01-20-05, 01-01-03 and 07-01-01)

1310 CIVIL CASE COVER SHEET ADDENDUM

In addition to the Civil Case Cover Sheet required by the California Rules of Court, a civil action or proceeding presented for filing must be accompanied by the Civil Case Cover Sheet Addendum (form SC-2069), signed by counsel for plaintiff, or by the plaintiff if he or she is self-represented. A copy of the completed form must be served with the summons and complaint or petition.

(Adopted effective 07-01-18)

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 4900 through 5005 (Uniform Interstate Family Support Act).
- Requests for Order, 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 01-01-14; 01-01-11; 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, upon request, 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 California Rules of Court ("CRC") and these local rules.

(Amended 01-01-14; 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 may be imposed for non-compliance.

(Amended 01-01-11; 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 (EMERGENCY) 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 the regular family law and motion calendar. 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 oral argument or discussion.

(Amended 01-01-14; 01-01-11; 07-01-09; adopted effective 07-01-98)

1406 EX PARTE SCHEDULING

(a) **[SCHEDULING REQUIREMENTS]** The provisions set forth in this rule are not “NOTICE” provisions; they are scheduling provisions and shall be adhered to by all parties and their counsel.

(b) Unless excused under Local Rule 1407(b), all *ex parte* applications require a hearing.

(c) If the provisions of Local Rule 1407(b) are met and a hearing is not required, the *ex parte* application shall be submitted directly to the *ex parte* Clerk.

(d) In all other cases, a party must obtain a date and time for hearing an *ex parte* application by telephonic request to the assistant of the judicial officer to whom the case has been assigned at least 24 hours before the hearing is set. The 24-hour scheduling requirement is for purposes of the Court’s orderly case management. Upon a showing of good cause, the Court may grant leave for an earlier hearing.

(e) This Rule is not intended as a notice requirement and does not alter the notice requirements in Rule 3.1203, CRC.

(Amended 01-01-11; 07-01-09; 01-01-02; adopted effective 07-01-98)

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. “Immediately” as used in this Rule is defined as within 12 hours of obtaining the date and time from the judicial assistant.

The notice shall fully conform with the requirements of CRC 5.165, and shall be given during normal business hours. Notice may be given by telephone or by personal delivery of written notice.

“Normal business hours” as used in this Rule is defined as the hours between 8:30 a.m. and 5:00 p.m.

Except as provided in subsection (b) of this rule, notice shall be given for all *ex parte* applications, including those requesting orders shortening time.

(b) [Exceptions to Notice Requirement] The notice required by CRC 5.151 and 5.165 may be excused only upon a finding of exceptional circumstances, which must be supported by a declaration, under oath, which establishes one of the following circumstances to the satisfaction of the Court:

- 1) Notice would frustrate the very purpose of the order sought and lead the applicant to suffer immediate and irreparable injury; or
- 2) Notice is not possible following a good faith attempt.

A hearing is not required and notice need not be given for an application:

- 1) For an order or judgment where the responding party has approved the same;
- 2) For an order or judgment where a default proceeding was the basis upon which the order or judgment was made;
- 3) For issuance of a Request for Order or an Order to Show Cause ("OSC") that does not request relief pending the hearing
- 4) For re-issuance of a Request for Order or an OSC;
- 5) For a wage assignment after issuance of a support order;
- 6) For approval of a Request to Waive Court Fees (FW-001) application;
- 7) For restoration of a former name after entry of judgment;
- 8) For approval pursuant to Local Rule 1507(f) (1)- (3);
- 9) For an order directing both parties to attend a mediation appointment at a specific date and time with Family Court Services*; and/or
- 10) For an order waiving attendance of a party at the Court's mandatory parent education program, PEACE, where either:
 - a. The requesting party is processing a default judgment and wants the waiver of attendance for the defaulted other party, or
 - b. The requesting party declares that the residence of the party whose attendance is to be waived is geographically distant from any location where a Court-approved parent education program is offered and the latter party has no opportunity to attend a comparable program where he or she lives.

***NOTE: The setting of any Family Court Services mediation appointment is to be done in compliance with Local Rule 1503. In addition, the cover page of the Request for Order (FL-300) must state: “You have the right to reschedule or cancel mediation with good cause. See LR 1503.”**

(c) [Contents of Notice] Notice of the hearing on *ex parte* application must:

- 1) specify the date and time of the *ex parte* hearing; and,

2) 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.

If the responding party is represented by counsel, the notice must provide the identity of the counsel and all available contact information.

(Amended 01-01-14; 01-01-11; 07-01-09; 01-01-02; 07-01-98; adopted effective 07-01-12)

1408 SERVICE & FILING OF EX PARTE PLEADINGS

Before scheduling an *ex parte* hearing, the applicant shall attempt to settle all issues to be raised at the hearing. An “attempt to settle all issues” is defined as contacting the opposing party or counsel to initiate settlement discussions.

All required pleadings, including a copy of the proposed order, shall be hand-delivered to responding counsel or self-represented litigant and filed with the *ex parte* clerk at least four (4) business hours before the hearing. “Business hours” as used in this Rule is defined as the hours between 8:30 a.m. and 5:00 p.m.

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 01-01-11; 07-01-09; adopted effective 07-01-98)

1409 EX PARTE PLEADINGS REQUIREMENTS

- (a) **[Emergency Nature of Request]** The evidentiary declarations shall contain facts that demonstrate why the matter is appropriately handled *ex parte* rather than by regularly noticed Request for Order, motion or on shortened 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
- (b) **[Ex Parte Application and Supporting 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.
- (c) **[Evidentiary Requirements]** 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 to support the order sought. Evidentiary deficiencies cannot be corrected by verbal statements to the Court at the time of the hearing.

All declarations shall contain sufficient factual information within the personal knowledge of the declarant to adequately support the relief requested. Supporting declarations that include conclusions, feelings, wishes or fears will not adequately support an *ex parte* order.

- (d) **[Disclosure of Change of Status Quo]** The parties and counsel have an absolute duty to disclose whether a requested *ex parte* order will result in a change of the *status quo*. Absent such disclosure, in addition to sanctions payable pursuant to Local Rule 1403, the Court may award attorneys' fees and costs incurred to reinstate the *status quo* as sanctions without further notice.
- (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 the 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 01-01-14; 01-01-11; 07-01-09; adopted effective 07-01-98)

1410 PARTICULAR EX PARTE ORDERS

- (a) **[Temporary Restraining Order ("TROs")]** The mandatory Judicial Council forms shall be used to apply for a TRO. See CRC, Rule 5.151.
- (b) **[Ex Parte Residence Exclusion Order]** *Ex Parte* Residence Exclusion Orders will not be issued without a clear showing of recent physical violence or that there is a credible threat of imminent physical violence. The required evidentiary showing shall include a full description, in detail, of the most recent instance(s) of physical harm, any disposition toward violence, any abuse of alcohol or drugs, and shall specify the date of each occurrence.
- (c) **[Stay Away Order]** Requests for orders that require a party to stay away from a residence shall indicate whether that party is residing in the residence or has moved from the subject residence and when he or she moved.
- (d) **[Custody/Visitation Orders]** A party who requests an order to establish or modify custody or visitation shall, by sufficient evidentiary declaration(s), establish the following:
- (1) the provisions of any existing order;
 - (2) the actual custody arrangement;
 - (3) the requested relief;
 - (4) the immediate harm or irreparable injury; and
 - (5) the status of any referral to Child Welfare Services or law enforcement.

(Amended 01-01-14; 01-01-11; 07-01-09; adopted effective 07-01-98)

1411 REQUESTS FOR ORDER, MOTIONS, & ORDERS TO SHOW CAUSE

- (a) **[Calendaring]** Proposed dates for hearing on a Request for Order, motion, or an OSC must be approved by the Clerk.

- (b) **[Mandatory Confirmation of Proceeding]** No less than two (2) court days before the scheduled hearing, the moving party shall notify the judicial assistant to the judicial officer to whom the case has been assigned, if the hearing will not proceed as scheduled. The Court may issue sanctions for failure to comply with this provision.
- (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 01-01-14; 01-01-11; 07-01-09; adopted effective 07-01-98)

1412 FILING & SERVICE OF REQUESTS FOR ORDER, 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 (“CCP”) sections and California Rules of Court before the scheduled hearing date, unless an order shortening time has been granted.

When an OSC or a Request for Order is issued by the Court, it shall be signed and filed with the Clerk before it is served.

- (b) **[Responsive Documents]** All responsive documents must be filed with the Clerk and served in compliance with applicable Code of Civil Procedure section and California Rules of Court.

Any papers not timely filed may subject the responding party to sanctions and, at the Court’s discretion, may be subject to any of the following:

- (1) The response may not be considered by the Court;
- (2) The matter may be continued by the Court to permit the moving party time to file a reply; and/or
- (3) The party or counsel may not be permitted to present oral argument at the hearing.

- (c) **[Reply Documents]** All documents filed in reply to a response to a Request for Order, motion, or an OSC shall state in the caption "Reply to Response of Petitioner [or Respondent] to Request for Order [Order to Show Cause or motion] of Petitioner or Respondent Requesting..." and then specify the relief.

All reply documents must be filed with the Clerk and served in compliance with applicable Code of Civil Procedure section and California Rules of Court.

Any papers not timely filed may subject the responding party to sanctions and, at the Court's discretion, may be subject to any of the following:

- (1) The reply may not be considered by the Court;
- (2) The matter may be continued by the Court.

- (d) **[Proof of Service]** Proofs of service shall be filed with the court at least two (2) court days before the hearing.

(Amended 01-01-14; 01-01-11; 07-01-09; 01-01-02; adopted effective 07-01-98)

1413 HEARINGS ON REQUESTS FOR ORDER, MOTIONS, & ORDERS TO SHOW CAUSE

- (a) **[Mandatory Settlement Attempt]** before the scheduled hearing date on a Request for Order, motion, or Order to Show Cause as required by CRC Rule 5.98 (a) & (b), the parties shall meet and confer in a good faith effort to resolve the issues pending before the Court, to exchange all documentary evidence required by these rules, and to identify the issues that remain 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;
- (1) rule without further hearing,
 - (2) defer the matter to the end of the calendar if time permits,
 - (3) enter interim orders,
 - (4) continue the matter to the next available date, or
 - (5) 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 re-argued. Counsel may, however, question the Court in order to clarify a ruling or correct a mistake.
- (g) **[Time Limitations]** The family law and motion calendar is designed for hearings estimated to take no longer than fifteen (15) minutes. If it is anticipated that a longer hearing will be required, participants shall so advise the Court at the hearing and request that the matter be set on the Court's short cause calendar.
- (h) **[Presentation of Evidence and Oral Testimony]** The circumstances and procedures for hearings for which live testimony is requested is governed by Family Code §217 and CRC Rule 5.113. For convenience, CRC Rule 5.113 states as follows:

“Live Testimony

(a) Purpose

Under Family Code section 217, at a hearing on any request for order brought under the Family Code, absent a stipulation of the parties or a finding of good cause under (b), the court must receive any live, competent, and admissible testimony that is relevant and within the scope of the hearing.

(b) Factors

In addition to the rules of evidence, a court must consider the following factors in making a finding of good cause to refuse to receive live testimony under Family Code section 217:

- (1) Whether a substantive matter is at issue—such as child custody, visitation (parenting time), parentage, child support, spousal support, requests for restraining orders, or the characterization, division, or temporary use and control of the property or debt of the parties;
- (2) Whether material facts are in controversy;
- (3) Whether live testimony is necessary for the court to assess the credibility of the parties or other witnesses;
- (4) The right of the parties to question anyone submitting reports or other information to the court;
- (5) Whether a party offering testimony from a non-party has complied with Family Code section 217(c); and
- (6) Any other factor that is just and equitable.

(c) Findings

If the court makes a finding of good cause to exclude live testimony, it must state its reasons on the record or in writing. The court is required to state only those factors on which the finding of good cause is based.

(d) Minor children

When receiving or excluding testimony from minor children, in addition to fulfilling the requirements of Evidence Code section 765, the court must follow the procedures in Family Code section 3042 and rule 5.250 of the California Rules of Court governing children's testimony.

(e) Witness lists

Witness lists required by Family Code section 217(c) must be served along with the request for order or responsive papers in the manner required for the service of those documents (Witness List (form FL-321) may be used for this purpose). If no witness list has been served, the court may require an offer of proof before allowing any nonparty witness to testify.

(f) Continuance

The court must consider whether or not a brief continuance is necessary to allow a litigant adequate opportunity to prepare for questioning any witness for the other parties. When a brief continuance is granted to allow time to prepare for questioning witnesses, the court should make appropriate temporary orders.

(g) Questioning by court

Whenever the court receives live testimony from a party or any witness it may elicit testimony by directing questions to the parties and other witnesses.

Rule 5.113 adopted effective January 1, 2013”

- (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. The parties shall deliver a written stipulation to the judicial assistant no later than the scheduled start of the hearing.
- (j) **[Contested Requests for Continuances]** Requests for continuances made at the time of the hearing are highly disfavored. If a stipulated continuance cannot be obtained, a Request for Order for a continuance shall be made at the earliest possible time before the hearing.
- (k) **[Presence of Counsel]** Self-represented litigants and counsel shall be present when a case is called for hearing except when engaged in another department. If counsel or a self-represented party is engaged in another department at the scheduled start of the hearing, they must advise their opposition 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 will ordinarily 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 may hear the Request for Order 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 01-01-14; 01-01-11; 07-01-09; adopted effective 07-01-98)

1414 PREPARATION OF ORDERS AFTER HEARING

The parties shall comply with CRC 5.125 concerning preparation of an order after hearing on a Request for Order, OSC or motion which rule provides as follows:

"Rule 5.125 Preparation, service, and submission of order after hearing"

The court may prepare the order after hearing and serve copies on the parties or their attorneys. Alternatively, the court may order one of the parties or attorneys to prepare the proposed order as provided in these rules. The court may also modify the timelines and procedures in this rule when appropriate to the case.

- (a) In general the term "party" or "parties" includes both self-represented persons and persons represented by an attorney of record. The procedures in this rule requiring a party to perform action related to the preparation, service, and submission of an order after hearing include the party's attorney of record.
- (b) Submission of proposed order after hearing to the court within 10 calendar days of the court hearing, the party ordered to prepare the proposed order must:
1. Serve the proposed order to the other party for approval; or
 2. If the other party did not appear at the hearing or the matter was uncontested, submit the proposed order directly to the court without the other party's approval. A copy must also be served to the other party or attorney.
 3. Other party approves or repeals proposed order after hearing
 4. Within 20 calendar days from the court hearing, the other party must review the proposed order to determine if it accurately reflects the orders made by the court and take one of the following actions:
 - i. Approve the proposed order by signing and serving it on the party or attorney who drafted the proposed order; or
 - ii. State any objections to the proposed order and prepare an alternate proposed order. Any alternate proposed order prepared by the objecting party must list the findings and orders in the same sequence as the proposed order. After serving any objections and the alternate proposed order to the party or attorney, both parties must follow the procedure in (e).
 - iii. If the other party does not respond to the proposed order within 20 calendar days of the court hearing, the party ordered to prepare the proposed order must submit the proposed order to the court without approval within 25 calendar days of the hearing date. The correspondence to the court and to the other party must include:
 - iv. The date the proposed order was served on the other party;

- v. The other party's reasons for not approving the proposed order, if known;
 - vi. The date and results of any attempts to meet and confer, if relevant; and (D) A request that the court sign the proposed order.
- (c) Failure to prepare proposed order after hearing
- 1. If the party ordered by the court to prepare the proposed order fails to serve the proposed order to the other party within 10 calendar days from the court hearing, the other party may prepare the proposed order and serve it to the party or attorney whom the court ordered to prepare the proposed order.
 - 2. Within 5 calendar days from service of the proposed order, the party who had been ordered to prepare the order must review the proposed order to determine if it accurately reflects the orders made by the court and take one of the following actions:
 - i. Approve the proposed order by signing and serving it to the party or attorney who drafted the proposed order; or
 - ii. State any objections to the proposed order and prepare an alternate proposed order. Any alternate proposed order by the objecting party must list the findings and orders in the same sequence as the proposed order. After serving any objections and the alternate proposed order to the other party or attorney, both parties must follow the procedure in (e).
 - 3. If the party does not respond as described in (2), the party who prepared the proposed order must submit the proposed order to the court without approval within 5 calendar days. The cover letter to the court and to the other party or attorney must include:
 - i. The facts relating to the preparation of the order, including the date the proposed order was due and the date the proposed order was served to the party whom the court ordered to draft the proposed order;
 - ii. The party's reasons for not preparing or approving the proposed order, if known;
 - iii. The date and results of any attempts to meet and confer, if relevant; and
 - iv. A request that the court sign the proposed order.
- (d) Objections to proposed order after hearing
- 1. If a party objects to the proposed order after hearing, both parties have 10 calendar days following service of the objections and the alternate proposed order after hearing to meet and confer by telephone or in person to attempt to resolve the disputed language.
 - 2. If the parties reach an agreement, the proposed findings and order after hearing must be submitted to the court within 10 calendar days following the meeting.
 - 3. If the parties fail to resolve their disagreement after meeting and conferring, each party will have 10 calendar days following the date of the meeting to submit to the court and serve on each other the following documents:
 - i. A proposed Findings and Order After Hearing (FL-340) (and any form attachments);
 - ii. A copy of the minute order or official transcript of the court hearing; and
 - iii. A cover letter that explains the objections, describes the differences in the two proposed orders, references the relevant sections of the transcript or minute order, and includes the date and results of the meet-and-confer conferences.
- (e) Unapproved order signed by the court; requirements
- (f) Before signing a proposed order submitted to the court without the other party's approval, the court must first compare the proposed order after hearing to the minute order; official transcript, if available; or other court record.

- (g) Service of order after hearing signed by the court
After the proposed order is signed by the court, the court clerk must file the order. The party who prepared the order must serve an endorsed-filed copy to the other party.

(Rule 5.125 adopted effective January 1, 2013)

(Amended 07-01-14; 01-01-14; 01-01-11; 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 ("Proposed Pendente Lite i.e., "Temporary" Calculation") for the purposes of consultation. The pendente lite support that results from the Proposed Pendente Lite Calculation is not intended to limit or narrow the Court's discretion to determine whether the amount of temporary spousal support pursuant to the Proposed Pendente Lite Calculation is appropriate in any particular case. Parties or counsel shall submit the Proposed Pendente Lite Calculation to the Court for consideration along with all other relevant factors in setting temporary spousal support in an amount determined by the sound discretion of the Court.

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.

(Amended 07-01-14; 01-01-11; 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 07-01-14; 01-01-11; 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. All Social Security numbers on the pay stubs shall be completely redacted.

(Amended 07-01-14; 01-01-11; 07-01-09; 01-01-03; 07-01-01; adopted effective 07-01-98)

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.

- (c) [Computerized Calculations of Support] Computerized calculations of support may be attached to the Declaration required under local rule 1418(a) as follows:

The calculations must be based on a computer program currently in effect, including the latest released amendments to that program.

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.

If the DISSOMASTER™ program is used, the "Formal Report" must be submitted.

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.

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 8332.

If a Judicial-Council-approved computer program other than DISSOMASTER™ is used, comparable assumptions and settings shall be used, and a comparable printout shall be provided.

(Amended 07-01-14; 01-01-11; 07-01-09; 01-01-03; adopted effective 07-01-98)

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 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:
 - i. a copy of individual federal income tax returns including all schedules for the two (2) years before the Request for Order, the motion, or the OSC was filed; a copy of all personal bank account statements for the twelve (12) months before the Request for
 - ii. Order, the motion, or the OSC was filed and a copy of the last three pay stubs received before the Request for Order, the motion, or the OSC was filed; a copy of all W-2 and 1099 forms not attached to individual tax returns but which reflected income received during the twelve (12) months before the Request for Order, the motion, or the OSC was filed; a copy of rule 1419; and, a declaration explaining the failure by the moving party to comply with any of the foregoing requirements.
 2. If the moving party is self-employed:
 - i. a copy of individual federal income tax returns including all schedules for the two (2) years before the Request for Order, the motion, or the OSC was filed;
 - ii. a copy of all W-2 and 1099 forms not attached to individual tax returns but which reflected income received during the twelve (12) months before the Request for Order, the motion, or the OSC was filed; 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 twelve (12) months before the Request for Order, the motion, or the OSC was filed; a copy of all personal bank account statements and corresponding check registers for the twelve (12) months before the Request for Order, the motion, or the OSC was filed; a copy of all loan applications submitted to financial institutions or third persons on behalf of the moving party during the past twelve (12) months before the Request for Order, the motion, or the OSC was filed; 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; a copy of Local Rule 1419; and, 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:
 - i. a copy of individual federal income tax returns, including all schedules for the past two years; a copy of all W-2 and 1099 forms not attached to tax returns but which reflected income received by the moving party or the business entity during the twelve (12) months before the Request for Order, the motion, or the OSC was filed; 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 twelve (12) months before the Request for Order, the motion, or the OSC was filed; a copy of all personal bank account statements and corresponding check registers for the twelve (12) months before the Request for Order, the motion, or the OSC was filed; a copy of all loan applications submitted to financial institutions or third persons on behalf of the moving party during the past twelve (12) months before the Request for Order, the motion, or the OSC was filed; 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 a copy of Local Rule 1419; and, 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, attorney's 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.

If the responding party is a wage earner or unemployed, the same documents as are required to be served by the moving party under Local Rule 1419(a) 1, unless such documents were previously served by the moving party.

If the responding party is self-employed, the same documents as are required to be served by the moving party under Local 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.

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 Local 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 comply with this Rule will result in the imposition of sanctions or orders to pay reasonable attorneys' fees occasioned by the failure to comply.

(Amended 07-01-14; 01-01-11; 07-01-09; 01-01-03; adopted effective 07-01-98)

1420 VOLUNTARY SETTLEMENT CONFERENCES

- (a) **[Court Participation; Prerequisites]** A voluntary settlement conference is a procedure adopted to promote the early disposition of family law actions and to reduce the cost of family law litigation. 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.
- (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, 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 07-01-14; 01-01-11; 07-01-09; adopted effective 07-01-98)

1421 AT-ISSUE MEMORANDUM

- (a) **[Time of Filing]** Sixty (60) days after the Petition is served either party may file a Request for Case Management Conference /Trial Setting. The Santa Barbara County Superior Court Form entitled "Request - Counter Request for Case Management/Trial Setting Conference (Family Law)" shall be used. The form must be fully completed and must contain all of the information requested.

The Request for Case Management Conference/Trial Setting shall be served on the opposing party in the matter prescribed by CCP section 1013.

The Clerk will set a date for the Case Management Conference/Trial Setting hearing upon receipt of a properly served Request.

The non-requesting party may file and serve a Counter-Request for Case Management Conference/ Trial Setting up to within two (2) days of the scheduled court hearing on the matter.

(Amended 07-01-14; 01-01-11; 07-01-09; 01-01-03; adopted effective 07-01-98)

1422 CONDUCT OF TRIAL SETTING/CASE MANAGEMENT CONFERENCES.

At the Case Management Conference/Trial Setting the parties must be prepared for the Family Law trial department judge to inquire of the parties/counsel whether the case is ready to be set for trial on all issues or hearing on specified issues. At the Case Management Conference/Trial Setting hearing the assigned trial judge may do any of the following:

- (a) Set the matter for trial/hearing utilizing the trial/hearing time estimate provided by the parties/counsel as follows:
 - (1) as a short cause matter that can be heard in one court day or less and make any appropriate pre-trial/ pre-hearing orders necessary; or,
 - (2) as a long cause matter that cannot be heard in one court day or less and make any appropriate pre-trial/pre-hearing orders necessary, including but not limited to, setting a mandatory settlement conference date, or setting a trial confirmation hearing at which the Court may require the parties to advance the cost of the estimated court reporter's fees for trial/hearing.
- (b) Determine that the matter is not ready for trial/hearing and issue a Case Management Plan specifically tailored to the case. The Case Management Plan may include meet and confer and/or discovery requirements that must be completed before the matter may be set for trial/hearing.
- (c) Make any other Case Management Orders necessary to facilitate a timely progression of the case to trial and/or hearing affording each party with the opportunity to be heard and to present witnesses and other evidence in a timely noticed manner.

(Amended 07-01-14; 01-01-11; 07-01-09; 01-01-03; adopted effective 07-01-98)

1423 MANDATORY SETTLEMENT CONFERENCE

In the event the Court sets a Mandatory Settlement Conference ("MSC") date pursuant to Local Rule 1422 above:

- (1) Each party and the trial attorney for each party shall personally attend the settlement conference unless excused by the Court for good cause (see CRC 3.1 380(b)).
- (2) Failure to reasonably prepare 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 and CCP section 575.2. 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.

No less than 5 (five) court days before the Mandatory Settlement Conference; each party shall lodge with the court and serve on the other party:

- (1) An MSC Statement which shall address all contested issues, and state a settlement proposal as to each contested issue. The Statement 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™ or other computer generated printout showing what each party believes to be the appropriate levels of support.

(Amended 07-01-14; 01-01-12; 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 Request for Order 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 07-01-14; 07-01-09; adopted effective 07-01-98)

1425 FORMAT OF JUDGMENTS

- (a) **[Specific Recitals]** All orders concerning child custody, child visitation, child support, spousal support 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 07-01-14; 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 07-01-14; 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, Family Code (“FC”) section 10000 et seq. (See Local Rules 201-204)

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

(Amended 01-01-11; 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 before 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, or when a court has ordered mediation, even though no motion is pending. Unless excused by the Court for good cause, the mediation requirement must be met.

(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 request of either party to resolve any issue of custody or visitation. If a party refuses to attend a voluntary mediation, that party’s refusal may be used as good cause to order attorneys fees as sanctions under FC section 271 or any other statute that imposes fees as sanctions for failure to cooperate.

(Amended 01-01-11; 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. 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 or make reference to the Court in any manner to any statements made in mediation. The mediator shall not be available as a witness in any proceedings. No information shall be

communicated by the mediator to the court other than described in Local 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 01-01-11; 07-01-09; adopted effective 07-01-98)

1503 PROCEDURES

(a) [Scheduling Mediation] Parents shall cooperate as much as possible in scheduling a mediation appointment. The parent wanting resolution of the custody or visitation issue(s) shall contact the other parent to determine the most mutually convenient day(s) of the week and time slot (morning or afternoon) for an appointment. The appointment is set by calling the Mediation Appointment Secretary (“Secretary”) at Family Court Services in the designated region.

(b) [Notice of Mediation] Within three (3) court days after getting a mediation appointment, the parent who set the appointment shall file and serve on the other parent a Notice of Mediation (see Local Form # SC-4018). The use of the Notice of Mediation form is mandatory.

(c) [Inability to Agree on Date of Mediation] If the parents cannot agree on a mutually convenient date for the mediation appointment, then the parent wanting resolution of the custody or visitation issue shall nevertheless schedule a mediation appointment and give notice to the other parent by filing and serving the Notice of Mediation form.

(d) [Cancellation of Mediation Appointment] If the other parent is unable to attend the scheduled appointment, then he or she has the responsibility to do the following:

(1) File and serve a Notice of Cancellation (see Local Form # SC-4017). The use of the Notice of Cancellation of Mediation form is mandatory and must be filed and served on the other parent, unless there is an emergency, within seven (7) calendar days of the receipt of the Notice of Mediation; and

(2) Cancel the mediation appointment with the Secretary no less than seven (7) calendar days before the scheduled mediation.

The parent who cancelled the mediation appointment must work as soon as practicable and in good faith with the other parent to reschedule the appointment to a mutually convenient date and time.

(e) [Disputes Regarding Scheduling, Attendance and Cancellation of the Mediation Appointment] In addition to the procedure outlined above, if a dispute regarding the attendance at, cancellation of, scheduling of or re-scheduling of a mediation appointment arises, either parent may file a “Request for Case Management Conference/Trial Setting” (see Local Form SC-4014). The Court will then schedule a hearing on the matter and give notice to the parents. The staff of Family Court Services is not authorized or required under any circumstances to referee scheduling disputes between parents or counsel.

(f) [Agreements Reached in Mediation] If a tentative agreement has been reached between the parents at the mediation, the mediator shall prepare a written agreement and present it to the self-represented parent(s) or the counsel for parent(s), if represented, 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, if retained.

(g) [Reports of Mediator] If no agreement is reached at mediation, the mediator may inform the Court whether further mediation should be or has been scheduled.

(h) [Sanctions for Failure to Make Reasonable Efforts to Contact the Other Parent Prior to Setting the Mediation Appointment] Failure to make reasonable efforts to confer to a mutually agreeable mediation date may result in the imposition of sanctions against either party or counsel in the discretion of the Court.

(i) [Sanctions for Failure to Attend Mediation] Failure to attend mediation before a hearing or trial on custody and/or visitation without good cause may subject the parents to monetary and/or issue sanctions in the discretion of the Court. Among the factors the Court may consider in determining if a parent had good cause for not attending mediation are:

- Whether a Notice of Mediation was properly served on the other parent and filed with the court;
- Whether a Notice of Cancellation was properly served on the other parent and filed with the Court;
- Whether the Secretary for Family Court Services and the other parent were notified of the cancellation no less than seven (7) calendar days before the mediation appointment; and
- Other circumstances that may have happened after the seven-day cancellation deadline which caused a parent to miss a scheduled mediation session.

(Amended effective 07-01-12, amended 05-06-11; 07-01-09; adopted effective 07-01-98)

1504 PARTICIPANTS

(a) [Parties Required to be Present] The parties and their minor children who are ages six (6) or older are required to participate in mediation. Other interested persons may be included in the process at the mediator's sole discretion. In cases of domestic violence, a support person may be present at mediation as permitted by FC 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]** It is recommended that counsel confirm with the local mediation office to ascertain whether or not to appear at mediation. If permitted by the mediator, 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 01-01-11; 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, including but not limited to: 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 01-01-11; 07-01-09; adopted effective 07-01-98)

1506 CUSTODY EVALUATIONS

The Santa Barbara Superior Court advises all litigants, attorneys and evaluators that the processes and procedures set out in Family Code sections 211, 3110 – 3118 and the CRC 5.220, 5.225, 5.230 and 5.235 are adopted in their entirety. (CRC 5.220 (d) (1) (A) (i)).

All parties and evaluators are advised to review those statutes and rules before seeking, stipulating to or performing a custody evaluation.

(a) **[Peremptory Challenges]** Peremptory challenges to court-appointed investigator-evaluators are not allowed. (CRC 5.220 (d) (1) (A) (ii)).

- (b) **[Withdrawal of Evaluator]** Evaluators may move the Court at any time to withdraw from a case. The motion for withdrawal shall be heard on the regular law and motion calendar unless there are exigent circumstances that qualify as an emergency and require an ex parte hearing (See Local Rule 1408). (CRC 5.220 (d) (1) (A) (iii)).
- (c) **[Complaints]** Generally, complaints regarding an evaluator’s performance shall be addressed at the time of the hearing related to the evaluation report, unless there are exigent circumstances that qualify the complaint as an emergency that requires an ex parte hearing. (CRC 5.220 (d) (1) (A) (iv); (CRC 5.225 (j) (1) (A)).
- (d) **[Ex parte Communications]** Ex parte communications between the evaluator and the parties or their counsel shall be governed by (CRC 5.235). (CRC 5.220 (d) (1) (A) (v)).
- (e) **[Initial Order]** At the outset of the evaluation, the evaluator shall be provided with a copy of the order of appointment that specifies the statute under which the evaluation is to be completed (Evidence Code section 730, FC section 3110 or CCP section 2032.010 et seq), and that sets forth the purpose and scope of the evaluation. (CRC 5.220 (B) (i) and (ii)).
- (f) **[Conduct and Education of Evaluator]** All child custody evaluators shall adhere to the conduct and educational requirements of the Local Rules and the Rules of Court Rules 5.220, 5.225, 5.230, and 5.235. (CRC 5.220 (d) (1) (C))
- (g) **[Fees]** Any order for evaluation shall make a determination and allocation between the parties any fees or costs for the evaluation and shall set forth the sanctions for failure to pay. Such order may include a reservation of jurisdiction for re-allocation. (CRC 5.220 (d) (1) (D)).

(Amended 01-01-11; 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 the 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 01-01-11; 07-01-09; 07-01-08; 01-01-03; 01-01-99; adopted 07-01-98)

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;
- (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 FC section 3190.

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 01-01-11; 07-01-09; 07-01-08; adopted effective 07/01/99)

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 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) **[Review of Files Prior to Hearing]** Probate matters will be examined prior to the hearing by the probate examiner or a probate attorney. The court will strive to post the notes of the probate attorney or probate examiner on the court's website (<http://www.sbcourts.org/os/tr/>) at least five (5) court days before the scheduled hearing date, although the court reserves the right to post the notes closer to the hearing date. It is the party's responsibility to check the website regularly prior to the date of the hearing.
- (1) If the matter is unopposed and recommended for approval by the probate attorney or probate examiner, the order will be presented to the Court for signature and no appearance will be necessary.
 - (2) If the matter is not recommended for approval, the probate examiner or probate attorney will in most cases prepare notes setting forth any defects. The probate examiner or probate attorney may recommend a continuance of the matter for two (2) weeks or more for compliance. If a continuance is not recommended, the following procedures apply:
 - a. In order to be considered at the calendared hearing, all documents must be filed no later than noon two (2) court days prior to the hearing. Probate notes will be updated upon review of a timely submission. It is the party's responsibility to check the website regularly prior to the date of the hearing.
 - b. Documents filed after the deadline will not be reviewed by the probate examiner or probate attorney for the calendared hearing regardless of when the probate notes were posted. If no appearance is made, the court will continue the matter for two (2) weeks or longer.
 - (3) If nonapproval is based on other issues, the matter will require an appearance.
 - (4) Appearances are required in all matters for which probate notes are not posted or that do not indicate otherwise.
- (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 01-01-13; adopted 07-01-98; previously amended effective 01-20-05 and 07-01-09)

1702 APPOINTMENT OF PERSONAL REPRESENTATIVES

- (a) **[Petition for Letters]** The petition shall be filed on the approved Judicial Council form and shall conform with Probate Code section 8002.
- (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 there is no one entitled to notice, a statement to that effect shall appear on the proof of service of the Notice of Petition to Administer Estate (DE-121).
- (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) **[Submission of Duties of Personal Representative]** Individual personal representatives shall read, sign, and file with the clerk the Duties and Liabilities of Personal Representative (Judicial Council form DE-147).

If a bond is not required, the proposed personal representative shall submit the form (DE-147) prior to the hearing on the petition for appointment. If a bond is required, the proposed personal representative may submit the form (DE-147) prior to the hearing or with the bond after the hearing.

Individual personal representatives are not required to complete the Confidential Supplement to Duties and Liabilities of Personal Representative (Judicial Council form DE-147(S).)

Corporate personal representatives are not required to submit the form (DE-147).

- (e) **[Submission of Letters of Personal Representative]** If a bond is not required, the proposed personal representative shall take the prescribed oath of office and sign, date, and submit the Letters prior to the hearing on the petition for appointment. If a bond is required, the proposed personal representative may submit the executed Letters prior to the hearing or with the bond after the hearing.
- (f) **[Declination to Serve / Consent to Serve]** If a person nominated as personal representative in the will declines to act, a signed declination must be filed prior to the hearing on the

petition for probate unless evidence is produced that the nominated person is not competent pursuant to Probate Code section 8402, refuses to act, or cannot be located.

Similarly, a written declination must be filed by or on behalf of an individual who is entitled to priority for issuance of Letters of administration but does not desire to act, or evidence must be produced that the person with priority is not competent under Probate Code section 8402 or refuses to act.

Where a petition seeks the appointment as personal representative of one or more persons other than the petitioner, a consent to serve as personal representative must be filed for each such proposed personal representative.

- (g) **[Will Submitted for Safekeeping]** The original will must be submitted at the time of filing unless previously lodged with the Court for safekeeping. If the will was previously lodged for safekeeping, it is petitioner's responsibility to notify the clerk upon filing the petition for probate that the will was previously lodged.
- (h) **[Lost Wills]** If the original of an instrument being offered for probate has been lost or destroyed, the petition for probate must include a declaration regarding the circumstances of the inability to file the original instrument. The declaration must address the presumption of revocation described in Probate Code section 6124.

(Amended 01-01-13; adopted effective 07-01-98; previously amended effective 01-01-12)

1703 BOND OF PERSONAL REPRESENTATIVE

- (a) **[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.

(Amended 01-01-13; adopted effective 07-01-98; previously amended effective 07-01-00 and 01-01-12)

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 deems reasonable under the circumstances of the particular case. 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. The California Probate Referee's Association has published the Probate Referee's Guide , which may be consulted at www.probatereferees.org.

Although not an official publication, this pamphlet is a good reference. In the case of real property, the full legal description, street address, and County Assessor's parcel number shall be included.

(c) [Increase or Decrease 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 as required by California Rules of Court, rule 7.204.

(Amended 01-01-12; 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 filing a separate allowance or rejection of the claim on the appropriate Judicial Council form.

(Amended 01-01-12; 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. Counsel should inform the original bidder and his or her agent of the time and place of hearing and advise that they be in court for the hearing.

(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 of personal property 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.

(h) [Increased Bid Forms] When there is a successful overbid in open court on a sale of real property, an "Increased Bid in Open Court" form (local court form number (SC-6004) must be completed, signed, and filed with the court before the conclusion of the hearing; otherwise, confirmation is not effective. This form is available from the courtroom clerk or from the court's website.

(Amended 01-01-12; adopted effective 07-01-98; previously amended effective 01-01-03 and 07-01-09)

1707 ACCOUNTS OF PERSONAL REPRESENTATIVES

The court will approve a final distribution without an account only when there has been strict compliance with Probate Code section 10954 and California Rules of Court, rule 7.550.

(Amended 01-01-12; adopted effective 07-01-98; previously amended 07-01-00)

1708 FEES OF PERSONAL REPRESENTATIVES

(a) [Basis for Computation] 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 in accordance with Probate Code sections 10800 and 10810.

(b) [Allowance on Account of Fees] Allowances on account of statutory fees will be granted only in proportion to the actual work performed to date. See California Rules of Court, rule 7.701. 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 be set forth with particularity and in accordance with California Rules of Court, rules 7.702 and 7.703.

(Amended 01-01-12; 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 in the manner required by California Rule of Court, rule 7.651. 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.

(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) **[Minors]** If the distributee is a minor, the manner in which the funds are to be distributed must be identified. Probate Code section 3413 governs the distribution of money belonging to a minor. If money belonging to the minor is to be distributed to a fiduciary (e.g., a probate guardian, a trustee or custodian), the fiduciary must be identified in the petition.

In addition, the following documents must be submitted under the appropriate circumstances:

- (1) Declaration from the parent(s) that the minor's estate, including the bequest, does not exceed the statutory maximum if distribution is to be made under Probate Code section 3401;
- (2) A separate "Order To Deposit Money Into Blocked Account" (MC-355) if a blocked account is to be used. Within 15 court days following the date of the minute order, the "Receipt and Acknowledgment of Order for the Deposit of Money into Blocked Account" (MC-356) must be filed with the Probate Court. The court will set a review hearing to ensure that the Receipt and Acknowledgment has been filed;
- (3) A certified copy of the Letters of Guardianship, if distribution is to be made to a probate guardian;
- (4) The consent of the custodian to act, if distribution is to be made to a custodian under the California Uniform Transfers to Minors Act (Prob. Code, § 3900 et seq.).

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

(f) **[Trustees]** If distribution is to a trustee who is not the personal representative, the consent of the nominated trustee to act must be on file prior to the hearing on the petition for distribution to the trustee.

(g) **[Distribution Pursuant to Agreement]** If distribution is to be other than according to the terms of the will or the laws of intestate succession, there must be a written agreement on file and signed by all parties affected by the distribution.

(h) **[Distribution to Deceased Heir or Beneficiary]** When an heir or beneficiary dies during administration of an estate, the order must provide for distribution to the personal representative of the estate of the heir or beneficiary, or, if applicable, to the person(s) entitled to the property in a summary proceeding pursuant to a declaration or affidavit under Probate Code section 13101.

If distribution is to be made to a person collecting assets under Probate Code section 13100, the required affidavit or declaration pursuant to Probate Code section 13101 must be filed before distribution will be ordered. If the required affidavit or declaration cannot be filed, the petition must state why it cannot be filed.

(i) **[Distribution Pursuant to Assignment]** When distribution is requested pursuant to an assignment by a distributee, the assignment must be filed in the proceeding. The court may require additional information, including consideration paid, to assure that the assignor fully comprehends the effect of the assignment, that it was voluntarily made, and was not grossly unreasonable.

(j) **[Distribution Pursuant to Disclaimer]** A copy of a disclaimer must be on file prior to the hearing on a petition for distribution of an affected asset. The proposed distribution must comply with Probate Code sections 282 and 21110 as well as any other sections that may apply.

(Amended 01-01-12; 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 and shall further designate a briefing schedule, if appropriate.

(Amended 01-01-12; adopted effective 07-01-98; previously amended effective 07-01-00)

1711 MISCELLANEOUS PETITIONS & ORDERS

(a) **[Petition for Entitlement to Distribution]** A petition under Probate Code section 11700 must set forth the specific determination which the petitioner believes the court should make and must provide for a complete disposition of the property of the estate.

(b) **[Petition for Instructions]** A Petition for Instructions is limited to those matters for which no other procedure is provided. The Petition for Instructions should set forth the matter on which the desires instructions in precise detail. If the petitioner is taking a position on the issue, the petition shall set forth the position as well as the legal basis for such position. The petition shall be accompanied by a proposed Order of Instructions which sets forth the instructions in clear and explicit language.

(c) **[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.

(d) [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 heard. A request for an order dispensing with notice should be accompanied by *a a* declaration of due diligence. (See Calif. *Rules of Court*, rule 7.52; Local Court Form SC-6014.)

(e) [Spousal Property Petition] If the basis for claim that property should pass or be confirmed to the surviving spouse is that the property is community or quasi-community property, then the following information must be included in the spousal property petition:

- (1) Date and place of marriage;
- (2) Whether decedent owned any real and personal property on date of marriage, and if so, a description and approximation of values;
- (3) For each asset for which a determination that it pass or be confirmed to the surviving spouse, a description of the manner in which the asset was acquired by decedent, **including source of funds or loans, title to asset, etc.;**
- (4) Any additional facts upon which the claim that property is community or quasicommunity property is based.

If the claim is based on a document, a copy of the document must be attached to the petition and properly authenticated.

(f) [Petition to Determine Title to Real or Personal Property (Prob. Code, § 850)] Petitions filed pursuant to Probate Code section 850 must be set for hearing at least 30 days from the date of filing. Because personal service is required, the hearing should be set more than 30 days from the date of filing to avoid continuances. See Probate Code section 851.

(Amended 01-01-12; 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 petition 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 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 or other designated agency 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. 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) **[Blocked Account]**

- (1) **Policy to Block Minor's Estates:** Absent a showing of good cause, it is the policy of the Court to block all funds in a guardianship estate pursuant to Probate Code section 2456. The fact that a parent is appointed as guardian of the estate does not constitute good cause for waiving this policy.
- (2) **Receipt from Institution:** When the Court orders funds to be deposited into a blocked account, the guardian must file the Judicial Council form "Receipt and Acknowledgement of Order for the Deposit of Money Into Blocked Account" (MC-356). This form must be signed by an authorized signatory of the institution into which the funds were deposited. The Court will set a hearing to review the filed Receipt and Acknowledgement. Appearance may not be required at the review hearing if the Receipt is in order.
- (3) **Accounting for Blocked Accounts:** If funds are maintained in a blocked account, the guardian is not excused from submitting a timely accounting (see subdivision (f)). However, the Court may accept proof of continued deposits, such as submission of all original account statements during the period of accounting, instead of the statutory accounting schedules.

(f) **[Accountings]**

- (1) **Content:** The accounting 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 accounting or in the report accompanying the accounting. Accountings should conform to the requirements set forth in this rule and with Probate Code sections 1060-1064 and 2620 as well as Calif. Rules of Court rule 7.575.
- (2) **Frequency of Accountings:** The first accounting must be filed one year from the date of appointment. Thereafter, accountings must be filed biennially or as ordered by the Court. The Court will require strict compliance with Probate Code section 2620.
- (3) **Reports Accompanying Accountings:** The report accompanying the guardian's accountings should contain a statement of the age, health, activity and whereabouts of the minor. Alternatively, the guardian may submit the Confidential Guardianship Status Report (Judicial Council form GC-251).

(g) **[Support Obligation of Parents]** Regardless whether the funds are maintained in a blocked account, they may not be used for the ordinary expenses of supporting a minor where there is a parent living who has the obligation to support the minor. In all cases, the guardian must obtain Court approval prior to the expenditure of funds for support of a minor.

- (1) **Petition for Authority to Expend Funds for Support from Non-Blocked Account:** If the funds are not maintained in a blocked account, a Petition for Authority to Expend Funds for Support may be submitted.

Such requests must be accompanied by a financial declaration by the parent or parents describing their income and expenses and, if applicable, other circumstances justifying the use of the minor's assets. If the request is for multiple items, each item must be listed separately, with its cost.

Requests to pay for educational or recreational programs must describe the program and include a statement as to the necessity or appropriateness of the program for the minor.

Requests to pay for medical or dental care, including orthodontia, should include a declaration from the guardian explaining why the expense is not covered by insurance.

- (2) **Petition for Withdrawal of Funds from Blocked Account:** If the funds are maintained in a blocked account, a Petition for Withdrawal of Funds from Blocked Account (Judicial Council MC-357) may be submitted. The petition must be calendared and should not be submitted *ex parte*. Petitioner must use attachments to supply the information described paragraph 1 (above) that is not otherwise called for on the Judicial Council form .

(h) [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.

(i) [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.

(j) [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 minor, 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 accounting. Except in rare and unusual cases, the Court will not approve investment in unsecured loans or loans to a near relative unless secured.

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

(Amended 01-01-13; adopted effective 07-01-98; previously amended effective 07-01-09)

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 (GC-310) and shall comply with the provisions of Probate Code section 1821. When filing the petition, the petitioner shall provide the clerk with two extra copies of each document filed and delivered to the Court, including an Order Appointing Court Investigator.

If the proposed conservatee is developmentally disabled and the petitioner is requesting appointment as a limited conservator, the petition shall include the information required in Probate Code sections 1830 and 2351.5. (See local forms for appropriate attachments.)

(b) [Notice of Hearing] The petitioner or petitioner's attorney shall be responsible for preparation of the notice of hearing and the citation and is responsible for service of the notice of hearing and citation in accord with Probate Code sections 1822, 1823 and 1460.

(c) [Letters of Conservatorship] Prior to issuance of the Letters of Conservatorship, conservators shall take the prescribed oath of office as conservator and submit the Letters of Conservatorship in advance of the hearing. Parties are required to comply with Probate Code section 2300.

(d) [Duties of Conservator] Prior to issuance of the Letters, conservators shall acquire the current version of "Handbook for Conservators" and complete and file with the clerk the Duties of the Conservator form. It is recommended that the conservator watch the video *With Heart: Understanding Conservatorship*, which can be streamed at <http://www.courts.ca.gov/partners/150.htm>. It can also be viewed by making arrangements with the clerk's office.

(e) [Conservatorship Inventory and Appraisal] 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 Accountings]

(1) Form and Format: All accountings must follow the content and format required in CRC 7.575. Accountings are designated as either standard or simplified. All accountings must use Judicial Council Form GC-400(SUM)/GC-405(SUM) for the Summary of Account. Guardians and conservators presenting standard accountings may, but are not required to, use the optional Judicial Council forms designated as GC-400. Those guardians and conservators presenting standard accountings who do not use the optional Judicial Council forms are required to use the content and format called for in those forms, but may submit accountings prepared on conventional accounting programs. Guardians and conservators presenting simplified accountings must use the Judicial Council forms designated as GC-405(SUM).

All accountings must provide all information required in Probate Code §§1060 - 1064.

(2) Schedule for Submission: At the time the Court appoints a conservator or guardian, and unless the Court dispenses with accountings, the Court will set a compliance date for the conservator or guardian to file his or her first accounting and report, which will typically be no later than 90 days after the first year anniversary of the appointment of the conservator or guardian. If the conservator or guardian has filed the accounting and all is in order, this will be a nonappearance matter. Each time the Court hears a subsequent accounting and report, it will set a compliance date for the next accounting and report, which will typically be every two years thereafter.

(3) Lodging of Confidential Financial Statements: Pursuant to Probate Code §2620, the guardian or conservator may elect to lodge with the Court the originals of the account statements and all other documents referenced in §2620(c). The originals of all such documents shall be released by the Court as provided in §2620(c)(8).

(4) Allegation re Trust: At the time of each accounting, a verified summary or recapitulation showing the following shall be filed as a confidential statement:

- a. A description of the conservatee's beneficial interest in the trust;
- b. The amount of income generated for the benefit of the conservatee, regardless whether distributed or applied to principal;
- c. The name, address, and telephone number of the trustee; and
- d. Any income distributed to or for the benefit of the conservatee. Such income must be included in an accounting to the Court pursuant to Probate Code section 2620.

(5) Organization of Confidential Financial Statements: The financial institution account statements must be presented in the same sequence as they are listed in the schedule of property on hand. The petitioner must in addition highlight the following information contained on each account statement:

- a. Name, address of account holder;
- b. The account or property description number;
- c. The account type or property description;
- d. The statement period;
- e. The reported balance at the close of the accounting period.

Petitioner must file a reconciliation declaration when the reported balance on the financial institution account statement is not the same as stated in the schedule of property on hand. The declaration must explain the reason for the discrepancy between the balances listed.

- (6) Statement re Sufficiency of Bond:** Sufficiency of the bond must be addressed in all interim accountings. Where bond has been posted, there must be an allegation as to the total bond posted, the fair market value of personal property on hand at the close of the accounting period, plus an estimated annual gross income from the real and personal property, and any additional bond thereby required. (Probate Code §8482.) The calculation for the reasonable amount for cost of recovery to collect on the bond must be included in the report. (CRC 7.207.)

The petition must also contain an allegation as to the date the bond was last renewed and when the next premium is due.

- (7) Final Accounting:** When a final accounting or report is filed, notice of hearing must be given pursuant to Probate Code section 2621. If the conservatee is deceased, notice of hearing must be given to the personal representative or trustee of any trust of which the conservatee was settlor and beneficiary. If the conservator is also the personal representative of the deceased conservatee's estate or there is no personal representative, notice must be given to the deceased conservatee's heirs and devisees.

A final accounting must be required on termination of the conservatorship of an estate except under the following circumstances: (1) the former conservatee who has been restored to full capacity waives the accounting; (2) if the conservatee is deceased, when an accounting is waived by those persons entitled to receive distribution of the estate as provided in Probate Code section 10954; except that if conservator is also the personal representative of the conservatee's estate or trustee of a trust that is the beneficiary of a will, waivers must be required by all heirs or devisees; or (3) when the Court has ordered that accountings are not required pursuant to Probate Code section 2628 and the conditions of that section are otherwise met.

The report must include a statement of the specific assets on hand.

The final report and/or accounting must be filed within 90 days of termination of the conservatorship of the estate.

- (8) Order Dispensing with Accounting:** If a conservatorship estate qualifies under Probate Code section 2628, the Court may grant a petition ex parte to dispense with the filing of

an accounting.

The petition may be brought at any time after the inventory and appraisal has been filed.

The petition shall state:

The value of the estate at the beginning and end of the accounting period, exclusive of conservatee's residence. It is not sufficient to allege that the total net value, exclusive of the residence, is less than the statutory amount. A copy of financial statements showing the ending balances shall be filed with the petition.

The amount and nature of the "public benefit payments". It is not sufficient to allege that monthly payments, exclusive of public benefit payments, were less than \$2,000.

A description of any other monthly income for each month of the accounting period, excluding wages and salaries of conservatee, demonstrating that the estate meets the requirements of Probate Code section 2628.

(g) [Counsel for Proposed Conservatee or Conservatee]

(1) **[Appointment]** If the Court determines that it is statutorily required or in the best interests of the proposed conservatee or conservatee, the Court shall appoint counsel for the conservatee from the list of attorneys qualified 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.

(2) **[Role of Court Appointed Counsel]** Attorneys who are appointed as counsel for conservatees pursuant to Probate Code sections 1470, 1471, or 2356.5 have the following ethical obligations:

a. **Clients Who Are Non-Communicative or Clearly Delusional or Not Opposed to the Request Before the Court**

If the client is noncommunicative, or clearly delusional, or not opposed to the request before the Court, the attorney must evaluate the request before the Court and must orally report to the Court his or her observations and recommendations as to what would be in the client's best interests, unless a written report is requested by the Court. Where a conflict arises between the attorney and the proposed conservatee or conservatee concerning the best interests of the proposed conservatee or conservatee, the Court may appoint a successor attorney.

b. **Clients Who Are Communicative, Alert and Are Opposed to the Request Before the Court**

If the client is communicative, alert and opposed to the request before the Court, and

if the attorney has a good faith belief that sufficient grounds exist to support the position taken by the client, the attorney must use all reasonable and appropriate means to obtain the result sought by the client.

c. Clients Who Have Impaired Judgment and Are Opposed to the Request Before the Court

If the client appears to have impaired judgment and is opposed to the request before the Court, the attorney must report to the Court the attorney's observations and recommendations as to what would be in the client's best interests, as well as the fact that the client is opposed to the request and the apparent reasons for the opposition. The attorney must ensure that the client is given the opportunity to directly address the Court, if reasonably possible.

d. Attorney to Disclose Proper Relationship

The attorney must disclose to the Court and all parties whether the attorney currently represents, or has previously represented, the conservator or proposed conservator.

(Amended 01-01-13; adopted effective 07-01-98, previously amended effective 07-01-00, 01-01-08 and 07-01-09)

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.

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

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.

(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.

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

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)

2100.1 FILINGS

The Clerk's Office of the Santa Barbara County Superior Court, Traffic Division shall be responsible for processing all adult and juvenile traffic infractions and non-traffic infractions. No misdemeanors shall be filed in the Traffic Division.

(Adopted effective 01-01-16)

2100.2 COURT SESSIONS

Regular court sessions for citations and complaints filed in the Traffic Division for both adult and juvenile matters shall be scheduled as required by the Presiding Judge and published by the Court Executive Officer.

(Adopted effective 01-01-16)

2101 MINISTERIAL AUTHORITY OF CLERK

The Clerk is authorized to process bail forfeitures, proofs of correction, initial and discretionary continuances, traffic school referrals and other ministerial or discretionary matters to the extent permitted by law. [CRC 4.104 Vehicle Code section 41501 and 42005].

(Adopted effective 01-01-16)

2102 CONTINUANCES BY CLERK

The Clerk has authority to grant extensions of court appearances for 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 and the discretion to grant a second extension of not more than thirty (30) calendar days.

(Adopted effective 01-01-16)

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 forty five (45) calendar days after issuance of the notice to appear.

(Amended effective 01-01-16; adopted effective 07-01-98)

2103.1 ARRAIGNMENTS

Except for offenses mandating a court appearance, a defendant may waive the right to be arraigned on the violation and enter a plea of not guilty at the counter or by telephone or over the

internet using the Court's automated systems. The Clerk will assign a trial date within the statutory time requirements of Penal Code §1382, unless the defendant waives that right on the form provided by the Clerk.

(Adopted effective 01-01-16)

2103.2 TRIAL CONTINUANCES

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.

(Rule 2104 Repealed 01-01-16; adopted effective 07-01-98; amended 07-01-09)

2104 RELEASE ON BAIL

(Repealed 01-01-16; 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 of up to three hundred dollars (\$300.00) pursuant to PC 1214.1(a) and a ten dollar (\$10) fee pursuant to VC 40508.6(b) will be added to any sums not paid within fourteen (14) calendar days of mailing the notice.

(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 01-01-16; adopted effective 01-01-16)

2108 ADJUDICATION OF MISCELLANEOUS INFRACTION MATTERS

A. Clerks' Authority in Infraction Cases Not Transferred to Court Collections.

For cases that have not been transferred to court collections, deputy clerks are granted the authority to take the following actions at the request of defendants charged with infraction violations:

1. Grant bail waivers to defendants who have met the needs for a financial hardship who plead not guilty and wish to submit a trial by written declaration to contest their traffic citation.
2. Accept the posting and forfeiting of bail on infraction cases.
 - a. Within 30 days of posting and forfeiting bail online, clerk may reopen case upon receipt of written 'not guilty' plea.
 - b. Within 31 to 90 days of posting and forfeiting bail online, clerk may reopen case upon defendant filing motion to vacate bail forfeiture.
 - c. After 90 days of posting and forfeiting bail online, clerk may not reopen case.
3. Accept written requests to stay execution of court orders pending outcome of infraction appeal.
4. Grant initial 30-day extension of time to pay or provide proof of completion of community service work or traffic violator school or to provide proof of correction of correctable offense(s).
5. Exercise discretion to grant second 30-day extension of time to pay or provide proof of completion of community service work or traffic violator school or to provide proof of correction of correctable offense(s).
6. Grant a payment plan following defendant's payment of \$35 non-refundable accounts receivable fee. Payment amount is based on the total amount due.
7. For defendants who previously enrolled in traffic violator school, accept late completion of traffic violator school within 60 days of the date a conviction abstract was sent to the Department of Motor Vehicles.
8. For defendants who did not previously enroll in traffic violator school and upon payment of \$66 non-refundable traffic violator school fee, accept late completion of traffic violator school within 60 days of the date a conviction abstract was sent to the Department of Motor Vehicles.
9. Grant bail reductions, amendments to correctable statute, and acceptance of proof of corrections pursuant to the authority granted by the Presiding Judge.

(Adopted effective 01-01-16)

2109 ALTERNATE PROCEDURES FOR JUDICIAL REVIEW OF INFRACTION MATTERS

A. Ex Parte Judicial Review by Written Declaration or Request

Defendants who plead guilty or no contest on certain infraction matters may seek judicial review to obtain specific relief from the Court as follows:

1. On Good Cause Declaration, request:
 - a. Acceptance of proof of completion of traffic violator school even if case has transferred to collections with civil assessment attached.
 - b. Grant additional extension of time to correct a mechanical violation or obtain out-of-state registration or proof of driver's license.
 - c. Reinstate community work service when community work service has previously been terminated.
 - d. Vacate civil assessment, recall case from court collections, and reduce fine to original bail amount.
 - e. Waive mandatory appearance due to defendant living in excess of 300 miles from court.

Following review, the reviewing judicial officer shall determine whether good cause exists and may grant specific relief. The judicial officer shall make such findings and issue such orders as are appropriate to address requests for relief. The Clerk's Office shall communicate such judicial orders to the defendant in writing within 30 days from the date the request was received by the Court.

(Adopted effective 01-01-16)

APPENDICES

APPENDIX 1: COURT GEOGRAPHIC JURISDICTION MAP

<http://www.sbcourts.org/ff/rules/SuperiorCourtJurisdiction.gif>

APPENDIX 2: SPECIAL LOCAL COURT FORMS

- <http://www.sbcourts.org/ff/local-forms.shtm>
- Forms marked with the asterisk (*) are adopted for mandatory use.

GENERAL FORMS

<u>SC-1002</u>	Declaration Under CCP Section 170.6 (Peremptory Challenge)	7/1/1999
<u>SC-1006</u>	Tape Recording Request	10/19/2015
<u>SC-1006CD</u>	CD Recording Request	10/19/2015
<u>SC-1007</u>	Verification	7/1/1999
<u>SC-1008</u>	Affidavit for Subpena Duces Tecum	6/1/2000
<u>SC-1010</u>	Acknowledgement of Receipt/Proof of Service	10/9/2002
<u>SC-1022</u>	Order Form for CD-Rom Indices	7/1/2017
<u>SC-1025</u>	Certificate of Service by Mail	3/20/2003
<u>SC-1034*</u>	Installment Payment Plan Agreement Adjudicated Cases	11/1/2017
<u>SC-1038</u>	Financial Affidavit (To be submitted with <u>SC-8028 Ability to Pay Determination</u>)	4/1/2012
<u>SC-3062</u>	Inmate Hearing Transcript Request	9/12/2006

CIVIL FORMS

<u>SC-2000</u>	Amendment to Complaint	7/1/1999
<u>SC-2002</u>	Application for Issuance of Writ of Execution and Order (Money Judgment)	7/1/1999
<u>SC-2003</u>	Application for Order for Publication	7/1/1999
<u>SC-2004</u>	CMADRESS Case Management ADR Settlement Session Report	2/9/2015
<u>SC-2005</u>	Application for Warrant and Declaration	7/1/1999
<u>SC-2008</u>	Declaration and Order Re Lost Writ	7/1/1999
<u>SC-2011</u>	Declaration to File Abstract of Judgment Under CCP	7/1/1999
<u>SC-2014</u>	Joint Memorandum that Civil Case is At-Issue, Request for Setting	7/1/1999
<u>SC-2024</u>	Notice of Appeal	7/1/1999
<u>SC-2029</u>	Order for Publication of Summons or Citation	7/1/1999
<u>SC-2037</u>	Request for Recall of Bench of Warrant in Supplemental Proceedings	2/1/1999
<u>SC-2038</u>	Stipulation and Order to Alternative Dispute Resolution (ADR) Process	7/11/2014

<u>SC-2045</u>	Unlawful Detainer Informational Brochure	7/1/2012
<u>SC-2050</u>	Notice of Entry of Judgment	7/1/2013
<u>SC-2051</u>	Notice of Entry of Judgment For Restitution	7/1/2013
<u>SC-2058</u>	Stipulation and Order to Submit Case to Private Mediation in Lieu of CMADDRESS	7/21/2008

CRIMINAL FORMS

<u>SC-3001*</u>	Addendum to Advisement of Rights, Waiver and Plea Form Defendant Under 21, Vehicle Code § 13202.5-13202.7	7/1/2016
<u>SC-3004</u>	Declaration and Application for Change of Plea and Request for Dismissal (PC § 1203.4/1203.4a)	6/1/2015
<u>SC-3004a</u>	Instructions for Declaration and Application by Defendant (PC § 1203.4/1203.4a)	3/1/2012
<u>SC-3005N*</u>	Fax Arraignment (Lompoc, Miller Divisions)	6/30/2008
<u>SC-3005aN</u>	Fax Arraignment Procedures (Lompoc, Miller Divisions)	2/1/2014
<u>SC-3007</u>	Order Granting Deferred Entry of Judgment PC 1000	1/1/2018
<u>SC-3008N</u>	Court Ordered Program Notice of Non-Compliance (North County)	3/30/2016
<u>SC-3008S</u>	Court Ordered Program Notice of Non-Compliance (South County)	12/5/2001
<u>SC-3009</u>	Order Terminating Deferred Entry of Judgment (PC 1000) and Entry of Judgment	6/20/2001
<u>SC-3012CR</u>	Request to Calendar a Criminal Case	10/5/2017
<u>SC-3013S</u>	Application and Order Permitting Appearance in Propria Persona	12/4/2002
<u>SC-3015</u>	Order for Destruction of Weapons and/or Transfer to Department of Justice	8/1/2001
<u>SC-3016</u>	Order for Return of Weapon	8/1/2001
<u>SC-3018</u>	Stipulation and Order for Return of Exhibits	10/1/2001
<u>SC-3022</u>	Pre-Trial Agreement (CVC § 13202.5)	3/1/2013
<u>SC-3028</u>	Declaration in Support of Waiver of Vehicle Impoundment	3/2/2009
<u>SC-3029</u>	Defendant's Statement of Understanding of Consequences of Plea (CVC 23103.5)	1/1/2009
<u>SC-3030</u>	Petition to Waive Mandatory Installation of Ignition Interlock (CVC §§14601(e), 14601.1(d), 14601.4(c), 14601.5(g))	4/27/2009
<u>SC-3031</u>	Waiver of Defendant's Personal Presence	11/1/2001
<u>SC-3035</u>	Notice of Motion (Prove Prior Conviction)	3/1/2002
<u>SC-3038</u>	Declaration and Application By Defendant	10/18/2002
<u>SC-3043N</u>	Court Ordered Program Notice Of Non-Compliance(Domestic Violence Program)	1/30/2003
<u>SC-3045</u>	Ex Parte Motion To Vacate Bail Forfeiture (PC §1305.2)(Infraction & Misdemeanor Cases Only)	7/1/2013
<u>SC-3057</u>	Petition For Certificate of Rehabilitation and Pardon <u>(How to Apply for a Pardon in California from the CA Board of Prison Terms website)</u>	1/1/2005
<u>SC-3058</u>	Notice of Filing of Petition for Certificate of Rehabilitation And Pardon <u>Certificate of Rehabilitation (Pursuant to Penal Code Section 4852.13)</u>	1/1/2005

<u>SC-3062</u>	Inmate Hearing Transcript Request	9/12/2006
<u>SC-3064</u>	Ex parte Order Pursuant to §4011.5 PC	9/10/2008
<u>SC-3068</u>	Advisement and Waiver of Right to Counsel (Faretta Waiver)	1/1/2012
<u>SC-3083</u>	Petition/Appl for Resentencing (Prop 47)	2/2/2015
<u>SC-3085*</u>	Advisement of Rights, Waiver and Plea Form - Misdemeanor	1/1/2018
<u>SC-3707</u>	Abandonment of Appeal	8/11/2003

FAMILY LAW FORMS

<u>SC-4011</u>	Compliance Report on Order to Attend “Co-Parenting Essentials” Program (COPE)	1/1/2000
<u>SC-4012</u>	Declaration Re: Ex Parte Notice	4/15/2003
<u>SC-4013</u>	Order On Request For Telephone Appearance	7/1/2013
<u>SC-4014*</u>	Request For Case Management Conference/Trial Setting	1/1/2011
<u>SC-4016</u>	Advisement and Waiver of Right to Counsel (Faretta Waiver)	4/1/2011
<u>SC-4017*</u>	Notice of Cancellation of Mediation and Statement of Good Cause (Local Rule 1501 et. Seq., Family Code §3170)	11/7/2011
<u>SC-4018*</u>	Notice of Mediation with Family Custody Services (Local Rule 1501 Et. Seq., Family Code §3170)	11/7/2011
<u>SC-4020*</u>	Ex Parte Application for Issuance of Letter Rogatory	1/1/2015
<u>SC-4021*</u>	Certificate of Execution	1/1/2015
<u>SC-4022*</u>	Request for International Judicial Assistance	1/1/2015
<u>SC-4023*</u>	Essential Information for Respondent	1/1/2015
<u>SC-4026</u>	Family Law Information Statement	1/1/2016

PROBATE FORMS

<u>SC-6000</u>	Application & Order Appointing Probate Referee	3/20/2003
<u>SC-6003*</u>	Conservatorship Contact Information (Confidential)	6/22/2007
<u>SC-6004</u>	Increased Bid in Open Court	4/1/2005
<u>SC-6008</u>	Order Appointing Court Investigator	7/14/2009
<u>SC-6009</u>	Objection to Petition for Appointment of Guardian	3/25/2003
<u>SC-6014</u>	Declaration of Due Diligence	8/16/2007
<u>SC-6020</u>	Transfer of Small Estates Without Probate Informational Brochure	1/1/2012
<u>SC-6021</u>	Declaration Pursuant To California Probate Code Sections 13100-13115	1/1/2012
<u>SC-6026</u>	Request for Order Dispensing with Accountings and Bond	1/1/2013
<u>SC-6027</u>	Order Granting Ex Parte Request to Dispense Acctg/Bond	1/1/2013
<u>SC-6028</u>	First and Final Report of Personal Representation etc	1/1/2013
<u>SC-6029</u>	Order on First/Final Report of Personal Representation etc	1/1/2013

<u>SC-6030</u>	Fee Declaration: Conservator	1/1/2013
<u>SC-6031</u>	Report of Status of Administration	1/1/2013
<u>SC-6032</u>	Order on Report on Status of Administration	1/1/2013
<u>SC-6033</u>	Order Appointing Counsel for Conservatee	1/1/2013
<u>SC-6034</u>	Attachment to Letters of Conservatorship (Limited)	1/1/2013
<u>SC-6035</u>	Attachment to Order Appointing Limited Conservator	1/1/2013
<u>SC-6036</u>	Attachment to Petition for Appt of Limited Conservator	1/1/2013
<u>SC-6037</u>	Petition for Authority to Use Guardianship Funds/Minor	1/1/2013
<u>SC-6038</u>	Order re use of Guardianship Funds for Support of Minor	1/1/2013
<u>SC-6039</u>	Petition for Visitation	1/1/2013
<u>SC-6040</u>	Visitation Order	1/1/2013

SMALL CLAIMS FORMS

<u>SC-2020</u>	Judgment Debtor's Statement re: Satisfaction of Judgment; Entry of Satisfaction of Judgment	4/21/2003
<u>SC-7000</u>	<u>Small Claims Packet (forms packet online)</u>	9/1/2013
<u>SC-7003</u>	Mediator Request for Postponement of Small Claims Hearing	7/1/2013
<u>SC-7008</u>	Request for Dismissal/Satisfaction of Judgment	7/1/1999
<u>SC-223</u>	Declaration of Default in Payment of Judgment	
<u>SC-224</u>	Response to Declaration of Default in Payment of Judgment	
<u>SC-225</u>	Order on Declaration of Default in Payments	
<u>SC-7010</u>	Motion to Vacate Mediated Stipulated Judgment and Motion for Rehearing	7/1/2013
<u>SC-7016</u>	Small Claims Informational Brochure	9/1/2013
<u>SC-7018</u>	Small Claims Declaration Re: Default in Payments in Mediated Agreements	2/5/2014

PARKING APPEAL FORMS

<u>SC-7012</u>	Notice of Appeal – Parking	7/1/2013
<u>SC-7012a</u>	Parking Violation Appeal Process	9/1/2013
<u>SC-7013</u>	Proof of Service, Notice of Appeal – Parking	7/1/1999

TRAFFIC FORMS

<u>SC-8003</u>	Plea and Notice of Court Trial (CVC §40519)	7/1/2015
<u>SC-8004N</u>	Court Referral: Misidentification Claim (North County)	7/3/2003
<u>SC-8004S</u>	Court Referral: Misidentification Claim (South County)	3/20/2003
<u>SC-8005</u>	Misidentification Findings	7/27/2009
<u>SC-8006</u>	Petition For Restricted License (CVC §13201.5 and 13202.5)	4/18/2003
<u>SC-8006a</u>	Basis for a Restricted License	5/16/2003

<u>SC-8014</u>	Declaration	7/3/2003
<u>SC-8021</u>	Financial Qualification For Waiver to Post Bail - Confidential	1/1/2016
<u>SC-8023</u>	Installment Payment Plan Agreement: Traffic Cases	11/1/2017
<u>SC-8024</u>	Request For Waiver to Post Bail	1/1/2016
<u>SC-8026</u>	Request to Reset Court Trial	1/1/2016
<u>SC-8028</u>	Ability to Pay Determination (<i>Must be submitted with <u>SC-1038 Financial Affidavit</u></i>)	10/1/2016
<u>TR-220</u>	Request for New Trial (Trial de Novo) Trial by Written Declaration – Traffic	

JUVENILE FORMS

<u>SC-9007</u>	Petition for Restricted License – VC §13202.5	8/2/2011
<u>SC-9012</u>	Request For Copies of Juvenile Case Records and Order Thereon – 827 W & I	9/23/2009

APPENDIX 3: SUPERIOR COURT SERVICES, FILING FEES & CHARGES

<http://www.sbcourts.org/ff/filing-fees.shtm>

APPENDIX 4: APPROVED COURT SERVICE VENDOR RATE & FEE SCHEDULE

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

<http://www.sbcourts.org/ff/vendor-fees.shtm>

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

<http://www.sbcourts.org/ff/rules/appendix5.pdf>

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