

Superior Court of California County of San Bernardino



Local Rules of Court Effective January 1, 2018

Please note: All new content has been underlined. Content to be deleted is stricken through, as compared to the Local Rules as last amended

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CHAPTER 1
COURT RULES AND ADMINISTRATION

PART 1
INTRODUCTION

Effective July 1, 1999, and in compliance with the California Rules of Court, the Superior Court of California, County of San Bernardino, adopts these Local Rules of Court.

For purposes herein, the Superior Court of California, County of San Bernardino, shall be referred to as “Court” and the Local Rules of Court may be referred to as “Local Rules” or “Rules”.

RULE 113 METHOD OF RULES AMENDMENT

In addition to the requirements of the California Rules of Court, no amendment of the Local Rules will be effective unless approved by a majority of the Judges of the Court, which shall be defined as one-half of the number of Judges sitting in San Bernardino County on a full-time basis, and not on Judicial Council temporary assignment, plus one. After at least five days written notice of the proposed amendments, voting shall be by written ballot or secure electronic ballot. (Eff. January 1, 1999. As amended, eff. January 1, 2017.)

RULE 115 CONSTRUCTION AND APPLICATION OF RULES

These rules shall be construed and applied in a manner as not to conflict with the California Rules of Courts and shall be liberally construed to secure the proper and efficient administration of the business and affairs of this Court and promote and facilitate the administration of justice by this Court. Rule and subdivision headings do not in any manner affect the scope, meaning or intent of any of the provisions of these Rules. (Eff. July 1, 1998. As amended, eff. January 1, 2017.)

PART 2
ASSIGNMENT OF JUDGES

RULE 120 JUDICIAL RESOURCES

For purposes of assignment or transfer, in addition to the factors listed in California Rules of Court, Rule 10.603 (c)(1), the Presiding Judge shall consider seniority as a judge and place of residence as other appropriate factors. (Eff. January 1, 1999. Amended, eff. January 1, 2009. As amended, eff. January 1, 2017.)

PART 3
DISTRIBUTION OF BUSINESS

RULE 131

The Presiding Judge shall designate by general order where all actions shall be filed and heard. The general order shall be posted at www.sb-court.org. (Eff. July 1, 1998. Amended, eff. January 1, 1999, January 1, 2005, July 1, 2005 and January 1, 2007. As amended, eff. January 1, 2017.)

Rule 132

Any action or proceeding may be transferred to another courthouse by the Court on its own motion or on noticed motion by any party where the action was filed in the wrong courthouse or for other good cause shown. (Eff. July 1, 1998. Former Rule 132.2, renumbered as Rule 132 and amended, eff. January 1, 2017.)

RULE 133 TRIAL JURY VENIRES

The trial jury venires shall be drawn from residents of the area served by the courthouse where the matter is tried.

Notwithstanding the foregoing, whenever necessary to facilitate the business of the Court, trial jury venires for the Court may be drawn from residents of any and all areas of the County. (Eff. January 1, 2000. Amended, eff. January 1, 2007, July 1, 2009 and January 1, 2011. As amended, eff. January 1, 2017.)

CHAPTER 2
JUDICIAL OFFICER AND COURT EXECUTIVE OFFICER DUTIES

PART 1
PRESIDING JUDGE

RULE 210 DUTIES

There shall be one Presiding Judge and one Assistant Presiding Judge. The term of office for the Presiding Judge and Assistant Presiding Judge shall be for two years commencing January 1 of each even-numbered year.

The Presiding Judge shall not have a regular Court assignment. The Presiding Judge shall have those powers and duties conferred upon such office by statute the California Rules of Court, and the Standards of Judicial Administration as promulgated by the Judicial Council. (Eff. July 1, 1998. Amended, eff. July 1, 2003 and January 1, 2009. As amended, eff. January 1, 2017.)

Rule 210.1

The Presiding Judge may issue general orders for the administration of the Court as the Presiding Judge deems appropriate. The Supervising Judge of a courthouse may issue such general orders for the administration of that courthouse as the Supervising Judge deems appropriate. General orders shall be valid only to the extent they are not inconsistent with the Local Rules or applicable California Rules of Court and statutory and decisional law. (Eff. January 1, 2008. As amended, eff. January 1, 2017.)

Rule 210.2

The Presiding Judge shall appoint Judges to committees, as he or she deems appropriate for the conduct of Court business. The committees will be responsible for the oversight of Court functions and the development and analysis of Court policy initiatives as directed by the Presiding Judge. Specific areas in which committees may be expected to operate include Personnel, Budgeting, Facilities, Technology, Civil, Criminal, Juvenile, Family Law, and Rules. (Eff. July 1, 1998. Former Rule 231.6, renumbered as Rule 201.2 and amended, eff. January 1, 2017.)

RULE 211 ELECTION OF PRESIDING JUDGE AND ASSISTANT PRESIDING JUDGE

Election of the judges who shall serve as Presiding Judge and Assistant Presiding Judge shall be governed by the Election Policies and Procedures, Judicial Policy No. 10. (Eff. January 1, 2017.)

RULE 212 SUCCESSION OF OFFICE

In the event that the offices of Presiding Judge and Assistant Presiding Judge become vacant at the same time, the office of Presiding Judge will be temporarily filled pursuant to the following order of succession, until such time as an election pursuant to the policy referenced in Rule 211 takes place:

- a) Any past Presiding Judge of the Court, who is still sitting in San Bernardino County on a full-time basis and not on Judicial Council temporary assignment, in reverse order of when they served, so that the most recent serving past Presiding Judge has first priority.

- b) If no past Presiding Judge of the Court is available, then the Judge with most seniority as a judge and who is sitting in San Bernardino County on a full-time basis and not on Judicial Council temporary assignment.

(Eff. January 1, 2017.)

PART 2
MEETINGS OF JUDGES

RULE 220

An annual meeting of the Judges of the Superior Court shall be held on a date, and at such time and place, as designated by the Presiding Judge. (Eff. July 1, 1998. Amended January 1, 1999 and July 1, 2012.)

Rule 220.1

Special meetings of the Judges shall be held:

- (a) Upon the call of the Presiding Judge; or
- (b) Upon the written petition to the Presiding Judge signed by 20% or more of all Judges specifying the purpose/agenda of such special meeting.
- (c) Notice of all special meetings shall be given to all Judges at least 24 hours in advance of such meeting.

(Eff. July 1, 1998. As amended, eff. January 1, 2017.)

PART 3
EXECUTIVE COMMITTEE

RULE 231 DUTIES

Rule 231.1

The Executive Committee shall advise and assist the Presiding Judge on all matters related to Court administration. (Eff. January 1, 2000.)

Rule 231.2

With the assistance of the Executive Officer, the Executive Committee shall adopt an annual budget for submission to the Administrative Office of the Courts. (Eff. January 1, 2000, Amended, eff. January 1, 2004.)

Rule 231.3

The Executive Committee shall review and approve the organizational structure for the administration of the Court system under the Court Executive Officer. (Eff. January 1, 2000.)

Rule 231.4

The Executive Committee shall review and recommend for approval or rejection personnel and administrative matters that are brought before the committee (Eff. January 1, 2000. Amended, eff. January 1, 2004. As amended, eff. January 1, 2017.)

RULE 232 EXECUTIVE COMMITTEE ELECTIONS

Election of judges who shall serve as members of the Executive Committee shall be governed by the Executive Committee Composition and Elections Policy. (Eff. January 1, 2017.)

RULE 233 QUORUM

A quorum shall consist of a majority of the voting Executive Committee members. No action may be taken unless a quorum is present. (Eff. January 1, 2000. Amended, eff. July 1, 2000 and January 1, 2004. As amended, eff. January 1, 2017.)

RULE 234 EFFECT OF ACTION OF THE EXECUTIVE COMMITTEE

All actions of the Executive Committee shall have the same force and effect as actions of a majority of the Judges taken at an annual, regular or special meeting unless objections thereto shall be given in writing by six (6) or more of the Judges to the Presiding Judge within five (5) days after the minutes of such meeting shall have been delivered “in-house”. Agendas for Executive Committee meetings shall be delivered to all Judges three (3) days prior to scheduled meetings. Minutes shall be sent to all Judges within ten (10) Court days of the meeting. In the event that such objections are filed, the Presiding Judge shall place such matters on the agenda of the next succeeding regular or special meeting of the Judges and such action of the Executive Committee shall be deemed not to have been taken. (Eff. January 1, 2000. Amended, eff. July 1, 2000.)

PART 4
COURT EXECUTIVE OFFICER

RULE 240 SELECTION AND REMOVAL

The Court Executive Officer (Executive Officer) shall be selected by a majority vote of all Judges.

The Executive Officer is an “at will” employee who serves at the pleasure of the Judges of the Courts. The Executive Officer may be removed by a majority vote of all Judges. (Eff. July 1, 1998. Amended, eff. January 1, 2001. As amended, eff. January 1, 2017.)

RULE 241 STATUTORY RESPONSIBILITIES

The Executive Officer shall be the Clerk, Executive Officer and Jury Commissioner of the Superior Court of California, County of San Bernardino. (Eff. January 1, 1999.)

RULE 242 DUTIES

Under the general direction of the Presiding Judge, the Executive Officer shall be responsible for the proper and efficient administration of the Courts, the implementation of personnel rules, administrative and judicial policies adopted by the Judges, and supervision of all non-judicial Court personnel placed under his/her authority in the organizational structure. (Eff. July 1, 1998.)

Rule 242.1

The Executive Officer shall be the appointing authority for Court staff, except Court Commissioners. (Eff. July 1, 1998. Amended, eff. July 1, 2003. As amended, eff. January 1, 2017.)

Rule 242.2

The Executive Officer shall prepare and submit a draft annual budget for the Court to the Presiding Judge and Executive Committee. (Eff. July 1, 1998. Amended, eff. July 1, 2000. As amended, eff. January 1, 2017.)

Rule 242.3

The Executive Officer shall make recommendations to the Presiding Judge and Executive Committee on proposed policies and procedures to carry out functions of the Court. (Eff. July 1, 1998. Amended, eff. July 1, 2000.)

Rule 242.4

The Executive Officer shall prepare reports, analyses, and statistical evaluations as requested by the Judicial Council, the Presiding Judge and the Executive Committee. (Eff. July 1, 1998. Amended eff. July 1, 2000.)

Rule 242.5

The Executive Officer shall perform such duties as set forth in the personnel policies of the Court. (Eff. July 1, 1998. As amended, eff. January 1, 2017.)

PART 5
RESERVED

PART 6
COURT COMMISSIONER

RULE 260 SELECTION AND REMOVAL

Court Commissioners shall be selected by a majority vote of all Judges, which shall be defined as one-half of the number of Judges sitting in San Bernardino County on a full-time basis, and not on Judicial Council temporary assignment, plus one.

Court Commissioners are “at will” employees who serve at the pleasure of the Judges. A Court Commissioner may be removed by a majority vote of all Judges. (Eff. July 1, 1998. As amended, eff. January 1, 2017.)

RULE 260.1 SELECTION AND APPOINTMENT PROCEDURE

Selection of and appointment of Court Commissioners shall be governed by the Court Commissioner Selection and Appointment Policy. (Eff. July 1, 1998. Amended, eff. July 1, 2012. As amended, eff. January 1, 2017.)

RULE 262 VACATION

Superior Court Commissioners and Referees employed by the Court shall be entitled to the same vacation as that received by Judges. (Eff. July 1, 1998.)

PART 7
DISCIPLINARY PROCEDURES FOR HEARING OFFICERS

RULE 272 HEARING OFFICER SELECTION AND REMOVAL

A Hearing Officer serves at the pleasure of the Presiding Judge of the Superior Court. The employment of a Hearing Officer may be terminated at any time by the Presiding Judge. (Eff. January 1, 2000. Amended, eff. January 1, 2005 and July 1, 2008. As amended, eff. January 1, 2017.)

PART 8
JUDGES

RULE 280 VACATION

A judge's vacation is defined as an approved absence from the court that will be calculated in one-half day increments.

A request for vacation time or other absence from the court shall be submitted to the Presiding Judge or designee with reasonable advance notice. Absences from the court due to illness, bereavement, or to attend an authorized education program, conference or workshop, or to participate in Judicial Council or other authorized committees or community activities are not considered vacation time if approval has been granted by the Presiding Judge or a designee.

A judge may take two (2) personal leave days per year, subject to prior approval by the Presiding Judge or a designee. Unused personal leave days expire at the end of each calendar year and may not be carried over.

The specific guidelines and procedures applicable to judicial absences from the court are governed by the Judges Leave Policy, Judicial Policy No. 11. (Eff. January 1, 2015. As amended, eff. January 1, 2017.)

CHAPTER 3
COURT BUSINESS PROCEDURES

RULE 320 FAX FILING

The Superior Court of San Bernardino County hereby adopts Rule 2.300 et seq, of the California Rules of Court, allowing for the facsimile filing of civil and family documents.

A party may file by fax directly with the appropriate courthouse using the facsimile numbers, which are available on the court's website.

The Court will not accept any document in any location other than the clerk's office of the courthouse where the document is required to be filed. The first sheet transmitted shall be the Judicial Council Facsimile Cover Sheet (Fax Filing) (form MC-005.) All applicable fees will be charged to the credit card provided on the cover sheet.

All facsimile filings received after 4:00 PM or on court holidays shall be deemed filed on the next court day. Confirmation of the filing of the document shall be given by standard confirmation of facsimile machines. The court will not fax a copy of the cover sheet back to the filing attorney or party. (Eff. January 1, 2011. Amended, eff. July 1, 2013. As amended, eff. January 1, 2017.)

RULE 321 NO USE OF CORRECTION FLUID OR TAPE

Correction fluid or tape shall not be used on any documents or papers, of any nature, presented for filing as part of the official court file. Documents or papers with correction fluid or tape shall be refused for filing by the Clerk of the Court, unless otherwise ordered by the Court. (Eff. January 1, 2013. Amended, eff. January 1, 2015.)

RULE 322 EXHIBITS

Parties submitting documents that contain exhibits shall ensure that the pages between exhibits contain the word, "Exhibit", and the number or letter associated with the exhibit in no less than 14 font in the middle or lower third of the page. (Eff. January 1, 2013. As amended, eff. January 1, 2017.)

RULE 329 COURT REPORTER POLICY

Pursuant to California Rules of Court, rule 2.956, it is the policy of the Court that the services of an official court reporter will normally be available in child support, civil, felony criminal, family law, juvenile, and probate departments, including mental health calendars, during regular court hours. Services of official court reporters are not normally available in small claims departments, traffic departments and limited jurisdiction cases and not normally available during trials de novo, unlawful detainer trials and video criminal arraignments.

If the services of an official court reporter are not normally provided for a hearing or trial in a civil case, a party may make arrangements for the presence of a certified shorthand reporter by contacting the Court Reporter Coordinator for the Court District in which the proceedings will be held. Upon payment of the reporter's fee for attendance at the proceedings, the Court Reporter Coordinator will arrange for the attendance of a pro tempore court reporter if an official court reporter is not available. If no official court reporter or pro tempore reporter is available, a party may make arrangements in advance with the Court Reporter Coordinator for the presence of a certified shorthand reporter to serve as an official pro tempore reporter.(Eff. January 1, 2012. Amended, eff. January 1, 2014.)

RULE 330 TELEPHONIC APPEARANCES

The following will summarize the local procedures for telephonic appearances of counsel in the Superior Court of California, County of San Bernardino. Counsel must also comply with California Code of Civil Procedure, section 367.5, and California Rules of Court, rule 3.670, when making any appearance by telephone. (Eff. July 1, 1998. Amended eff., January 1, 1999, January 1, 2005 and July 1, 2008.)

Rule 330.1 Use of Private Telephone Vendor to Place Call

Individual departments will advise counsel whether calls are placed directly or through a private telephone vendor. Instructions for the use of a private telephone vendor will be provided by the Department. (Eff. July 1, 1998. Amended, eff. January 1, 2005.)

Rule 330.2 Obligation for Placement of Call

Counsel making an appearance by telephone shall be obligated to place a telephone call to the number designated by the Court at least five minutes before the time scheduled by the Court for telephonic appearance. (Eff. July 1, 1998. Amended, eff. January 1, 2005.)

Rule 330.3 Cost of Telephone Call

Where more than one counsel makes their appearance by telephone, counsel is expected to equally share the cost of the telephone call or the cost of service provided by a private telephone vendor. However, failing such an arrangement, the calling party will bear the cost. The Court is not responsible for the cost of any telephone calls or services provided by a private telephone vendor and will not hear any dispute regarding the allocation of such costs between multiple attorneys appearing by telephone. (Eff. July 1, 1998. Amended, eff. January 1, 2005.)

Rule 330.4 Non-appearance by Telephone Call

If counsel does not place or participate in a call after giving notice of their intent to appear by telephone, the matter will be deemed submitted by that counsel. If there are no appearances by counsel by telephone after giving notice, the matter will be taken off calendar. (Eff. July 1, 1998. Amended, eff. January 1, 2005. As amended, eff. January 1, 2017.)

RULE 331 COURTROOM DECORUM

All attorneys, litigants, witnesses and spectators shall be required to dress and conduct themselves in a manner consistent with the traditional dignity of the Court. Any Judge may, in his/her discretion, refuse to permit any witness, either litigant or otherwise, to take the stand and testify unless his or her attire and appearance shall be in conformance with this policy. No person shall be permitted to smoke, chew gum or tobacco, or to create any disturbance or distraction while Court is in session. (Former Rule 1610, eff. May 27, 1982. Renumbered as Rule 1900, eff. July 1, 1998. Former Rule 1910, renumbered as Rule 331, eff. January 1, 2017.)

CHAPTER 4
CIVIL CASE MANAGEMENT

RULE 400 CIVIL CASES SUBJECT TO THE DELAY REDUCTION ACT

These Rules are adopted pursuant to the Trial Court Delay Reduction Act (Government Code Sections 68600, et seq.) and the Pre-Trial and Trial Rules and Civil Trial Court Management Rules of the California Rules of Court, rules 3.100-3.222, 3.250-3.254, 3.650, 3.700-3.3735, 3.1380, 3.1385, and 10.900 – 10.910. They shall apply to actions included in the classification of general civil cases as defined in California Rules of Court, rule 1.6(4) unless exempted by the rules of this chapter. (Eff. July 1, 1998. Amended, eff. July 1, 2002, January 1, 2008 and May 6, 2013. As amended, eff. January 1, 2017.)

RULE 402 EXEMPTION FOR EXCEPTIONAL CASES

The court, in its discretion, may exempt from the Delay Reduction Act a general civil case if it finds the case involves exceptional circumstances after evaluating it pursuant to California Rules of Court, rules 3.400 and 3.715.

An exceptional case is one that includes multiple issues involving multiple parties and/or unusual proof problems. In such cases, a case management plan will be tailored by the Court and counsel to apply close and continuous supervision over its procedural development. (Eff. July 1, 1998. Amended, eff. May 6, 2013. As amended, eff. January 1, 2017.)

RULE 403 ASSIGNED JUDGES

Cases governed by this chapter will be assigned to the participating Judges on all-purpose assignments. The all-purpose Judge will be assigned at the time of the filing. (Eff. July 1, 1998.)

RULE 404 DESIGNATION

All cases subject to this chapter filed on or after January 1, 1992 shall be designated by the plaintiff on the face of the Complaint into one or the appropriate categories. A civil action presented for filing, except for a probate trust, estate or conservatorship action, must be accompanied by a Certificate of Assignment form, attached to the Complaint. In the event of disagreement by the parties as to the classification of any action, the Court may, on motion of any party, or on its own motion, order a hearing and determination of the question of designation. (Eff. July 1, 1998. Amended, eff. January 1, 2010.)

RULE 409 ALTERNATE DISPUTE RESOLUTION PROCEEDINGS

At the case management or trial setting conference, the Court shall review the case and determine if the parties are amenable to using an alternate dispute resolution process. The Court may order the case to arbitration, or make such other alternate resolution orders as may be appropriate. All general civil cases, as defined in California Rules of Court, rule 1.6(4), filed before January 1, 2020, are exempted from compliance with this rule. (Eff. July 1, 1998. Amended, eff. May 6, 2002 and July 1, 2013. As amended, eff. January 1, 2017.)

RULE 410 MANDATORY SETTLEMENT CONFERENCE (MSC)

The mandatory settlement conference may be ordered on the dates set by the Court at the case management or trial setting conference. All general civil cases, as defined in California Rules of Court, rule 1.6(4), filed before January 1, 2020, are exempted from compliance with this rule. (Eff. July 1, 1998. Amended, eff. January 1, 2005 and May 6, 2013. As amended, eff. January 1, 2017.)

RULE 411 TRIAL CONFERENCE

Rule 411.1 Trial Setting Conference

A trial setting conference will be held in all unlimited civil and complex cases filed before January 1, 2016 in lieu of a case management conference.

The date of the trial setting conference shall be set by the clerk at the time of the filing of the initial complaint. The date fixed will be a Court date in the twenty-sixth (26th) week from the filing of the complaint.

The purpose of this conference will be to establish which parties have been served and have appeared, to determine the status of discovery and deal with pre-trial issues and to set a trial date.

An At-Issue Memorandum may be filed and served no later than 15 days prior to the date of the Trial Setting Conference.

(Eff. May 6, 2013. Amended, eff. January 1, 2014. As amended, eff. January 1, 2017.)

Rule 411.2 Trial Readiness Conference

A trial readiness conference shall be held in all unlimited civil and complex cases. The date of the trial readiness conference may be set by the Court at the time of the Trial Setting Conference.

The purpose of this conference is to finalize trial preparation and allow the trial of the case to proceed in a more expeditious manner. On the date set by the Court, the parties and trial counsel shall appear and submit to the Court, unless otherwise directed by the Court, the following documents: 1) any oppositions to motions in limine; 2) proposed jury instructions; 3) proposed verdict forms; 4) witness and exhibit lists; 5) a statement of any stipulated facts; 6) proposed voir dire questions and/or questionnaires; and 7) a short statement of the case to be read to the jury, if applicable. Documents should be jointly submitted. If the parties cannot agree to jointly submitted proposed documents, each party can submit individual documents. If a party reasonably believes a witness's name or an exhibit should be confidential until used in trial, he/she shall so indicate to the Judge in camera.

All motions in limine shall be in writing and filed with service completed at least 8 days before the conference.

All motions in limine shall comply with Local Rule 415.

(Former Rule 411. Eff. July 1, 1998. Amended, January 1, 2005 and January 1, 2007.

Renumbered as Rule 411.2 and amended, eff. May 6, 2013. Amended, eff. July 1, 2015. As amended, eff. January 1, 2017.)

RULE 412 COMPLEX CASES

Cases designated as complex shall be governed by the Guidelines for the Complex Litigation Program, posted at www.sb-court.org. (Eff. July 1, 1998. Amended, eff. January 1, 2005. As amended, eff. January 1, 2017.)

RULE 413 UNINSURED MOTORIST (UM) CLASS

If a case is filed by a plaintiff against a defendant who is an uninsured motorist, and the plaintiff's claim is subject to an arbitration provision, the case may be designated a general civil - UM by the Court on its own motion or by motion of any interested party. (Eff. July 1, 1998. Amended, eff. May 6, 2013.)

RULE 415 MOTIONS IN LIMINE

(a) Motions made for the purpose of precluding the mention or display of inadmissible and prejudicial matter in the presence of the jury shall be accompanied by a declaration that includes the following:

(1) A clear identification of the specific matter alleged to be inadmissible and prejudicial;

(2) A representation to the court that the subject of the motion has been discussed with opposing counsel, and that opposing counsel has either indicated that such matter will be mentioned or displayed in the presence of the jury before it is admitted in evidence or that counsel has refused to stipulate that such matter will not be mentioned or displayed in the presence of the jury unless and until it is admitted in evidence;

(3) A statement of the specific prejudice that will be suffered by the moving party if the motion is not granted; and

(4) If the motion seeks to make binding an answer given in response to discovery, the declaration must set forth the question and the answer and state why the use of the answer for impeachment will not adequately protect the moving party against prejudice in the event that evidence inconsistent with the answer is offered.

(b) A motion in limine shall not be used for the purpose of seeking summary judgment or the summary adjudication of an issue or issues. Such motions may only be made in compliance with Code of Civil Procedure section 437c and court rules pertaining thereto.

(c) A motion in limine shall not be used for the purpose of seeking an order to try an issue before the trial of another issue or issues. Such motions may only be made in compliance with Code of Civil Procedure section 598.

(d) The court may defer ruling upon a motion in limine, and may order that no mention or display of the matter that is the subject of the motion is to be made in the presence of the jury unless and until the court orders otherwise. If the court so orders, or if the motion is granted, it is the duty of counsel to instruct associates, clients, witnesses, and other persons under their control, that no mention or display be made in presence of the jury of the matter that is the subject of the motion. (Eff. July 1, 2006.)

RULE 416 DUTY OF COUNSEL AS TO TRIAL DATE ASSIGNED

After a trial date has been assigned, it shall be the duty of counsel to inform the assigned Judge and all opposing counsel of any fact tending to indicate that the case may not proceed to trial on the date to which it has been assigned. In the event of settlement, counsel, or parties appearing in person, shall immediately notify the Court thereof. Failure to do so may be cause for imposition of sanctions. (Eff. July 1, 1998)

RULE 418 CONTINUANCES

The Court adopts California Rule of Court, Rule 1.332, with respect to requests for continuances. (Former Rule 361, eff. May 27, 1982. Renumbered as Rule 418, eff. July 1, 1998. As amended, eff. January 1, 2017.)

RULE 419 CIVIL COURT COMMUNICATION PROTOCOL

Criminal Protective Orders may take precedence over all other protective orders issued by the Civil, Family, Juvenile and Probate Courts. The Court adopts local Rule 1311 as its protocol in civil cases. (Eff., July 1, 2003. Amended, eff. January 1, 2008. As amended, eff. January 1, 2017.)

RULE 420 CASES REMOVED TO OTHER COURTS

In the event that a case is removed to any federal court or transferred to a superior court in another county, the Court will set a status conference for a date, not earlier than 90 days from the date of removal or transfer. Counsel may file a Notice of Status of Removed Case with the court in lieu of appearing at the status conference. The Notice of Status of Removed Case must be filed no later than 10 days prior to the date of the case management or trial setting conference.

The Court will, upon receipt of the Notice, set an OSC hearing on the status of removal. At the OSC hearing, the Court will determine the status of the case. If it is determined that the case remains pending in federal court or a superior court in another county, no further status conference or other hearing in this Court will be set.

If a case is remanded from federal court or returned from a superior court in another county, the plaintiff shall notify the Court of the remand or return and request a case management conference date. The plaintiff shall notify the Court of any action by the federal court that resolves the case or of any pertinent orders or rulings entered in the federal action.

If a case is removed to bankruptcy court, the Court will continue the status conference for 90 to 180 days at the Court's discretion. The plaintiff shall notify the Court of any action by the bankruptcy court that resolves the case. Any request for a stay must comply with California Rules of Court, Rule 3.650. (Eff., July 1, 2003. Amended, eff. January 1, 2012. As amended, eff. January 1, 2017.)

RULE 421 CIVIL UNLIMITED COMPLAINTS

One extra copy shall be submitted with each original civil unlimited complaint presented. (Former Rule 319, eff. July 1, 1998. Amended and renumbered as Rule 421, eff. January 1, 2017.)

RULE 424 CIVIL DEFAULTS

Except upon order of the Court, or where otherwise provided by law, the clerk of this Court shall not set regular civil default actions for hearing in any department until 60 days have elapsed after filing of the complaint or petition, and unless the default of the defendant or respondent shall have been first entered not less than 10 days before the proposed hearing date. (Former Rule 321.1, eff. July 1, 1998. Renumbered as Rule 323.1, eff. January 1, 2013. Amended and renumbered as Rule 424, eff. January 1, 2017.)

RULE 425 DEFAULT ENTRY FORMS

In all cases where constructive service of summons is had, or where a General Appearance and Waiver under the Soldier's and Sailor's Relief Act, as amended, is on file, the default form "Default Entry – By Court" shall be attached to the Request to Enter Default form, Judicial Council mandatory form number CIV-100. (Former Rule 321.1, eff. July 1, 1998. Amended, eff. July 1, 2003. Renumbered as Rule 323.2, eff. January 1, 2013. Renumbered as Rule 425, eff. January 1, 2017.)

CHAPTER 5
CIVIL LAW AND MOTION

RULE 510 SUBSEQUENT FILING

All papers, other than those initiating the proceedings, whether in opposition or support, shall be filed in the department in which the matter is scheduled, within the time prescribed by statute or California Rules of Court.

(Former Rule 511.2 eff May 27, 1982; amended, eff. Jan 1, 1992. Renumbered as Rule 510, eff. July 1, 1998. Amended eff. July 1, 2000 and January 1, 2013. As amended, eff. January 1, 2017.)

RULE 520 MOTION DATE

No motion shall be noticed for hearing without first reserving a hearing date with the clerk of the court.

Except for motions pursuant to California Code of Civil Procedure Section 128.7 and Motions for Summary Judgment, moving papers shall be filed within five days of reserving a hearing date. (Eff. May 27, 1982. Amended, eff. July 1, 1998. As amended, eff. January 1, 2017.)

RULE 521 MOTION FILING FEES

Except for motions pursuant to California Code of Civil Procedure Section 128.7 and Motions for Summary Judgment, all filing fees shall be paid within five days of reserving a date for hearing on the motion. If more than one motion is combined with another, a separate filing fee shall apply to each motion. (Eff. July 1, 2013. As amended, eff. January 1, 2017.)

RULE 550 CONTINUANCES

In case any party intends to ask for a continuance or does not intend to proceed in any matter on the date set, that party shall so inform the Judicial Assistant and opposing counsel as soon as possible, and, in any event, no later than 4:30 p.m. of the second court day preceding hearing. Failure of the moving party to comply with this Rule may result in the matter being taken off calendar or deemed to have been submitted for the Court's ruling. (Former Rule 560, eff. May 27, 1982. Renumbered as Rule 550 and amended, eff. July 1, 1998. As amended, eff. January 1, 2017.)

RULE 560 MOTIONS REMOVED FROM CALENDAR

A law and motion matter that has gone off calendar may be restored only upon notice, except in an extraordinary situation to be determined by the Court in its discretion. (Former Rule 570, eff. May 27, 1982. Renumbered as Rule 560, eff. July 1, 1998. As amended, eff. January 1, 2017.)

RULE 570 RECORDS UNDER SEAL

The Court may direct the Clerk of the Superior Court to place under seal any sexually explicit material filed with the Court pending a further order of the Court to unseal the material. This rule shall not preclude the rights of the parties to access any material nor shall it modify their otherwise applicable discovery obligations.

(Eff. January 1, 2013.)

RULE 591 ORDERS AND JUDGMENTS

Unless otherwise provided by the Court, statute or Rule of Court, the minute order granting, denying, sustaining, overruling, or ordering off calendar, will be all that is required and no signed order is necessary. (Former Rule 592, eff. May 27, 1982. Amended eff. July 1, 1991. Renumbered as Rule 591.1 and amended, eff. July 1, 1998. Renumbered as Rule 591 and amended, eff. January 1, 2017.)

CHAPTER 6
SETTLEMENT CONFERENCES

RULE 601 MEDIATION/MANDATORY SETTLEMENT CONFERENCES

The Court adopts California Rules of Court, Rule 1.380, with respect to Mediations and Mandatory Settlement Conferences. (Eff. January 1, 2017.)

RULE 611 PERSONS WHOSE PRESENCE IS REQUIRED

Trial counsel, parties, and persons with full authority to settle the case must attend the settlement conference unless excused by the court for good cause. In malpractice cases, where a doctor or a hospital's consent to settlement is required, those parties must either be present, or must give the insurance company express consent to settle. (Former Rule 641, eff. Jan. 1, 1989. Renumbered as Rule 611 and amended, eff. July 1, 1998. Amended, eff. July 1, 2002. As amended, eff. January 1, 2017.)

RULE 615 FAILURE TO ATTEND OR BE PREPARED

Unexcused absence from the conference may result in sanctions, and/or striking of pleadings, and/or default proceedings, and/or dismissal of the case. Failure to be prepared may also result in sanctions. (Former Rule 614, renumbered to Rule 615, eff. January 1, 1999. Amended, eff. July 1, 2002.)

RULE 616 CONTINUANCES

Continuances or a request for a further conference on a continued date may be granted or denied within the discretion of the particular Settlement Conference Judge (Former Rule 615, renumbered to Rule 616, eff. January 1, 1999. As amended, eff. July 1, 2017.)

RULE 617 NOTICE OF SETTLEMENT

Counsel is charged with the responsibility of notifying the Court of any settlement made in the case. This may be telephonic or written. If an entire case is settled, the Court at the Settlement Conference shall set an OSC Re Dismissal hearing no earlier than 46 days away. If a Notice of Unconditional or Conditional Settlement is filed, the Court adopts the procedures provided in California Rules of Court, Rules of Court Rule 3.1385. The timely filing of a Request for Dismissal will vacate the hearing.

(Former Rule 616, renumbered to Rule 617, eff. January 1, 1999. As amended, eff. January 1, 2017.)

RULE 620 ARBITRATION

The Court complies with California Rules of Court, Rules 3.800 et seq., and encourages the use of alternate dispute resolution, including arbitration in accordance with the California Rules of Court. The Court can also arrange private arbitration or determination or other alternate dispute resolution processes through retired Judges. (Former Rule 650, eff. Jan. 1, 1989. Renumbered as Rule 620, eff. July 1, 1998. Amended, eff. July 1, 2002 and July 1, 2004. As amended, eff. January 1, 2017.)

RULE 621 ALTERNATE DISPUTE RESOLUTION PROCEDURES

All complaints against mediators selected pursuant to California Rules of Court, rule 3.865 et seq. must be made in writing to the ADR Complaint Coordinator.

Upon receipt of a written complaint, the ADR Complaint Coordinator shall send the complainant a written acknowledgment that the Court has received the complaint and make a preliminary review of the complaint and determine the appropriate action required.

A Complaint Investigator appointed by the Presiding Judge shall investigate any complaint not resolved in the preliminary review process and provide recommendations to the Presiding Judge or designee who shall determine the appropriate resolution. (Eff. January 1, 2011. As amended, eff. January 1, 2017.)

CHAPTER 7

EX PARTE AND OTHER APPLICATIONS

RULE 731 CIVIL EX PARTE APPLICATIONS

All ex parte applications must be filed with the Court no later than 12:00 P.M. on the court day preceeding the day of the scheduled hearing on the ex parte application. A party seeking an ex parte order must notify all parties no later than 10:00 A.M. on the court day before the ex parte appearance as provided by the California Rules of Court, rule 3.1203. The parties shall comply with California Rules of Court, rule 3.1206 regarding service of ex parte application and opposition papers.

No application for an ex parte order, except for the appointment of a guardian ad litem or the approval of an undertaking or an attachment, shall be made until any required filing or other fee has been paid. (Eff. July 1, 2011. Former Rule 731.1; renumbered as Rule 731 and amended, eff. January 1, 2017)

RULE 740 GUARDIAN AD LITEM APPLICATIONS

Every application for the appointment of a guardian ad litem shall be captioned as the proposed or pending action, be accompanied by the written consent of the person nominated and, if the ward is over fourteen years of age, of the one for whom the guardian is sought. If the latter is a defendant, the application shall state the date on which the defendant was served. No application shall be presented for the nomination of any person who is a party to the action or has any adverse interest or which might be prejudicial to the ward or who is not able or disposed to counsel with the ward or to actively and competently prosecute or defend the interest of the ward in the action or proceeding. (Eff. July 1, 1998. Former Rule 740.1; renumbered as Rule 740 and amended, eff. January 1, 2017)

RULE 741 SHORTENING OR EXTENDING TIME

An application for an order shortening or extending time for the service of a notice shall state any previous extension, any expiration date and the facts showing good cause for granting the application. (Eff. July 1, 1998. Former rule 740.3, renumbered as Rule 741, eff. January 1, 2017.)

RULE 742 APPOINTMENT OF COUNSEL FOR MILITARY PERSONNEL

An application for the appointment of an attorney for a defendant in military service shall state the branch of such service, his/her service mailing address, when the time to answer or demur expires, whether any pleading has been filed on his/her behalf, and any other pertinent facts. (Eff. July 1, 1998. Former rule 740.4, renumbered as Rule 742 and amended, eff. January 1, 2017.)

CHAPTER 8

CASES UNDER CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

RULE 800 CEQA DESIGNATION

The first page of each paper shall specify immediately below the case number that the case is one filed under the California Environmental Quality Act (CEQA). (Eff. July 1, 2001.)

CHAPTER 9
APPELLATE DIVISION RULES

RULE 901 HEARINGS

Matters before the appellate division shall be heard on the fourth Friday of every month at 1:30 p.m., or such other time determined by the Judges of that division by order entered in the minutes. (Eff. July 1, 1998. Amended, eff. July 1, 2001. Former Rule 332, renumbered as Rule 901 and amended, eff. July 1, 2014.)

RULE 902 USE OF OFFICIAL ELECTRONIC RECORDINGS

(a) General Rules

If trial court proceedings in limited civil or infraction matters were officially electronically recorded, the original of the recording or a copy made by the court, may be used as a true and complete record of oral proceedings without being transcribed, and are deemed sufficient for an effective appeal.

(b) Reviewing an appellant's proposed statement on appeal (California Rules of Court, rule 8.837(d)(6)(A) and rule 8.916(d)(6)(A))

If the trial court judge determines that it would save court time and resources, instead of correcting a proposed statement on appeal, the trial court judge may order that the original of the official electronic recording of the trial court proceedings, or a copy made by the court at court expense, be transmitted as a true and complete record of the proceedings without being transcribed.

(c) Appellant's election to proceed with a copy of official electronic recording (California Rules of Court, rules 8.830(a)(2)(B) and 8.835(c); rules 8.910(a)(2)(B) and 8.917(c))

Pursuant to General Order re: Preparation of Record on Appeal – Limited Civil and Infraction Appeals (dated September 15, 2016), the original of an official electronic recording of the trial court proceedings, or a copy made by the court, may be transmitted as a true and complete record of the proceedings without being transcribed, and without stipulation of the parties. The appellant shall bear the cost of making a copy of the electronic recording. If the appellant has been deemed indigent by the court, such cost will be waived.

(d) Appellant's request for a transcript prepared from an official electronic recording (California Rules of Court, rules 8.830(a)(2)(A) and 8.835(b); rules 8.910(a)(2)(C) and 8.917(b))

There are no resources available to transcribe the official electronic recording at court expense. Accordingly, if an appellant deemed indigent by the court has requested a transcript be provided at no cost, pursuant to General Order re: Preparation of Record on Appeal – Infraction Appeals (dated September 15, 2016), the original of an official electronic recording of the trial court proceedings, or a copy made by the court, shall be transmitted as a true and complete record of the proceedings without being transcribed.

(Eff. July 1, 2014. As amended, eff. January 1, 2017.)

Superior Court of California, County of San Bernardino

CHAPTER 10

UNLAWFUL DETAINER ACTIONS

See California Code of Civil Procedure section 1161 et seq. (Eff. July 1, 1998. Amended, eff. July 1, 2009.)

Superior Court of California, County of San Bernardino

CHAPTER 11
SMALL CLAIMS

See California Code of Civil Procedure section 116.110 et seq. and California Rules of Court, rules 1701 1706; 1725 through 1727. (Eff. July 1, 1998. Amended, eff. July 1, 2003.)

CHAPTER 12

RESERVED

CHAPTER 13
CRIMINAL RULES

RULE 1300

California Rules of Court shall apply as supplemented by the following local rules. (Eff. July 1, 1998.)

RULE 1301

Felony, misdemeanor and infraction matters shall be filed and heard pursuant to Rule 131. (Eff. July 1, 1998. As amended, eff. January 1, 2017.)

RULE 1311 PRIORITY OF PROTECTIVE ORDERS AND MODIFICATION

- (a) This Rule sets forth the court communication protocol for Domestic Violence and Child Custody Orders as required by California Rules of Court, Rule 5.445. The purpose of this Rule is to avoid conflicting orders whenever possible, and to permit appropriate visitation between a restrained person and his or her child while providing for the safety of all victims and witnesses and the proper consideration of the best interests of the child.
- (b) Pursuant to Penal Code, section 136.2(c) and (e) and Family Code, sections 6383(h)(2) and 6405(b), Criminal Protective Orders take precedence over all other protective orders issued by the Civil, Family, Juvenile and Probate Courts, unless an emergency protective order issued by another court, or a no-contact order under Family Code, section 6320, sets forth more restrictive terms against a restrained party.
- (c) When the Criminal Court issues a Criminal Protective Order:
 - (1) The Criminal Court shall determine whether there are any minor children of the relationship between the defendant/restrained person and the victim/protected person, and whether there are any court orders for custody/visitation for those minor children.
 - (2) If there are minor children, the Criminal Court shall consider whether peaceful contact with the victim/protected person should be allowed for the purpose of allowing defendant/restrained person to visit the minor children. Peaceful contact with the minor children and victim/protected person shall be permitted under any Criminal Protective Order for the purpose of attending court-ordered mediation and/or Family Court hearings.
 - (3) The Criminal Court shall also determine whether there are any existing orders involving the defendant/restrained person, the victim/protected person, and/or the minor children. The court shall examine available databases for existing orders before issuing a permanent Criminal Protective Order.
 - (4) If the Criminal Protective Order includes minor children as named protected parties, the order may be made explicitly subject to modification by a judge of the Civil, Family, Juvenile, or Probate Court. If this qualifying clause is not included in the Criminal Protective Order, the order may not be modified without notification and consent of the Department of the court assigned to the criminal case. It is the policy of the Superior Court of San Bernardino County that the Juvenile Court is best equipped to determine the best interests of any minor children, and the criminal court shall give due consideration to making the criminal court order expressly

subject to modification by the Juvenile Court whenever a Juvenile Court case is pending or is likely to be initiated.

- (5) When the Criminal Court issues a Criminal Protective Order that lists the defendant/restrained person's minor child or children as protected persons, the Criminal Court shall transmit a copy of the order to any Civil, Family, Juvenile, or Probate Court in which a matter concerning the defendant and the protected minor or minors is pending.
- (d) When a Criminal Protective Order exists and a judicial officer in another court has a case in which he or she determines that it is appropriate to permit visitation different than that provided for in the Criminal Protective Order and that order has not been made expressly subject to modification by the court desiring a modification of the order:
- (1) The Judicial Assistant for the judicial officer requesting modification of the Criminal Protective Order shall contact the court clerk for the Criminal Court to inform the Criminal Court that a modification is requested and shall inform the court clerk for Criminal Court of all pertinent information, including the terms of the proposed modification and the identity of all parties to the action over which the judge requesting a modification has jurisdiction.
 - (2) The Criminal Court shall set a hearing date on the request for a modification for no later than 30 calendar days after the receipt of the request for modification, or as soon thereafter as the court's calendar allows, and shall provide notification in writing to all parties to both the criminal case and the matter in which the modification request was made. Such notice shall inform all parties of the modification request, the terms of the proposed modification and the hearing date, and shall specifically indicate that a request for modification has been made pursuant to this Rule.
 - (3) Any written opposition to the modification request shall be filed no later than 9 court days prior to the hearing and shall be served in the manner provided for the filing of oppositions in Chapter 5 of Title 14 of Part 2 of the Code of Civil Procedure. Any reply to any opposition shall be served and filed in the manner allowed by the Code.
 - (4) The hearing date on the proposed modification shall not be continued except on a showing of good cause.
 - (5) After hearing, and after consideration of the proposed modification and all arguments in favor and in opposition to the proposed modification, the Criminal Court shall, in its discretion, modify the Criminal Protective Order as requested, or make such other modifications to the Criminal Protective Order as the court deems appropriate, or decline to modify the Criminal Protective Order, stating the reasons for the court's decision to accept, modify or reject the proposed modification on the record.
 - (6) The Criminal Court shall transmit a copy of its order on the proposed modification to the court making the request for modification.
- (e) For the purposes of this Rule:
- (1) "Criminal Court" means a Department of this Court assigned to a criminal case.
 - (2) "Civil Court" means a Department of this Court assigned to a civil case.
 - (3) "Juvenile Court" means a Department of this Court assigned to juvenile cases.
 - (4) "Family Court" means a Department of this Court assigned to family cases.
 - (5) "Probate Court" means a Department of this Court assigned to probate cases.

- (6) A “Criminal Protective Order” is a restraining order or protective order against the defendant in a criminal case issued by a criminal court as a term of probation, bail release or own recognizance release prohibiting the defendant from communicating or contacting any specified person, category of persons or a specified witness or victim.

(Eff., July 1, 2003. Amended, eff. January 1, 2008. and July 1, 2013. As amended, eff. January 1, 2017.)

RULE 1320 P. C. 995 MOTIONS

P.C. 995 motions shall be heard in the department scheduled to hear the trial on the case. However, if the trial Court was the committing magistrate, then the motion shall be heard by another judicial officer. If the motion is denied on its merits, the case shall be assigned back to the original judicial officer.

Moving papers filed in support of P.C. 995 motions must include the following:

- (a) A brief statement in summary form of the facts as set forth in the transcript.
- (b) A statement of the issues, specifically identifying in what regard the People's case is defective.
- (c) Where defendant intends to rely upon some testimony in the transcript, the moving papers shall contain references to such testimony identified as to page and line number of the transcript.
- (d) A statement of the authorities upon which defendant relies with explanation as to why they are applicable. (Mere citation of sections in the California Penal Code and the U.S. Constitution shall not be sufficient.)

(Former Rule 455, eff. May 27, 1982. Renumbered as Rule 1320 and amended, eff. July 1, 1998. Amended, eff. January 1, 2008. As amended, eff. January 1, 2017.)

RULE 1322 TRANSFER OF CASES

Probation Revocation:

1. If a defendant has an active, pending case in any Superior Court District, then any revocation of probation case shall be transferred to that District.
2. Supervising Criminal Judges of the respective Districts may transfer cases between them.

Notwithstanding Rule 1301, in situations where a defendant has multiple criminal cases, the Court should have all of a defendant’s open cases heard in a single primary courtroom.

An open case is one in which the defendant has charges pending, is currently on probation (either formal or informal) or has outstanding fines, fees or restitution.

In deciding which court will be the primary court for purposes of resolving all of the defendant’s cases, open cases shall be ranked as follows:

1. New case with felony charges pending
2. Felony probation case
3. New case with misdemeanor charges pending
4. Misdemeanor probation case

5. Cases with only outstanding money balances

The court with the highest ranking case shall be the primary department in resolving all of a defendant's open cases. If a defendant has two new cases with charges pending, the court that has the case with the highest potential exposure, including all enhancements and special allegations, is the primary court.

The primary court has the authority to order all of the defendant's open cases transferred to it without the necessity of contacting the supervising judge of the district from which the case(s) are being ordered.

The primary court is responsible for determining whether the secondary cases have any time problems. After transferring secondary cases to itself the primary court is responsible for resolution of those cases and cannot send them back without authorization of the supervising judge of the original district.

The judge of the primary court is to contact the judge in the other district to whom the case is assigned to arrange for transferring the secondary case to the primary court. If the judges cannot agree on a course of action, then the supervising judges of the districts will determine whether a transfer should occur. (Eff. July 1, 1998. Amended, eff. January 1, 2009.)

RULE 1330 REMOTE VIDEO ARRAIGNMENTS, TRIALS AND RELATED PROCEEDINGS IN TRAFFIC INFRACTION CASES

(a) Pursuant to California Rules of Court, rule 4.220(a), the Court permits traffic infraction arraignments, trials and related proceedings to be conducted by two-way remote video communications.

(b) The following are designated as locations where eligible defendants may appear for remote video traffic infraction arraignments, trials and related proceedings:

- (1) Needles; and
- (2) Big Bear.

Additional locations may be designated by Order of the Presiding Judge.

(c) To be eligible to appear for remote video arraignment, trial or related proceedings:

- (1) The citation issued must be for an infraction as defined in California Rules of Court, rule 4.220(b)(1); and
- (2) Defendant must comply with California Rules of Court, rule 4.220.

(d) Pursuant to California Rules of Court, rule 4.220(g), defendant's witnesses shall appear at the remote location with the defendant.

(e) Defendant must submit form TR-505 or TR-510 to the Court for filing. The forms may be mailed to or submitted in person at:

**Superior Court of California
County of San Bernardino
235 East Mountain View Street
Barstow, CA 92311.**

Forms submitted in person must be presented for filing at least ten (10) court days before the appearance date indicated on the Notice to Appear. Forms submitted by mail must be postmarked at least fifteen (15) days before the appearance date indicated on the Notice to Appear.

(f) Upon receipt of a subpoena setting out the hearing date and remote location, law enforcement officers may file a written request to appear in court instead of at the remote location. The request may be submitted for filing in person or by mail at the addresses set out above. (1) Requests submitted in person must be presented for filing at least ten (10) court days before the date of the video proceeding set out in the subpoena. (2) Forms submitted by mail must be postmarked at least fifteen (15) days before the date of the video proceeding set out in the subpoena.

(g) All exhibits intended to be used at the remote video trial should be submitted to the Barstow Court prior to the hearing or trial date so they will be available for the judge's reference. Each exhibit shall be identified with the party's name (defendant or law enforcement agency), case number and date of the infraction, trial or related proceedings. Exhibits may be submitted in person or by mail at the address set out above. Exhibits that are submitted in person must be presented at least ten (10) court days before the remote video trial date. Exhibits that are submitted by mail must be postmarked at least fifteen (15) days before the remote video trial date.

(h) Defendant and the law enforcement agency designee shall bring two (2) copies of all documentary evidence he/she intends to use in presentation of his/her case to the remote location on the day of the hearing or trial. Documentary evidence includes written documents, and standard sized photographs.

(h) Defendant and Law Enforcement designee may bring one (1) copy of all demonstrative or other physical evidence he/she intends to use in presentation of his/her case to the remote location on the day of the hearing or trial. Demonstrative or other physical evidence includes oversized maps or diagrams, three dimensional objects, and blown up photographs. All exhibits are subject to admission by the trial judge.

(Eff. July 1, 2017. As amended, eff. January 1, 2018.)

CHAPTER 14
COUNSEL/ATTORNEY/INVESTIGATOR/EXPERT FEES

ATTORNEY FEES – GENERAL

RULE 1400 APPOINTED ATTORNEY SERVICE FEE SCHEDULES

Attorneys appointed by the Court may not charge fees for their services in excess of the Rates and limits set forth in the Appointed Services Fee Schedule, available on the Court's website and from the Court Executive Office, ~~except as provided by Local Rule 1416.~~ (Eff. July 1, 2011. Amended, eff. July 1, 2012 and July 1, 2013. Amended, eff. January 1, 2018.)

RULE 1401 DETERMINATION OF COMPENSATION AND EXPENSES FOR APPOINTED COUNSEL

In each case in which a person has been furnished services of private counsel at public expense, the Court shall make a determination of the sum that is reasonable for compensation and authorized expenses. Payment will be based on the Appointed Services Fee Schedule in effect at the time of appointment, available on the Court's website and from the Court Executive Office. (Former Rule 1411, amended and renumbered as Rule 1401, eff. January 1, 2018.)

RULE 1411-1402 FORM OF CLAIM

All claims for attorney service payments must be submitted on Superior Court of California, County of San Bernardino forms.

All ~~requests~~ claims for payment of fees shall include claimant's California State Bar number.

All claims shall be fully itemized as to specific dates, hours, activities, case name, case number and date of appointment and primary charge ~~in criminal cases.~~ When hourly billing is allowed under the Appointed Services Fee Schedule and at the discretion of the Court, the minimum reported increment should be 0.25 hours (15 minutes).

(Eff. July 1, 1998. Amended, eff. January 1, 2004. Former Rule 1411, amended and renumbered as Rule 1402, eff. January 1, 2018.)

RULE 1412

~~_____ All requests for payment of fees shall include claimant's California State Bar number. (Eff. July 1, 1998. Deleted, eff. January 1, 2018.)~~

RULE 1413

~~All claims shall be fully itemized as to specific dates, hours, activities, case name, case number and date of appointment and primary charge in criminal cases. When hourly billing is allowed under the Appointed Services Fee Schedule and at the discretion of the Court, the minimum reported increment should be 0.25 hours (15 minutes). Claims submitted for court-appointed services shall follow the Appointed Services Fee Schedule in effect at the time of appointment. (Eff. July 1, 1998. Amended, eff. July 1, 2000, July 1, 2001, January 1, 2004 and July 1, 2006. Deleted, eff. January 1, 2018.)~~

RULE 1414 1405 TIMELY SUBMISSION OF CLAIMS

Claims for appointed attorney fees, in matters other than Family Law pursuant to Rule 1417, Guardianship pursuant to Rule 20-1315 and Conservatorship pursuant Rule 20-1402, must be submitted on Court forms to the Court District where the case is heard within 60 days of

completion of the case. Any claim submitted more than 60 days after completion of the case will be subject to a penalty of ten percent (10%) of the claim amount per month, up to a maximum of 20%, absent extenuating circumstances. The Court in its discretion shall determine when extenuating circumstances sufficient to justify a delay in submission of a claim exist. Any claim submitted more than 2 years after completion of the case, which the Court cannot verify as being previously unpaid, shall be denied.

For the purposes of this Rule, completion of the case is defined as conclusion of the Pronouncement of Judgment in criminal matters. Billing should be for all services provided to that point.

Billings for post-dispositional activities must be submitted within 60 days of the hearing with the exception of juvenile matters. If an attorney submits an appointed attorney service claim form before the end of a case, and out-of-court time is being claimed, a copy of any prior billings for the same case may be required to be submitted with subsequent billings if the Court is unable to verify that prior billings for the case have not been paid. The Court staff shall review that statement to verify days and dates of service and billing amounts and submit it to the appropriate Judge, noting any deviations from Court rule or policy. The Judge shall approve the statement or modify it as appropriate.

(Former Rule 1110, eff. Jan. 1, 1993. Renumbered as Rule 1411 through 1414 and amended, eff. July 1, 1998. Amended, eff. July 1, 2000, January 1, 2001, July 1, 2001, January 1, 2003, July 1, 2004, July 1, 2012, July 1, 2013 and January 1, 2014. Former Rule 1414, amended and renumbered as Rule 1405, eff. January 1, 2018.)

RULE 1440 1406 APPOINTED ATTORNEY SERVICE FEE COMPLAINT PROCEDURES – CRIMINAL CASES

When complaints ~~are received by the Court Executive Office~~ regarding attorney's fees awarded to appointed counsel in criminal cases are received by the Court Executive Office, ~~which have been awarded to appointed counsel in criminal cases,~~ the file, together with all necessary documents, will be referred to the trial Judge who will ~~then~~ evaluate the merit of the complaint and make his/her recommendation(s) ~~or recommendations~~ to the Judge who made the ~~original~~ award. That Judge will then consider the recommendation(s) and endorse, ~~upon the recommendations,~~ a new order changing or confirming the original award. Any ~~subsequent~~ appeal of a ~~determination~~ the new order regarding attorney's fees must be submitted in writing to the ~~Presiding Judge~~ Supervising Judge of the district where the case was tried within thirty (30) days of mailing of the notice of the ~~determination~~ new order. A final appeal may be submitted in writing to the Presiding Judge within thirty (30) days of mailing of the notice of the decision of the Supervising Judge. (Former Rule 1132, eff. April 1, 1985. Renumbered as Rule 1461, eff. July 1, 1998. Amended July 1, 2000. Renumbered as Rule 1440, eff. January 1, 2005. Amended, eff. July 1, 2006 and July 1, 2013. Former Rule 1440, amended and renumbered as Rule 1415, eff. January 1, 2018.)

ATTORNEY FEE PAYMENTS - CRIMINAL CASES

RULE 1403 1410 APPOINTED CRIMINAL CASES - COMPLEX FELONY

Complex felony billing rates must have express written approval of the Court. Upon application of counsel, prior to pre-trial, the criminal calendar Judge may designate complex, non-special circumstance cases as complex for purposes of the Appointed Services Fee Schedule. (Former Criminal Rules, Rule 1330, eff. January 1, 2003. Renumbered as Criminal Rules, Rule 1403, eff. January 1, 2004. Amended, eff. July 1, 2005, July 1, 2006, July 1, 2011 and July 1, 2012. Former Rule 1403, renumbered as Rule 1410, eff. January 1, 2018.)

RULE 1415 1411 ORDINARY ATTORNEY SERVICE FEES

The Appointed Services Fee Schedule covers the usual and ordinary handling of an appointed case, including ordinary office expenses. However, expenses reasonably and necessarily incurred by appointed counsel, including costs of service and process, copies of documents and long-distance telephone calls, may be reimbursed at the discretion of the Court. The original receipts for any ~~such~~ of these expenses must be attached to any request for reimbursement or payment. Requests not supported by original receipts will not be processed. Special expenses, including any single expense item in excess of \$50.00, will be deemed unreasonable unless specifically authorized in advance by the Court. Original receipts are required for expense reimbursement. Investigator and expert services must comply with all applicable rules and the Court's *Penal Code § 987.2 Rules and Procedures* and Appointed Services Fee Schedule. (Former Criminal Rules, 1331, eff. July 1, 2000. Amended, eff. July 1, 2001. Renumbered as Criminal Rules, Rule 1415, and amended, eff. January 1, 2003. Amended, eff. January 1, 2004, July 1, 2005, July 1, 2006, July 1, 2011, July 1, 2012 and January 1, 2013. Former Rule 1415, amended and renumbered as Rule 1411, eff. January 1, 2018.)

RULE 1416 1412 EXTRAORDINARY ATTORNEY FEES

In cases where, because of complexities thereof, the seriousness of the charge or novel legal principles being involved, extensive research, trial preparation and investigation are required, additional extraordinary fees may be allowed at the discretion of the Court. Requests for extraordinary fees must be made by written motion with appropriate supporting declarations and receive prior approval of the Court. ~~It should be understood that e~~Extraordinary fees are not designed to cover the routine or usual legal services or ordinary office expenses. An itemized statement of the services rendered or to be rendered shall accompany any application for ~~a fee in addition to any attorney service fee schedule in this chapter because of extraordinary services.~~ extraordinary fees. (Former Criminal Rules, Rule 1332, eff. January 1, 2000 and amended, eff. January 1, 2002. Renumbered as Criminal Rule, 1416, and amended, January 1, 2003. Amended, eff. January 1, 2004 and July 1, 2004. Former Rule 1416, amended and renumbered as Rule 1412, eff. January 1, 2018.)

RULE 1419 1413 COUNSEL IN DEATH PENALTY/LWOP CASES

The Public Defender of San Bernardino County shall represent all indigent persons charged with a capital or life-without-possibility-of-parole (LWOP) case. If the Public Defender declares a conflict of interest and/or is relieved from representing a person charge with a capital or LWOP case, the Court shall appoint counsel from the "Capital/LWOP Case Panel." The Court and counsel shall adhere to the requirements and procedures of the Capital/LWOP Case Panel.

The San Bernardino County Superior Court has established a Capital/Life Without Parole (LWOP) Case Panel of qualified attorneys to be appointed to represent indigent defendants in Capital and LWOP cases. Every attorney who has permitted his or her name to be included on and to remain on the Capital Case Panel agrees to accept the appointment in Capital and/or LWOP cases according to the terms of the Fee Schedule Agreement for Capital/LWOP Case Appointments, in effect for cases appointed after September 1, 1997.

(Former Criminal Rules, Rule 1450.3, eff. July 1, 2000. Renumbered as rule 1419, and amended, eff. January 1, 2004. Former Rule 1419, renumbered as Rule 1413, eff. January 1, 2018.)

RULE 1441 1414 APPOINTED DEFENSE FEES

In each criminal case in which a person has been furnished appointed defense services, upon appointment of such defense service, the person shall be required to complete and submit to

the court a financial evaluation form upon presentation by the Court. Upon conclusion of the proceedings in criminal matters, the Court shall make a determination of the actual costs of providing such services per Penal Code §987.8. The appointed service provider shall be prepared at that time to submit itemized information as to the time they have devoted to the case.

(Former Criminal Rule 1133, eff. April 1, 1985. Renumbered as Criminal Rules, Rule 1462, eff. July 1, 1998. Amended eff. July 1, 2000, January 1, 2004 and July 1, 2004. Renumbered as Rule 1441, eff. January 1, 2005. Amended, eff. July 1, 2005, July 1, 2006 and July 1, 2010. Former Rule 1441, deleted and renumbered as Rule 1414, eff. January 1, 2018.)

RULE 1442 1416 REIMBURSEMENT ORDER

In the event any person may be required by law to reimburse the County costs of appointed defense services, the Court, after determining the amount ~~thereof~~, shall make a determination of the present ability of such person to pay all or a portion of ~~such~~ any amount and shall make such reasonable order for payment as is authorized by law. This determination and the determinations required by Rule ~~1441~~ 1415 above shall be made only after the Court has held a hearing. All persons required by law to reimburse the County for costs of appointed defense services shall be entitled to reasonable notice of the hearing and an opportunity to be heard, ~~may appear thereat, with counsel, and participate therein~~, including the right to presentation of evidence and the cross-examination of witnesses. (Former Rule 1140, eff. May 27, 1982. Renumbered as Rule 1470 and amended, eff. July 1, 1998. Renumbered as Rule 1464 and amended, eff. July 1, 2000. Renumbered as Rule 1442, eff. January 1, 2005. Amended, eff. July 1, 2006 and July 1, 2012. Former Rule 1442, amended and renumbered as Rule 1416, eff. January 1, 2018.)

RULE 1443 1417 COLLECTION

The Court, in its discretion, may delegate to County Central Collections the authority to collect reimbursement ordered pursuant to Rule ~~1442~~ 1416, and to establish and modify arrangements for installment payments.

(Former Rule 1150, eff. May 27, 1982. Renumbered as Rule 1480, eff. July 1, 1998. Amended eff. July 1, 2000. Renumbered as rule 1443, and amended, eff. January 1, 2005. Amended, eff. July 1, 2013. Former Rule 1443, amended and renumbered as Rule 1417, eff. January 1, 2018.)

RULE 1451 1418 APPOINTMENTS OF INVESTIGATORS OR OTHERS

Rule 1451.1 1418.1

All requests for Court-appointment of investigators, experts, or others at government expense shall comply with Rule ~~1441~~ 1414 ~~regarding appointed defense fees~~. Prior express written approval of the Court is required for all investigator, expert or other services and expenditures pursuant to Local Rules ~~1451.2~~ 1418.2 and ~~1451.3~~ 1418.3. Costs of services performed and expenses incurred prior to the order of the Court, and costs not included in the Court Order, will be denied. The Court's Appointed Services Fee Schedule rates are the maximum rates allowed for experts unless the express written approval of the Court for an extraordinary billing rate is obtained in advance of the expert's services pursuant to Local Rule ~~1460.7~~ 1419.6. Copies of the Court's Appointed Services Fee Schedule may be obtained on the Court's website or from the Court Executive Office.

Rule 1451.2 1418.2

Applications for ancillary defense funding under Penal Code § 987.2 must comply with the Court's Penal Code § 987.2 Rules and Procedures and Local Rules for appointed services. The Superior Court of California, County of San Bernardino shall have designated primary and alternate judges ("PC § 987.2 Judges") for each Court Region (West Valley, East Valley, Desert) to monitor and authorize fees for ancillary defense funding at government expense under the provisions of Penal Code § 987.2 for non-capital cases. Appointed ancillary defense services and expenditures shall be authorized at the discretion of and subject to approval by the Court's designated PC § 987.2 Judges. Applications for ancillary defense funding in Juvenile Court delinquency cases shall be submitted to the judge designated by the Juvenile Court Presiding Judge.

Appointed service providers (other than appointed psychiatric/psychological evaluation services appointed pursuant to Rule 1460.4) must comply with the rules and guidelines for appointed ancillary defense services specified in the Court's Penal Code § 987.2 Rules and Procedures.

Rule 1451.3 1418.3

Applications for ancillary defense funding for capital and capital-eligible Penal Code § 190.2 special circumstances cases under Penal Code § 987.9 must comply with the Court's Penal Code 987.2 Rules and Procedures. ~~The Superior Court of California, County of San Bernardino~~ shall have two designated judges ("PC § 987.9 Judges") to monitor and authorize fees for ancillary defense funding at government expense pursuant to Penal Code § 987.9.

Services rendered by investigators, experts and others for capital and capital-eligible Penal Code § 190.2 special circumstances cases under appointment by the Court's designated PC § 987.9 Judge (other than appointed psychiatric/psychological evaluation services appointed pursuant to Local Rule 1460.4) must generally comply with the Local Rules and appointed service and expenditure rules set forth in section B of the Court's Penal Code § 987.2 Rules and Procedures. Appointed ancillary defense services and expenditures shall be authorized and approved at the discretion of the Court's designated PC§987.9 Judges. For a case subject to PC §987.9, in the event of a conflict between the requirements of the Court's PC§987.9 procedures and the Court's Penal Code §987.2 Rules and Procedures, the requirements of the PC§987.9 will prevail.

Rule 1451.4 1418.4

Paralegal services must be performed under the direction and supervision of an active member of the State Bar of California consistent with the Business and Professions Code § 6450, et seq. The Court strongly discourages appointed paralegals from attending court proceedings. Appointments of paralegals shall generally be limited to capital cases. Paralegal service appointment order requests must specify the services to be performed by the paralegal under appointment, and must specify why the services cannot be performed by the attorney or attorney office staff.

Rule 1451.5 1418.5

Mitigation specialists for death penalty cases, when appointed by order of the Court pursuant to Penal Code § 987.9 and Rule ~~1451.3~~ 1418.3, should be limited to gathering of information specifically related to mitigation defense and coordinating the various aspects of investigators, experts and witnesses for the penalty (mitigation) phase, and to activities which would not normally be performed by an investigator or paralegal appointed for the case pursuant to Rule ~~1451~~ 1418.

Rule 1451.6 1418.6

The provisions of Rule ~~1451~~ 1418 and its sub-parts shall apply to all cases filed under Sections 601 and 602 of the Welfare and Institutions Code, except: (1) Motions shall be presented to the Presiding Judge of the Juvenile Court, or to such other judicial officers sitting in Juvenile Court as the Presiding Judge shall designate; and, (2) All references to defendants shall be deemed to refer to minors.

(Former Criminal Rule 1131, eff. May 27, 1982. Amended eff. April 1, 1985; July 1, 1988; Jan. 1, 1990; Jan. 1, 1991. Renumbered as rule 1451 and amended July 1, 1998. Amended, eff. July 1, 2000; July 1, 2000; January 1, 2001; January 1, 2002; January 1, 2003; January 1, 2004; July 1, 2004; January 1, 2005; July 1, 2005; July 1, 2006, January 1, 2010, July 1, 2010, July 1, 2011, July 1, 2012, January 1, 2013 and July 1, 2013. Former Rule 1451, amended and renumbered as Rule 1418, eff. January 1, 2018.)

RULE 1460 1419 APPOINTED SERVICES OF INVESTIGATORS, EXPERTS AND OTHERS

Rule 1460.1 1419.1 Claims for Payment

Services rendered by investigators, experts and others under appointment by the Court's designated PC§987.2 Judge or PC§987.9 Judge (other than appointed psychiatric/psychological evaluation services appointed pursuant to Local Rule 1460.4) must comply with the rules and guidelines for appointed ancillary defense services specified in the Court's Penal Code § 987.2 Rules and Procedures.

(Criminal Rules, Rule 1460.1, eff. July 1, 1998, and former Appendix III, Rule 1460, eff. July 1, 1998; renumbered as rule 1460.1 and amended, eff. July 1, 2000. Amended, eff. July 1, 2001, January 1, 2004, July 1, 2006, July 1, 2010, July 1, 2012 and January 1, 2013. Former Rule 1450.1, renumbered as Rule 1419.1, eff. January 1, 2018.)

Rule 1460.2 1419.2 Investigators, Experts and Others

Investigators, experts and others appointed by the Court may not charge fees for their services in excess of the rates and limits set forth in the Appointed Services Fee Schedule in effect at the time of appointment, ~~available on the Court's website and from the Court Executive Office,~~ except as provided by Rule ~~1460.7~~ 1419.6 and authorized by the Court's designated PC 987.2 Judges.

(Former Appendix III, Rule 1460, eff. July 1, 1998. Renumbered as rule 1460.2 and amended, eff. July 1, 2000. Amended, eff. January 1, 2002; July 1, 2002; January 1, 2004; July 1, 2005; July 1, 2006, January 1, 2009, July 1, 2010, July 1, 2011, July 1, 2012 and July 1, 2013. Former Rule 1460.2, amended and renumbered as Rule 1419.2, eff. January 1, 2018.)

Rule 1460.3 1419.3 Transcription Services

Transcription services are deemed to be an expert service; compensation for transcription service shall be at the lowest commercially-available rate.

(Former Criminal Rule 1460.4, eff. July 1, 1998. Renumbered as rule 1460.3 and amended, eff. July 1, 2000. Amended, eff. January 1, 2002, July 1, 2001, January 1, 2003, January 1, 2004, January 1, 2005, July 1, 2005, July 1, 2006, July 1, 2010, July 1, 2011, July 1, 2012, January 1, 2013 and July 1, 2013. Former Rule 1460.3, renumbered as Rule 1419.3, eff. January 1, 2018.)

Rule 1460.4 1419.4 Appointed Psychiatric/Psychological Evaluation Services

Appointments of psychiatrists and psychologists for PC§1026 (not guilty by reason of insanity), PC§1368/1369 (competency), PC§288.1 (sex offense) and W&I§3050/3051 (addiction)

evaluation and report services shall be made on a rotating basis from the Court's panel of experts, unless the court recognizes extenuating circumstances and authorizes an exception to standard rotating appointment.

All claims for appointed standard psychiatric/psychological evaluation services shall be submitted on the Court's Appointed Evaluation Service claim forms to the Court District where the case was heard within 60 days of completion of the services rendered.

Any claim submitted more than 60 days after completion of appointed services on case will be subject to a penalty of ten percent (10%) of the claim amount per month, up to a maximum of twenty percent (20%), absent extenuating circumstances. The Court in its discretion ~~shall~~ may determine when extenuating circumstances sufficient to justify a delay in submission of a claim exist.

Any claim submitted more than two (2) years after completion of services for the case, which the Court cannot verify as being previously unpaid, shall be denied.

The Court must actually receive the expert's report before appointed evaluation services can be billed unless the Court in its discretion recognizes extenuating circumstances orders payment in an amount it determines appropriate. Pursuant to Rule 1460.8, the expert must have also actually appeared in court, as reflected in the case minutes, for testimony services to be billable.

Billings must be submitted on the proper court form (Form 12-21283-356 for PC 1368/1369, W&I 3050/3051, and PC 288.1 evaluations; Form 13-17711-360 for PC 1026 and EC 1017 evaluations), and shall include all services provided that have not been previously presented or paid.

A copy of the psychiatric/psychological Court order of appointment must accompany all claims for appointed evaluation services. Pursuant to Rule ~~1460.8~~ 1419.8, a copy of the subpoena to the expert must also accompany any claim for expert testimony. Billings for EC § 1017 defense requested confidential evaluation and report services must be signed by defense counsel in the space provided prior to submittal to the Court.
(Eff. July 1, 2000. Amended, eff. July 1, 2006, July 1, 2010, July 1, 2011, July 1, 2012, January 1, 2013 and July 1, 2013. Former Rule 1460.4, amended and renumbered as Rule 1419.4, eff. January 1, 2018.)

Rule 1460.5 1419.5 Appointed Psychiatric/Psychological Evaluation Service Fee Schedules

Psychiatrists and Psychologists appointed by the Court may not charge fees for their services in excess of the rates set forth in the Appointed Services Fee Schedule in effect at the time of appointment, available on the Court's website and from the Court Executive Office, except as provided by Rule ~~1460.7~~ 1419.6. Juvenile Court appointed psychiatric/psychological services will be paid at the San Bernardino County Probation Department's approved rates in the absence of any Court established rates for these services.

(Former Appendix III, Rule 1460, eff. July 1, 1998. Renumbered as rule 1460.5, and amended, eff. July 1, 2000. Amended, eff. January 1, 2004, July 1, 2004, January 1, 2005, July 1, 2006, July 1, 2011, July 1, 2012, January 1, 2013 and July 1, 2013. Former Rule, 1460.5, amended and renumbered as 1419.5, eff. January 1, 2018.)

Rule 1460.7 1419.6 Extraordinary Expert Fees

Upon prior approval of the Court, in cases where, because of complexities, the seriousness of the charge, or where novel medical examinations, extensive research and/or trial preparation are required, extraordinary expert fees for highly specialized expert services may be allowed in excess of the rates provided in the Court's Appointed Services Fee Schedule by the Court's designated PC § 987.2 Judge pursuant to Local Rule ~~1451.2~~ 1418.2 or designated PC § 987.9 Judge pursuant to Local Rule ~~1451.3~~ 1418.3.

It is the duty of counsel to endeavor to negotiate the lowest hourly rate for the expert's services, recognizing that the fees for the expert's work are paid from local government funds. If extraordinary fees are authorized by the Court's designated PC § 987.2 Judge or designated PC § 987.9 Judge, billings must provide sufficient specificity with regard to services performed to support the bill for payment, with dates and times of service itemized.

(Former Rule 1460.3, eff. July 1, 1998. Renumbered as rule 1460.7, eff. July 1, 2000. Amended, eff. July 1, 2001, January 1, 2002, January 1, 2003, July 1, 2004, July 1, 2009, July 1, 2010, July 1, 2011 and July 1, 2012. Former Rule, 1460.7, amended and renumbered as 1419.6, eff. January 1, 2018.)

Rule 1460.8 1419.7 Subpoena and Testimony

Expert testimony and expenses related to testimony in criminal proceedings are the responsibility of the subpoenaing or requesting party (prosecution or defense) unless the expense is the responsibility of the Court or County under applicable California Code. A copy of the subpoena to the expert must accompany a claim for expert testimony.

~~1460.8(a)~~ 1419.7(a) Penal Code § 1368/1369 testimony expenses in competency proceedings for experts that prepared the court-ordered competency evaluation reports for the court will be paid by the ~~Superior~~ Court. If the prosecution or defense chooses to call their own expert to testify at a competency proceeding, the ~~Superior~~ Court is not required to pay those expenses. If the prosecution or defense chooses to call an expert that prepared the court-ordered competency evaluation at a different proceeding, such as the trial on the underlying charges, the ~~Superior~~ Court is not required to pay those expenses.

~~1460.8(b)~~ 1419.7(b) Penal Code § 288.1 testimony expenses in lewd acts proceedings for experts that prepared the court-ordered evaluation reports for the court will be paid by the ~~Superior~~ Court. If the prosecution or defense chooses to call their own expert to testify at a lewd act proceeding, the ~~Superior~~ Court is not required to pay those expenses. If the prosecution or defense chooses to call an expert that prepared the court-ordered lewd act evaluation at a different proceeding, such as the trial on the underlying charges, the Court is not required to pay those expenses.

~~1460.8(c)~~ 1419.7(c) Welfare & Institutions § 3051 testimony expenses in narcotics addiction hearings for experts that prepared the court-ordered evaluation report for the court will be paid by the ~~Superior~~ Court if the testimony occurs as part of a jury trial on the issue at the request of the defendant.

~~1460.8(d)~~ 1419.7(d) Penal Code § 1026 testimony expenses related to not-guilty-by-reason-of-insanity hearings are not the responsibility of the ~~Superior~~ Court.

(Eff. January 1, 2003. Amended, eff. January 1, 2004, January 1, 2005, July 1, 2006, January 1, 2007, July 1, 2010, July 1, 2012 and January 1, 2013. Former Rule 1460, amended and renumbered as Rule 1419, eff. January 1, 2018.)

ATTORNEY FEE PAYMENTS – CIVIL LAW CASES

RULE 1424 1440 COMPUTATION OF FEES IN CIVIL LAW CASES

In computing fees, the Court will require parents claiming reimbursement for medical expenses, etc. to pay their proportionate share of the counsel fees except in cases of hardship. Reasonable costs incurred or paid by the counsel that are itemized and accompanied by appropriate vouchers, or other supporting evidence, will be allowed except they shall not be included in the amount of the settlement of judgment on which fees are computed. (Eff. July 1, 1998. Renumbered as Rule 1440, eff. January 1, 2018.)

RULE 1425 APPLICATION

~~No attorney's fees for services rendered on behalf of a minor in any action to which such minor is a party shall be fixed or allowed, or contract therefore approved, except upon application made in open Court, after notice to the minor, if of the age of 12 years or over, and to his or her guardian and to such of his or her parents as reside in this state. The notice shall state the character and extent of the services rendered, or to be rendered, and any expenses incurred in connection therewith, shall state the sum which counsel regard as a reasonable fee, and shall state that the minor, his guardian or parents may at the time noticed, in person or by attorney, object to the allowance of the amount asked.~~

~~In computing fees, the Court will require parents claiming reimbursement for medical expenses, etc. to pay their proportionate share of the counsel fees except in cases of hardship. Reasonable costs incurred or paid by the counsel that are itemized and accompanied by appropriate vouchers, or other supporting evidence, will be allowed except they shall not be included in the amount of the settlement of judgment on which fees are computed.~~

(Former rule 1111 et seq., eff. May 27, 1982. Amended, eff. July 15, 1985. Deleted, eff. January 1, 2018.)

RULE 1430 1441 DEFAULT ATTORNEY FEES

(a) Whenever the obligation sued upon provides for the recovery of a reasonable attorney fee, the fee in each default case may be fixed pursuant to the following schedule, but in no event shall the amount included by the clerk exceed the amount of attorney's fees prayed for:

- 25 percent of the first \$1,000 with minimum attorney's fees of \$75.00;
- 10% of the next \$14,000
- 3 percent of the next \$35,000;
- 2 percent of the next \$50,000; and
- 1 percent of the contract or note amount over \$100,000.

(b) In any case where an attorney claims he or she is entitled to a fee in excess of any of the above amounts, the attorney may apply to the court ~~therefor~~ on noticed motion and present proof to support the claim. The Court will determine the reasonable fee amount according to proof.

(c) In contested matters, the Court will determine the reasonable attorney fees as proved by the prevailing party after trial in accordance with Code of Civil Procedure, section 1021 et seq., Civil Code, sections 1717 and 1717.5, and the California Rules of Court, rule 3.1702.

(d) This rule is not applicable to actions for foreclosure of a mortgage or deed of trust or judicial determination of abandonment of a mobile home. (Eff. July 1, 1998. Amended, eff. January 1, 2005, January 1, 2007, January 1, 2011, July 1, 2011 and January 1, 2012. Former Rule 1430, amended and renumbered as Rule 1441, eff. January 1, 2018.)

RULE 1431 1442 ACTION FOR JUDICIAL DECLARATION OF ABANDONMENT OF MOBILE HOME

For the purposes of determining attorney's fees in an action for judicial determination of abandonment of a mobile home, the Court shall use the following schedule:

- 25 percent of the first \$1,000 in damages with minimum attorney's fees of \$75.00;
- 10 percent of next \$14,000 in damages;
- 3 percent of next \$35,000 in damages;
- 2 percent of next \$50,000 in damages; and
- 1 percent of the amount of damages over \$100,000.

(Eff. July 1, 1998. Amended eff. January 1, 2005. Former Rule 1431, renumbered as Rule 1442, eff. January 1, 2018.)

RULE 1433 1443 FORECLOSURE

Rule 1433.1 1443.1

When an attorney's fee is allowed on the foreclosure of a mortgage, trust deed, security agreement or mechanic's lien, a reasonable attorney's fee shall be deemed to be that computed under subdivisions ~~1431 and 1432~~ 1442 increased by ten percent, in addition to which a further allowance may be made for extraordinary services, in compliance with ~~Chapter 1440~~ Rule 1412. (Eff. July 1, 1998. Former Rule 1433.1, amended and renumbered as Rule 1443.1, eff. January 1, 2018.)

Rule 1433.2 1443.2

When an attorney's fee is allowed on the foreclosure of a lien for a street assessment or other assessment, or of a bond issued for the cost of a public improvement, except in cases where other provision is made by law, the attorney's fee shall be computed as provided in ~~1431 and 1432~~ 1442 of this rule; except that the minimum shall be \$75.00, where only one assessment or bond is being foreclosed in the action, and \$20.00 additional for each additional assessment or bond being foreclosed in the same action. An additional allowance may be made for extraordinary services in compliance with ~~Chapter 1440~~ Rule 1412. (Former Rule 1113, et seq., eff. May 27, 1982. Renumbered as rule 1433 et seq. and amended, eff. July 1, 1998. Former Rule 1433.2, amended and renumbered as Rule 1443.2, eff. January 1, 2018.)

RULE 1490 1444 EXCEPTIONS

Rules ~~1430-1434.5~~ 1441-1443.2 are not intended to apply to procedures under Section 372 of the Code of Civil Procedure and Section 1431 of the Probate Code. (Former Rule 1160, eff. May 27, 1982. Renumbered as Rule 1490, eff. July 1, 1998. Amended, eff. July 1, 2013. Former Rule 1490, amended and renumbered as Rule 1444, eff. January 1, 2018.)

ATTORNEY FEE PAYMENTS – FAMILY LAW CASS

RULE 1417 1460 CLAIMS FOR ATTORNEY FEES IN FAMILY LAW CASES

Claims for attorney fees in Family Law cases must be submitted each month, beginning in the month in which the attorney is appointed as counsel and each month thereafter until the attorney is discharged by the Court. Claims shall be submitted on Court forms to the Court District where the case is heard by the last day of each month. Any claim submitted more than 30 days late will be subject to a penalty of ten percent (10%) of the claim amount per month absent extenuating circumstances. The Court in its discretion shall determine when extenuating circumstances sufficient to justify a delay in submission of a claim exist. (Eff. July 1, 2004. Amended, eff. July 1, 2012. Former Rule 1417, renumbered as Rule 1460, eff. January 1, 2018.)

RULE 1434 1461 FEES IN DISSOLUTION, LEGAL SEPARATION OR NULLITY ACTION

The following ~~counsel~~ attorney fees will be awarded under normal circumstances in marriage dissolution, legal separation or nullity action, exclusive of costs: (Eff. July 1, 1998. Former Rule 1434, amended and renumbered as Rule 1461, eff. January 1, 2018.)

Rule 1434.1 1461.1

~~Hear as~~ Default (Without Request for Order) proceedings: \$300.00. (Eff. July 1, 1998. Amended, eff. July 1, 2012. Former Rule 1434.1, amended and renumbered as Rule 1461.1, eff. January 1, 2018.)

Rule 1434.2 1461.2

Initial Request for Order ~~for Initial Allowance or Other Relief~~: \$350.00 (contingent upon showing of efforts of counsel before hearing to obtain stipulation or agreement of parties.) (Eff. July 1, 1998. Amended, eff. July 1, 2012. Former Rule 1434.2, amended and renumbered as Rule 1461.2, eff. January 1, 2018.)

Rule 1434.3 1461.3

Subsequent Request for Order Hearing for Modification of Order, Contempt, or otherwise: \$200.00 to \$300.00. (Eff. July 1, 1998. Amended, eff. July 1, 2012. Former Rule 1434.3, renumbered as Rule 1461.3, eff. January 1, 2018.)

Rule 1434.4 1461.4

Trial (contested): \$350.00 per diem. (Eff. July 1, 1998. Former Rule 1464.4, renumbered as Rule 1441.4, eff. January 1, 2018.)

Rule 1434.5 1461.5

~~Counsel~~ An attorney who has obtained an order for fees will be deemed to have waived any objection to going to trial before the payment of ~~said~~ their fees unless ~~he makes~~ objections are made to the Presiding Judge at least five days before the date set for trial. (Former Rule 1114, et seq., eff.

May 27, 1982. Renumbered as Rule 1434 et seq., eff. July 1, 1998. Amended, eff. July 1, 2000. Former Rule 1434.5, amended and renumbered as Rule 1461.5, eff. January 1, 2018.)

CHAPTER 15
FAMILY LAW RULES

RULE 1500 SUBJECT MATTER OF THE FAMILY LAW DIVISION

All of the following types of proceedings must be filed in the Family Law Division of the Court:

- A. Dissolution of marriage or domestic partnership;
- B. Legal Separation of marriage or domestic partnership;
- C. Nullity of marriage or domestic partnership and determination of rights of putative spouses under the Family Code;
- D. Proceedings under the Uniform Child Custody Jurisdiction and Enforcement Act;
- E. Proceedings under the Uniform Parentage Act;
- F. *Marvin* cases, as set forth in Rule 1517(b), below
- G. Proceedings under the Domestic Violence Prevention Act;
- H. Proceedings under the Uniform Interstate Family Support Act;
- I. Proceedings for Child Support, under Part 2 of Division 9 of the Family Code;
- J. Proceedings to terminate parental rights and adoption pursuant to the Family Code; and
- K. Proceedings for visitation rights of non-parents pursuant to the Family Code.

(Eff. January 1, 2017.)

RULE 1501 RULES APPLICABLE TO FAMILY LAW CASES

The Rules under this Chapter are applicable to all Family Law cases, and take precedence over other Local Rules which are in conflict with the rules set forth herein.

(Eff. July 1, 2017.)

RULE 1510 CHANGE OF CHILD CUSTODY RECOMMENDING COUNSELOR

A request for change of child custody recommending counselor shall be addressed to the Family Court Services Supervisor. If the request for change is not satisfactorily resolved, it may be brought to the attention of the Manager of the Family and Children's Services Division.

Child Custody Recommending Counselor: The request for a change of child custody recommending counselor shall be made prior to the beginning of the child custody recommending session. The request will be granted as requested by either party or if ordered by a judicial officer.

Complaints about the services of child custody recommending counselors shall be addressed to the Family Court Services Supervisor in the district in which the case is being heard. If the complaint is not satisfactorily resolved, it may be addressed to the Manager of the Family and Children's Services Division (Eff. July 1, 1998. Amended January 1, 1999, July 1, 2003, July 1, 2011 and July 1, 2012.)

RULE 1511 CHILD CUSTODY RECOMMENDING COUNSELING

Rule 1511.1 Child Custody Recommending Counseling Procedures

The parties' attorneys do not participate in child custody recommending counseling. If the parties reach an agreement during child custody recommending counseling, it will be memorialized in writing and submitted to them or their attorneys before the Request for Order (RFO) hearing for which the recommendation is made. If the parties and their attorneys approve the parties' agreement, they will submit the agreement to the Court for the Court's approval and adoption as an order.

If the parties are unable to resolve issues of custody or visitation by child custody recommending counseling, the child custody recommending counselor will submit a written recommendation and reasons for the recommendation to the parties and/or their attorneys and the court. The Court will consider the recommendation at the time of the RFO hearing. At the hearing, the child custody recommending counselor may be called as a witness by either party, subject to cross examination. (Former Family Law Rule 1510.1, eff. July 1, 1998, amended, July 1, 1999, and January 1, 2003. Renumbered as Rule 1511.1, eff. July 1, 2003. Amended, eff. July 1, 2011 and July 1, 2012. As amended, eff. January 1, 2017.)

Rule 1511.2 Ex Parte

The Court adopts California Rules of Court, Rule 5.235, with regard to ex parte communications with any court-connected or court-appointed child custody mediator, evaluator or child custody recommending counselor. (Former Family Law Rule 1510.2, eff. January 1, 2003. Renumbered as Rule 1511.2, eff. July 1, 2003. Amended, eff. July 1, 2011. As amended, eff. January 1, 2017.)

RULE 1512 EVALUATION PROCESS

Rule 1512.1 Qualifications and requirements

All child custody evaluators shall meet the minimum qualifications, training, continuing education and experience requirements pursuant to the California Rules of Court, Rule 5.220(g), Rule 5.225(c) through (i) and adhere to all other requirements of Rules 5.220 and 5.225. (Eff. July 1, 2003. As amended, eff. January 1, 2017.)

Rule 1512.2 Ex parte communication

The evaluator may have ex parte contact with either attorney or party at any time during the evaluation process for the limited purpose of obtaining necessary information. If during the course of the evaluation, a party by oral communication raises issues or allegations which can influence the evaluation, the evaluator shall give the other party an opportunity to respond before completing the evaluation report. (Eff. July 1, 2003. Amended, eff. July 1, 2012. As amended, eff. January 1, 2017.)

Rule 1512.4 Compliance with Rules of Court

All child custody evaluations shall comply with California Rules of Court, Rules 5.210 - 5.235. (Eff. July 1, 2003. As amended, eff. January 1, 2017.)

Rule 1512.5 List of Evaluators

Family and Children's Services Division maintains a list of qualified evaluators and has an established procedure for informing the public and the Court of their availability. (Eff. January 1, 2007. Amended, eff. July 1, 2012. As amended, eff. January 1, 2017.)

Rule 1512.6 Complaint procedures

If a written complaint about a court-appointed evaluator is received by the hearing bench officer and/or Family Court Services, or the bench officer has a complaint, the matter will be referred to the Supervising Family Law bench officer who will then investigate the merit of the complaint and determine if further action should be taken. (Eff. January 1, 2007.)

RULE 1513 COMPLAINT PROCEDURE REGARDING APPOINTED COUNSEL FOR MINORS

In a family law proceeding in which the Court has appointed counsel for minor children, any party to the proceeding wishing to lodge a complaint with the Court concerning the professional conduct or performance of the appointed counsel must do so in writing. The Supervising Judge of Family Law, or designated judicial officer, will review all complaints received, and may obtain additional information prior to making a determination on the complaint.

If it is determined that the written complaint does not present reasonable cause to support a finding of misconduct, the complainant will be informed in writing that further review is not warranted. If the complaint is deemed to be of merit, the complainant will be notified that the matter will be reviewed further. The minor's counsel will be provided a summary of the complaint and an opportunity to provide a written response. The reviewing judge will determine what action, if any, will be taken. Notice of determination will be sent to the complainant and minor's counsel.

Any appeal of the decision must be made in writing to the Presiding Judge of the San Bernardino Superior Court within 10 days after notice of the determination has been sent to the complainant and minor's counsel. The appealing party will be informed of the determination of the Presiding Judge. (Eff. January 1, 2010. Renumbered as Rule 1513 and amended, eff. January 1, 2017.)

1514 GUIDELINES FOR DETERMINING PAYMENT OF APPOINTED COUNSEL FOR MINORS

(a) General guidelines

Whenever counsel is appointed to represent children under Family Code, section 3150, the Court should determine the ability of the parties to pay all or a portion of the costs of counsel appointed.

(b) Determination of ability to pay

If a party is currently eligible for a fee waiver under Government Code, section 68511.3 (in forma pauperis), the party should be deemed unable to pay any part of the costs of the appointed counsel.

In all other cases, the Court should determine ability to pay based on the party's income and assets reasonably available. The Court may require the party to file and serve a current income and expense statement unless the party has already filed one in the proceeding that represents the party's financial status at the time of the determination.

The court may make the determination of the ability to pay at the time of appointment of counsel, or thereafter at the request of appointed counsel but not later than 30 days after appointed counsel is relieved as attorney of record.

(Eff., July 1, 2003. As amended, eff. January 1, 2017.)

RULE 1516 FAMILY LAW COURT PRIORITY OF PROTECTIVE ORDERS AND MODIFICATION

In hearing any case involving any issue of domestic violence, child custody or visitation, the judicial officer shall make a reasonable inquiry about the existence of any criminal court protective orders involving the parties to the action currently before the Court. The priority of restraining and

protective orders regarding domestic violence, child custody or visitation or modification thereof must comply with Local Rule 1311. (Eff., July 1, 2003. Amended, eff. January 1, 2008. As amended, eff. January 1, 2017.)

RULE 1517 CASE MANAGEMENT

(a) Marvin Actions

All *Marvin* actions shall initially be filed as a separate proceeding in the Family Law Division. Upon the court's own motion, or if a timely request for a jury trial is made and granted, the assigned judicial officer shall consult with the supervising judge to determine whether the matter will remain in the Family Law Division for trial.

(b) Case Assignment

New cases are assigned to a judicial officer for all purposes. All appearances in the case must be made before the assigned judicial officer, unless otherwise ordered.

(Eff. July 1, 2004. Amended, July 1, 2013 and July 1, 2014. As amended, eff. January 1, 2017.)

RULE 1518 SETTING OF CONTESTED TRIALS

Either party may request the Court to set contested issues for trial by filing an At-Issue Memorandum, San Bernardino Local Form No. SB 12389. A Status Conference will be set and the parties will be notified of the date and time of the Status Conference.

In the event that the case settles, both parties shall immediately notify the trial court, so that the trial date may be vacated. (Eff. July 1, 2008. Former Rule 1520, amended and renumbered as Rule 1518, eff. January 1, 2017.)

RULE 1519 STATUS CONFERENCES AND MANDATORY SETTLEMENT CONFERENCES

Status conferences and mandatory settlement conferences in Family Law cases shall be governed by the Family Law Status Conferences and Mandatory Settlement Conferences Policy. (Eff. January 1, 2017.)

RULE 1521 CONTINUANCES

Continuances in Family Law cases shall be governed by the Family Law Continuance Policy, posted at www.sb-court.org. (Eff. July 1, 2004. As amended, eff. January 1, 2017.)

CHAPTER 16
JUVENILE RULES

RULE 1610 SANCTIONS

Any attorney who fails to comply with the local rules of Court may be subject to sanctions, including monetary sanctions, and, at the discretion of the Judge of the Juvenile Court, may be reported to the State Bar and/or removed from the appointment list. (Former Rule 2510, eff. Jan. 1, 1997. Renumbered as Rule 1610, eff. July 1, 1998.)

RULE 1620 TIME FOR FILING REPORTS IN JUVENILE PROCEEDINGS

Unless otherwise ordered or specifically provided by law, all reports prepared by the San Bernardino County Children and Family Services Department for a hearing in a juvenile dependency matter shall be filed with the Court no later than 10 calendar days prior to the hearing.

Unless otherwise ordered or specifically provided by law, all reports prepared by the San Bernardino County Probation Department for a hearing in a juvenile delinquency matter shall be filed with the Court no later than 48 hours prior to the hearing. (Former Rule 2520, eff. Jan. 1, 1997. Renumbered as Rule 1620, eff. July 1, 1998. Amended, eff. January 1, 2016.)

RULE 1630 CALENDAR CALL

All attorneys shall be present for calendar call unless expressly excused by the Court. Failure to appear at calendar call, or to be expressly excused, may subject the attorney to sanctions. (Former Rule 2530, eff. Jan. 1, 1997. Renumbered as Rule 1630, eff. July 1, 1998.)

RULE 1640 CONTINUANCES

Dates calendared for juvenile proceedings shall be regarded by counsel as definite Court appointments. Counsel appearing in other Courts on the same date for which a juvenile case is set shall advise the other Courts of the precedence of juvenile matters over other matters so that the juvenile matter may proceed as scheduled. (Eff. July 1, 1998)

Rule 1640.1 Written motion for continuance

A motion for continuance shall be in writing and shall be accompanied by a supporting affidavit or declaration. The moving party shall file and serve notice of the motion and all supporting documents upon each party at least 2 Court days prior to the hearing date. The supporting affidavit or declaration shall detail specific facts showing that good cause exists to grant a continuance. (See Welfare & Institutions Code, §§ 352, 682; Cal. Rules of Court, rule 5.550. Eff. July 1, 1998. Amended, eff. January 1, 2016.)

Rule 1640.2 Oral motion for continuance

An oral motion for a continuance shall be entertained where the moving party shows good cause for failing to file a properly noticed written motion.

If good cause for failing to file a properly noticed written motion is not found, a continuance shall only be granted if the best interests of the minor would be furthered by the continuance. Upon granting the continuance, the Court may order the attorney requesting the continuance to pay the costs of the other parties, including attorney's fees, witness fees, and costs. (Former Rule 2540, eff. Jan. 1, 1997. Renumbered as Rule 1640, eff. July 1, 1998.)

RULE 1650 MOTIONS

All motions shall be in writing and shall designate with specificity the issues to be litigated and decided by the Court. A motion shall be comprised of a notice of motion, a declaration in support of the motion, and a memorandum of points and authorities in support of the motion. The notice of motion and all supporting papers shall be served upon each party in the manner best calculated to provide sufficient time for each party to respond. The date for the motion to be heard shall be cleared with the Court clerk prior to filing and serving the motion. The Court clerk shall not accept a motion for filing if it is not accompanied by a proof of service. (Eff. July 1, 1998.)

Rule 1650.1 Notice

Where an order shortening time is not necessary under Rule 1660, the notice of motion and supporting papers shall be personally served and filed at least fifteen (15) calendar days before the time appointed for the hearing. However, if service is affected by facsimile transmission, express mail, or another method of delivery providing for overnight delivery, the required fifteen (15) day period for notice shall be increased by two (2) Court days. If service is affected by mail, the period for notice shall be increased by five (5) calendar days. (Eff. July 1, 1998. Amended, eff. January 1, 2016.)

Rule 1650.2 Response

All papers opposing a noticed motion shall be filed with the Court and personally served on each party at least five Court days prior to the hearing, with the period for notice increased, as described in Rule 1650.1, supra, if personal service is not employed. (Eff. July 1, 1998. Amended, eff. January 1, 2016.)

Rule 1650.3 Reply

Any reply papers in support of the motion shall be filed with the Court and served on each party at least two Court days prior to the hearing, with the period for notice increased, as described in Rule 1650.1, supra, if personal service is not employed. (Eff. July 1, 1998)

Rule 1650.4 Motion under § 700.1

The notice of motion designating a motion pursuant to Welfare and Institutions Code section 700.1 shall:

- (a) describe with specificity the item, statement, or other evidence sought to be suppressed;
- (b) state with specificity the theory of law and factual basis underlying the theory which support the motion;
- (c) cite the specific legal authority which supports the motion; and
- (d) indicate whether sworn testimony is to be relied upon at the hearing.

Failure to specify the evidence to be suppressed, theory of law, factual basis, or legal authority in support of such motion shall be considered a failure to raise a contested issue and shall preclude litigation of such issue unless and until properly placed in issue by compliance with this rule.

(Eff. July 1, 1998)

RULE 1660 ORDER SHORTENING TIME

The Court may prescribe a shorter time for the service and filing of a notice of motion and supporting papers only if the party seeking to shorten the time files an Application for Ex Parte Order Shortening Time with the Court. A party filing an Application for Ex Parte Order Shortening Time must give at least four (4) hours' notice of the nature of the application to each party, together with the proposed time and place of the hearing. Notice may be given by telephone. The Application shall be accompanied by an affidavit or declaration setting forth facts showing good cause for the order and any attempts made to notify each party of the ex parte hearing. The Application shall also be accompanied by a proposed order, as well as by the notice of motion and supporting papers. (Eff. July 1, 1998)

Rule 1670.7 Pretrial Settlement Conference prior to contested § 366.26 hearing

Return of the minor to parental custody is not an issue at a section 366.26 hearing. At a Pretrial Settlement Conference scheduled in anticipation of a contested section 366.26 hearing, counsel should confer only to discuss issues relevant to that hearing. (Eff. July 1, 1998)

RULE 1680 PRETRIAL DISCOVERY IN PROCEEDINGS UNDER SECTION 600 ET SEQ

Pretrial discovery shall be reciprocal and shall be conducted on an informal basis. Except as protected by privilege, all relevant material shall be disclosed in a timely fashion to all parties to the litigation. (Eff. July 1, 1998)

Rule 1680.1 Disclosure of information under Penal Code section 1054 et seq.

Upon the filing of a petition pursuant to Welfare and Institutions Code section 602, petitioner shall disclose to minor's counsel all information described in Penal Code section 1054 et seq. Likewise, no later than three Court days prior to the jurisdictional hearing, minor's counsel shall disclose to petitioner all information described in Penal Code section 1054 et seq. (Former Rule 2580, eff. Jan. 1, 1997. Renumbered as Rule 1680, eff. July 1, 1998.)

RULE 1689 JUVENILE COURT PRIORITY OF PROTECTIVE ORDERS AND MODIFICATION

The priority of restraining and protective orders regarding domestic, child custody or visitation or modification thereof must comply with Local Rule 1311. (Eff., July 1, 2003. Amended, eff. January 1, 2008.)

RULE 1690 RELEASE OF INFORMATION RELATING TO JUVENILES

All requests for release of information relating to juveniles shall describe with specificity the materials sought and shall describe with specificity the purpose for which such material is to be used. Failure to comply with this rule shall result in the request being denied. (See Welfare & Institutions Code, § 827, 828; Cal. Rules of Court, rules 5.552 and 5.553; Judicial Council form JV-570. Eff. July 1, 1998. Amended, eff. January 1, 2016.)

Rule 1690.1 Objection to request for release of information

Any objection to a request for release of information shall be filed with the Court and served on both the petitioning party and all persons specified in California Rules of Court, rules 5.552 and 5.553. The objection shall be filed and served no later than fifteen (15) calendar days after the date the Court clerk gives notice of the request. The objection shall set forth with specificity the grounds for opposing the request and the legal authority upon which the objection is made. (Juvenile Council Form JV-572. Eff. July 1, 1998. Amended, eff. January 1, 2016.)

Rule 1690.2 Review by Court

Within five (5) Court days after the time for filing objections has elapsed, the Court shall review the request and any objections and shall summarily deny the request, summarily grant the request, or set a hearing on the request. (Former Rule 2590, eff. Jan. 1, 1997. Renumbered as Rule 1690, eff. July 1, 1998.)

RULE 1691 CLIENT COMPLAINTS IN DEPENDENCY MATTERS

Complaints by a party regarding the representation she or he receives in a dependency matter shall initially be referred to the agency, law firm, or attorney appointed to represent the party. If the issue remains unresolved, the party may submit the complaint to the Court in writing. The Court shall then review the complaint and take appropriate action where required. (Former Rule 2591, eff. Jan. 1, 1997. Renumbered as Rule 1691, eff. July 1, 1998.)

RULE 1692 COMPETENCY OF ATTORNEYS REPRESENTING PARTIES IN JUVENILE DEPENDENCY AND DELINQUENCY MATTERS

Absent a knowing and intelligent waiver by the party represented, all attorneys who represent parties in juvenile dependency proceedings must meet the minimum standards of training and/or experience set forth in these rules.

No attorney will be appointed by the Court to represent a party in a dependency proceeding who has not submitted to the Court, and the Court has approved, a Certification of Competency. Further, no privately retained counsel will be allowed to appear on behalf of a party in a juvenile dependency proceeding unless they have submitted to the Court, and the Court has approved, a Certification of Competency or a knowing and intelligent waiver by the party of such certification.

~~Attorneys who believe they meet these minimum standards shall submit to the juvenile Court a Certification of Competency. No retained counsel will be allowed to appear on behalf of a party in a dependency proceeding without having submitted to the court and had approved a Certification of Competency or a knowing and intelligent waiver by the party of such certification. This rule shall not apply to privately retained counsel.~~

Attorneys who meet the minimum standards of competency as demonstrated by the information contained in the Certification of Competency shall be deemed competent to represent parties in juvenile matters; provided, however, that the Juvenile Court ~~may determine an~~ has not determined the attorney is not competent based on the performance of the attorney in a juvenile case within the six-month period prior to the attorney's submission of the certification. The Court may at any time review an attorney's competency to represent parties in juvenile matters or otherwise inquire about the attorney's competency to represent parties in juvenile matters. In the event the Juvenile Court determines an attorney is not competent, the Court shall give notice of its decision to the attorney and provide the attorney an opportunity for hearing on that issue. (Cal. Rules of Court, rule 5.660. Eff. July 1, 1998. Amended, eff. January 1, 2016. ~~As amended, eff. and~~ July 1, 2016. As amended, eff. January 1, 2018.)

Rule 1692.1 Time for submitting initial Certification of Competency with the Court

If an attorney has a matter pending before the Juvenile Court on the effective date of this rule, the attorney shall complete and submit to the Court an initial Certification of Competency. Any attorney appearing in a juvenile matter for the first time after the effective date of this rule shall complete and submit an initial Certification of Competency to the Court within ten (10) days after his or her first appearance in a juvenile matter. (Eff. July 1, 1998. Amended, eff. January 1, 2016.)

Rule 1692.2 Attorneys not meeting the minimum standards on the effective date of this rule

Any attorney who appears before the Court in a juvenile case pending on the effective date of this rule and who does not meet the minimum standards of competency shall notify the Court. The attorney shall complete and submit a Certification of Competency demonstrating that the attorney meets the minimum standards within ten (10) days after his or her first appearance in a juvenile matter. The Court shall order that certified counsel be substituted for any attorney who fails to comply with this rule. (Eff. July 1, 1998. Amended, eff. January 1, 2016.)

Rule 1692.3 Attorneys certified in other counties

If an attorney maintains his or her principal office outside of this County, proof of certification by the Juvenile Court of the California County in which the attorney maintains an office shall be sufficient evidence of the attorney's competency to represent parties in this County. (Eff. July 1, 1998.)

Rule 1692.4 Minimum standards of competency

Any attorney representing parties in juvenile matters shall not seek certification of competency and shall not be certified by the Court as competent until the attorney has met minimum standards of competency.

An attorney meets the minimum standards of competency to represent a party in a juvenile case where he/she has either:

(a) Represented parties for at least six months in juvenile matters; or

(b) Participated in at least eight hours of training or education in juvenile law. The training or education must have addressed Juvenile case law and statutes, the Rules of Court, Judicial Council forms, motions, trial techniques and skills, and writs and appeals. If the attorney seeks certification to represent parties in juvenile dependency matters, the training or education must also have addressed child development, child abuse and neglect, family reunification and preservation, and reasonable efforts.

An attorney who represents a party in a juvenile delinquency case pending on the effective date of this rule must also meet any minimum qualifications as required by the California Rules of Court governing qualifications of an attorney in a juvenile delinquency case. (Eff. July 1, 1998. As amended, eff. July 1, 2016.)

Rule 1692.5 Recertification every three years

In order to retain his or her certification, each attorney who has been certified previously by the Court shall submit a renewal Certificate of Competency to the Court on or before January 31st of the third year after the year in which the attorney was first certified and then every third year thereafter. The attorney shall attach to the renewal Certificate of Competency evidence that the attorney has completed at least eight (8) hours of continuing training or education directly related to juvenile proceedings since the attorney was last certified and evidence of completion of any training required for recertification by the California Rules of Court. Evidence the required number of hours of training or education may include a copy of a certificate of attendance issued by a California MCLE provider; a certificate of attendance issued by a professional organization which provides training and/or education for its members, whether or not it is a MCLE provider; a copy of the training or education program schedule together with evidence of attendance at such program; or such other documentation as may reasonably be considered to demonstrate the attorney's attendance at such program. (Eff. July 1, 1998. As amended, eff. July 1, 2016.)

Rule 1692.6 Training and/or education required for recertification

For attorneys seeking recertification to represent parties in juvenile dependency cases, the training or education required by Rule 1692.5 must be in areas specified in Rule 1692.4 or in other areas related to juvenile dependency practice, such as special education, mental health, health care, immigration, the rules of evidence, adoption and parentage, the Uniform Child Custody Jurisdiction Act, the Parental Kidnapping Prevention Act, state and federal public assistance programs, the Indian Child Welfare Act, client interviewing and counseling techniques, case investigation and settlement negotiations, mediation, basic motion practice, and the rules of civil procedure.

For attorneys seeking recertification to represent parties in juvenile delinquency cases, the training or education required by Rule 1692.5 must be in areas specified in Rule 1692.4 or in other areas related to juvenile delinquency practice, such as criminal law, client interviewing and counseling techniques, case investigation and settlement negotiations, basic motion practice, or the rules of evidence. (Eff. July 1, 1998.)

Rule 1692.7 Decertification

In the event a certified attorney fails to submit a renewal Certification of Competency to the Court in the time or manner required by Rule 1692.5, the Court shall notify the attorney that she or he shall be decertified. The attorney shall have 20 days from the date of the mailing of the notice to submit a renewal Certification of Competency in compliance with these rules and the California Rules of Court. If the attorney fails to submit the certification or if the attorney submits a non-complying certification, the Court shall order that certified counsel be substituted for that attorney. (Eff. July 1, 1998. As amended, eff. July 1, 2016.)

Rule 1692.8 Maximum Caseload

The attorney for a child must limit his/her caseload to the number of cases that allows him/her to competently perform the duties required by Welfare & Institutions Code section 317(e) and otherwise provide adequate representation for the child. (Eff. July 1, 2002. Amended, eff. January 1, 2016.)

RULE 1693 CHILD ADVOCACY PROGRAM: COURT APPOINTED SPECIAL ADVOCATE

The *Court Appointed Special Advocates (C.A.S.A.)* is the sole local agency, which has been approved and designated by the Presiding Judge of the San Bernardino County Superior and Juvenile Courts to serve as the Court Appointed Special Advocate-(C.A.S.A) program. The C.A.S.A. agency contracts with the San Bernardino County Superior Court to recruit, screen, select, train, supervise and support lay volunteers to be appointed by the Court to help define the best interests of children in juvenile Court dependency and delinquency proceedings, including-actions to terminate parental rights; and adoption. The program offers the opportunity to enhance the decision-making process in juvenile Court through the development of significant and appropriate community volunteer advocacy relationships with children. (See Welfare & Institution Code, §§ 100, 356.5, 358; Cal. Rules of Court, rule 5.655. Eff. July 1, 1998. Amended, eff. January 1, 2007 and January 1, 2016.)

Rule 1693.1. Duties of C.A.S.A. volunteers

C.A.S.A. volunteers serve as officers of the Court and are subject to all Court rules. Their duties and responsibilities are outlined in the policies and procedures approved by the C.A.S.A. Board of Directors and by the Superior Court contract agreement. The volunteers are under the direct guidance and supervision of the C.A.S.A. agency staff and are required to comply with the approved policies and procedures. (See Welfare & Institution Code, §§ 100-109; Cal. Rules of Court, rule 5.655. Eff. July 1, 1998. Amended, eff. January 1, 2007 and January 1, 2016.)

Rule 1693.2 Appeals/grievance procedure for C.A.S.A. volunteers

All C.A.S.A. volunteers are appointed by and serve at the pleasure of the Court. The appointment is a privilege and not a right.

The Presiding Juvenile Court Judge or his/her designee has the sole authority and power to appoint and/or remove a C.A.S.A. volunteer to or from a case. There is no appeals process. Once a volunteer has been removed from a case, the volunteer shall not continue contact with any of the parties in the case. C.A.S.A. volunteers who are removed/terminated from the program shall not be reappointed on any case. The C.A.S.A Board of Directors shall establish an internal appeals/grievance process within the agency's policies and procedures. (Eff. July 1, 1998. Amended, eff. January 1, 2007 and January 1, 2016.)

Rule 1693.3 Referral of case to C.A.S.A. program; appointment of C.A.S.A. volunteer

A child's juvenile Court case may be referred to the C.A.S.A. program for evaluation and consideration for acceptance into the program. Upon acceptance of the case by the agency and acceptance by an available C.A.S.A. volunteer, an application for appointment, along with a signed C.A.S.A. consent to serve, shall be submitted to the Court by the C.A.S.A. Executive Director. The application shall request appointment of the identified C.A.S.A. volunteer. Appointment may occur anytime at or after detention and shall follow the state approved guidelines for early assignment. Criteria for referral and appointment include, but are not limited to, the following:

- (a) the child is traumatized and has little or no support network of friends and extended family;
- (b) the child and the family have multiple or complex service needs and coordination of services is required;
- (c) the child has suffered severe physical, sexual or emotional abuse;
- (d) the child has special educational, developmental, medical, mental health or other needs, particularly if there are conflicting opinions as to the assessment of or treatment for the child;
- (e) the child's case involves numerous issues and interested parties;
- (f) the child has experienced multiple placements;
- (g) the child's parents have had multiple interventions and have consistently failed to show progress toward or interest in fulfilling treatment plans and goals for family reunification;
- (h) the child's family might be assisted by a C.A.S.A. in the preservation of the family unit or the C.A.S.A. might expedite family reunification or adoption;
- (i) a delinquent child falls within the program guidelines and the child's history and family dynamics do not represent a danger to the volunteer or the community;
- (j) the Presiding Juvenile Court Judge or a designee determines referral and appointment is advisable.

(Eff. July 1, 1998. Amended, eff. January 1, 2007 and January 1, 2016.)

Rule 1693.5 Confidentiality of CASA records

All CASA records, including personnel, volunteer and juvenile Court case records, are confidential. Without prior Court order or except as otherwise provided by law, only the CASA Executive Director, the Presiding Juvenile Court Judge, and her/his designee shall have access to the confidential records. The records shall not be copied or released to anyone who does not have a legal right to access these records.

Any person without a legal right to access these records may seek access through a petition requesting their release. The petition shall be submitted to the Presiding Juvenile Court Judge. (See Welfare & Institution Code, § 827; Cal. Rules of Court, rule 1423; Judicial Council form JV-570; Rules 1690, 1690.1, 1690.2, supra.)

No one in the agency shall copy or remove any records without the prior approval and authority of the Executive Director. The Executive Director is the keeper of the CASA records under the authority of the Board of Directors and the Presiding Juvenile Court Judge.

All CASA records shall be kept for a minimum of five years and then appropriately destroyed. (See Welfare & Institution Code, § 826.) (Eff. July 1, 1998. Amended, eff. January 1, 2007. As amended, eff. July 1, 2016.)

RULE 1694 JUVENILE RESTITUTION ORDERS

(a) (Preparation and transmittal of juvenile restitution orders to superior court) When the Juvenile Court orders a minor and/or a minor's parents to make restitution to a victim, the court may direct the probation department, the victim, or the clerk to prepare an order on Judicial Council form JV-790 (Order for Restitution and Abstract of Judgment), to be signed by the judge. After signature, the order shall be filed in the Juvenile Court file, and then, within ten (10) calendar days, transmitted by the Juvenile Court clerk to nearest superior court of this county, with an order sealing the new superior court file.

(b) (Procedures for filing by superior court) Upon receipt of the juvenile restitution order, the superior court clerk shall, immediately and without charge, file the juvenile court restitution order in a new superior court file, assign a new case number, and seal the file.

(c) (Endorsed filed copy-clerk's certificate of mailing) Within 15 court days after receiving the order, the clerk of the superior court shall send by first-class mail an endorsed filed copy of the restitution order showing the new case number to (i) the persons whose names and addresses are listed on the order, and (ii) the originating juvenile court, with a completed clerk's certificate of mailing, for inclusion in the child's file.

(d) (Enforcement of restitution orders) Pursuant to provisions of the Welfare and Institute Code, any juvenile restitution order filed in the superior court has the same force and effect as a civil money judgment, may be enforced in the same manner, and remains in effect after jurisdiction of the minor terminated, whether or not the juvenile court case is sealed. After a new file is opened in the superior court pursuant to this section, the court may its usual fees for enforcement proceedings.

(e) (Effect of sealing superior court file) Any superior court file opened pursuant to this rule may only be accessed by the persons listed and procedures described in Welf. & Inst. Code section 827 and CRC Rule 1423.

(Eff. January 1, 2007.)

CHAPTER 17
RESERVED

CHAPTER 18
ELECTRONIC FILINGS AND SERVICE

RULE 1800 ELECTRONIC FILING

E-filing requirements shall be governed in accordance with CCP section 1010.6 and California Rules of Court, rules 2.250 et seq. and any policies or orders adopted by the court and posted on the court website. ~~The Superior Court of California, County of San Bernardino, is establishing has not established an electronic filing program as that term is defined in accordance with California Code of Civil Procedure section 1010.6 and California Rules of Court, rules 2.250 et seq.~~ E-filing requirements shall be governed in accordance with CCP section 1010.6 and California Rules of Court, rules 2.250 et seq. The electronic filing program shall apply to specific case types court wide as services and functionality become available, and as ordered by the Presiding Judge and noticed by the Court. There shall be no electronic filing of any pleadings or papers to the Court except in accordance with this chapter. (Eff. January 1, 2000. Amended, eff. January 1, 2012 and January 1, 2014. As amended, eff. January 1, 2018.)

RULE 1810 ELECTRONIC FILING PARTICIPATION

~~Filing documents electronically is an enhanced information service provided by arrangement with one or more private sector firms under contract with the Court. Such a firm may require payment of a convenience fee and/or transaction fee and/or impose other reasonable requirements by contract with the qualified electronic filer as conditions for processing an electronically filed document. Specific information regarding the service provider may be obtained from the Court Executive Office or the court's website.~~

Reserved.

(Former Rule 1820, eff. January 1, 2000. Renumbered as Rule 1810 and amended, eff. January 1, 2012. Amended, eff. July 1, 2013. As amended, eff. January 1, 2018.)

RULE 1820 FAX FILINGS (FACSIMILE TRANSFER TO COURT)

The Court may receive a facsimile transmission into a computer file, rather than receiving such a transfer onto paper. For purposes of these rules, however, such a document shall not be considered an electronically filed document, but rather, shall be governed by the rules of court governing Fax Filings. (Former Rule 1830, eff. January 1, 2000. Renumbered as Rule 1820 and amended, eff. January 1, 2012. As amended, eff. January 1, 2018.)

RULE 1830 DATE/TIME OF FILING

~~An electronically transmitted document is not considered filed until accepted by the Clerk. Once accepted by the Clerk, the document shall be deemed to have been filed on the day it was received by the Clerk, if receipt occurred before the close of business, shall be deemed to have been filed: (a) on the day it was received by the Clerk, if the receipt occurred before the close of business or (b) on the next business day the Clerk's Office is open for business, if the lodging occurred after the close of business hours. Nothing in this chapter shall limit the Clerk's ability to reject filings.~~

Reserved.

(Former Rule 1840(a), eff. January 1, 2000. Renumbered as Rule 1830 and amended, eff. January 1, 2012. As amended, eff. January 1, 2018.)

RULE 1840 RECEIPT OF DATA

- (a) ~~Upon receiving a document transmitted electronically for filing with the Court from a qualified electronic filer, the Clerk shall cause to be electronically transmitted to the~~

- ~~filer a notice of lodging of the document with the Court. The notice of lodging shall confirm the date and time of receipt of the document by the Court for review and filing.~~
- ~~(b) If an electronically transmitted document lodged with the Court is accepted by the Clerk for filing, the Clerk shall cause to be electronically transmitted to the filer a notice of acceptance. The notice shall set forth the date and time the document was deemed filed.~~
- ~~(c) If an electronically transmitted document lodged with the Court is rejected by the Clerk for filing, the Clerk shall cause to be electronically transmitted to the filer a notice of rejection. The notice shall set forth the grounds for rejection of the document. The Court will retain a log confirming the rejection of electronically transmitted documents. If a document is rejected, it shall be the responsibility of the filer to resubmit the documents.~~

Reserved.

(Former Rules 1840(b), 1840(d) and 1840(d)(1), eff. January 1, 2000. Renumbered as Rule 1840 and amended, eff. January 1, 2012. As amended, eff. January 1, 2018.)

RULE 1850 ERRORS OR MALFUNCTION

~~The confirmation of filing of the document and verification of the accuracy of the document shall be the sole responsibility of the filer. The Court shall not be responsible for malfunction or errors occurring in the electronic transmission of a document to the Court for filing.~~

Reserved.

(Former Rule 1840(d)(2), eff. January 1, 2000. Renumbered as Rule 1850, eff. January 1, 2012. As amended, eff. January 1, 2018.)

RULE 1860 ELECTRONIC FILING SYSTEM INQUIRIES

Inquiries, disputes, or complaints regarding any aspect of the Electronic Filing System may be directed to: Court Executive Office, 247 West Third Street, Eleventh Floor, San Bernardino, CA 92415. (Eff. January 1, 2000. Amended, January 1, 2008 and July 1, 2014.)

CHAPTER 19

RESERVED

CHAPTER 20

PART ONE
GENERAL PROCEDURAL GUIDE

RULE 20-101 WRITTEN POLICY MEMORANDA

~~(a) From time to time questions of policy with respect to probate matters will be determined by the judges, reduced to writing, and made available to members of the bar. _____~~

~~(b) Unless specific written orders are issued to the contrary, these policies are applicable in court districts.~~

~~(Rev. Dec. 1993. Renumbered as Rule 20-101 eff. July 1, 2007. Deleted, eff. January 1, 2018.)~~

RULE 20-102 PROBATE NOTES

(a) Calendar notes are usually available at least two (2) weeks before the hearing date. Notes are available at www.sb-court.org, select “Probate Notes”).

(b) When a question arises concerning a particular note, the Probate Examiners may be contacted for clarification of the note by sending an email to ProbateNotes@sb-court.org.

~~(c) When a case is not recommended for approval, the petitioner or his attorney may request a four (4) week continuance from the courtroom clerk if the matter was not previously set or continued by the court.~~

~~(d)(c) When a case (except a petition for appointment of a guardian or conservator) is recommended for approval, the petitioning party or counsel may elect not to appear at the hearing. A non-appearance at the hearing by a petitioning party may be deemed to be a submission on the recommendation in the probate notes. The petitioning party is advised, however, that during the hearing the court’s ruling may deviate from the relief requested or the recommendation in the probate notes. Also, other interested persons may appear at the hearing which may result in a change in the court’s ruling or a continuance of the hearing. In all instances, appearances shall be made at hearings on petitions for appointment of a guardian or conservator, including the appointment of successors.~~

(Eff. July 1, 1998. Amended January 1, 1999, January 1, 2003, and January 1, 2004. Renumbered as Rule 20-102 and amended, eff. July 1, 2007. Amended, eff. July 1, 2008 and July 1, 2013. As amended, eff. January 1, 2018.)

RULE 20-105 COMMISSIONERS AND TEMPORARY JUDGES

~~Before the call of the calendar, parties may be advised in open court that the matters on the calendar will be heard by a commissioner or a temporary judge. Unless the court is informed to the contrary, all parties shall then be deemed to have stipulated that such person may hear the matter as a temporary judge, and the minutes will so read. (Former Rule 106, rev. Dec. 1993. Renumbered as Rule 106 and amended, eff. July 1, 1998. Renumbered as Rule 20-105, eff. July 1, 2007. Deleted, eff. January 1, 2018.)~~

RULE 20-106 WRITTEN REPORT FOR APPOINTED ATTORNEYS

Written Report. Any attorney appointed by the court must file a written report with a verified statement that:

(1) The appointed attorney is an active member of the State Bar of California and no disciplinary actions are pending and none were filed against him or her during the past twelvemonths;

(2) The appointed attorney has professional liability insurance coverage in effect with policy limits consistent with the value of the matter being handled; and

(3) The appointed attorney has not represented any party to the proceeding except as stated in the report. The statement must include the name of the party represented and a brief explanation of the representation. Cases where an appointed attorney has represented a private professional conservator or professional fiduciary in the proceeding must be included. ~~A report must be filed with the court in each case in which the attorney is appointed and shall be filed with the court within ten (10) days of appointment in the case.~~

(4) A report must be filed with the court in each case in which the attorney is appointed and shall be filed with the court within a reasonable time prior to the applicable hearing.

(Eff. January 1, 2015. As amended, eff. January 1, 2018.)

PART TWO
FORMS, NOTICES, AFFIDAVITS, AND DECLARATIONS

RULE 20-203 NOTICE RE SPECIAL LETTERS

~~Petitions for special letters of administration ordinarily will not be granted without notice to the surviving spouse, the person nominated as executor, or any other person who, on examination of the applicant, appears to be equitably entitled to notice. If it appears that a *bona fide* contest exists, the court will consider appointing a neutral person or corporation as special administrator. (Former Rule 205, rev. Dec. 1993. Renumbered as Rule 203 and amended, eff. July 1, 1998. Renumbered as Rule 20-203, eff. July 1, 2007. Deleted, eff. January 1, 2018.)~~

RULE 20-204 PROBATE HEARING ONCE NOTICED CANNOT BE ADVANCED

~~When a hearing on a probate matter has been noticed, or when it has been noticed and continued to a definite date, the matter cannot be heard before the date set by means of a new petition, an amended petition, a new notice, or otherwise, except by order of the court. (Former Rule 206, rev. Dec. 1993. Renumbered as Rule 204 and amended, eff. July 1, 1998. Renumbered as Rule 20-204, eff. July 1, 2007. Deleted, eff. January 1, 2018.)~~

RULE 20-205 NOTICE OF REFUSAL TO PROBATE REJECTED WILL OR CODICAL

(a) A petitioner who files a petition for letters of administration, letters of administration with will annexed, probate of will and for letters testamentary, to determine succession to real property, or a spousal property petition must comply with this rule if either of the following is true:

1. The petition requests a finding that the decedent died intestate when a will and/or codicil has been lodged as an original with the court or a copy of a will and/or codicil has been otherwise filed with the court.

2. The petition requests probate of or distribution under a will and/or codicil, and a different will and/or codicil has been lodged as an original with the court or a copy has otherwise been filed with the court.

(b) The petitioner shall serve a copy of the rejected will and/or codicil on all heirs of the decedent or potential beneficiaries under the document at least 15 days prior to the hearing on the petition.

(c) This rule does not apply if any of the following is true:

1. The petition requests probate of or distribution under a will that purports to have been executed after the date rejected will and/or codicil and that expressly revokes all prior wills.

2. The petition is for letters of administration or distribution under intestate succession and the rejected will and/or codicil provides for distribution that is identical to intestate succession and does not appoint a party other than petitioner to serve as executor.

(Eff. January 1, 2018.)

PART THREE
EXECUTORS AND ADMINISTRATORS
(RESERVED)

RULE 20-302 SPECIAL ADMINISTRATION

~~A petition for appointment of special administrator may be filed in a separate petition following or concurrently with a petition for probate. Special letters of administration will not normally be granted unless a petition for probate and for general letters is on file. Special letters may be revoked if general administration is not timely pursued. (Former Rule 303, rev. Dec. 1993. Renumbered as Rule 302 and amended eff. July 1, 1998. Renumbered as Rule 20-302, eff.~~

~~July 1, 2007. Deleted, eff. January 1, 2018.)~~

RULE 20-303 STATEMENT OF ADDRESS

~~A proposed nonresident personal representative who completes section 4.g. of the Judicial Council form Petition for Probate (DE-111, as Rev. Jan. 1, 2005), including the specification of the proposed personal representative's permanent address, shall be deemed to have satisfied the requirements of Probate Code section 8573 regarding the filing of a statement of permanent address. No separately filed document is required. An appointed nonresident personal representative who changes permanent residence, however, must still file a change of permanent residence with the court as required by the second sentence of Probate Code section 8573. (Eff. July 1, 2008. Deleted, eff. January 1, 2018.)~~

PART FOUR
BONDS
(RESERVED)

RULE 20-402 BOND ON PETITION FOR AUTHORITY TO BORROW MONEY

~~Petitions for authority to borrow money should set forth the amount of bond in force and the amount of loan proceeds. If no additional bond is required, or if bond is waived, that fact should be alleged. (Rev. Dec. 1993. Renumbered as Rule 20-402, eff. July 1, 2007. Deleted, eff. January 1, 2018.)~~

PART FIVE
INDEPENDENT ADMINISTRATION

RULE 20-501 PRELIMINARY DISTRIBUTION

~~If there is to be a preliminary distribution from an estate to a trustee who has not yet been appointed and who has not been given at least fifteen (15) days' notice of a hearing on such petition, the trustee must file with the court a consent to act as trustee before the distribution is ordered. If there is a proposed distribution to a Trustee, the Trustee shall file a consent to Act prior to the court's approval of the distribution.~~

~~(Former Rule 504, rev. Dec. 1993. Renumbered as Rule 501, eff. July 1, 1998. Renumbered as Rule 20-501, eff. July 1, 2007. As amended, eff. January 1, 2018.)~~

PART SIX
PETITION, MOTIONS, INVENTORIES, AND ORDERS

RULE 20-601 CAPTIONS

~~The captions in all petitions and motions filed in probate matters shall set out a complete, correct and concise summary of the prayer in order that proper notice may be given. No petition will be accepted for filing without such caption. All captions shall include a reference to the Probate Code section and/or any other statutory authority that authorizes the relief~~

requested. (Rev. Dec. 1993. Renumbered as Rule 20-601, eff. July 1, 2007. Amended, eff. July 1, 2013. As amended, eff. January 1, 2018.)

RULE 20-603 FILING OF PLEADINGS

~~All supporting papers for every petition must accompany the petition or be filed within a reasonably short time thereafter. (Eff. July 1, 1998. Renumbered as Rule 20-603, eff. July 1, 2007. Amended, eff. January 1, 2014. Deleted, eff. January 1, 2018.)~~

RULE 20-605 COMPLETE ADDRESS IN PETITION OR REPORT

(a) When an address is required in a petition or report a full and complete mailing address should be set forth, or a special allegation made explaining why the petitioner cannot comply with this requirement.

(b) Nothing herein is intended to or should prevent an immediate filing of the original petition although complete addresses are unknown but may be ascertained within a few days. New or corrected addresses should be reported to the probate procedures clerk in writing when the fact becomes known and appropriate steps to give proper notice shall be taken.

(Rev. Dec. 1993. Renumbered as Rule 20-605 and as amended, eff. July 1, 2007.)

RULE 20-606 LIMITATIONS ON USE OF PETITIONS FOR INSTRUCTIONS

~~(a) The use of petitions for instructions by executors or administrators pursuant to Probate Code section 9611 is limited to those matters where no other or different procedure is provided by statute. The caption should specify in detail exactly what instructions are sought. A caption merely entitled "Petition for Instructions" is incomplete and shall not be used.~~

~~(b) The manner in which an estate should be distributed can be determined only by a petition for distribution or by a petition to determine heirship, not a petition for instructions. (Former Rule 611, rev. Dec. 1993. Renumbered as Rule 606 and amended, eff. July 1, 1998. Renumbered as Rule 20-606, eff. July 1, 2007. Deleted, eff. January 1, 2018.)~~

RULE 20-607 EX PARTE MATTERS

~~Attorneys for parties should call the probate clerk to determine the times, dates and courtroom at which the judge will consider ex parte matters. (Rev. Dec. 1993. Amended, eff. January 1, 2003. Amended, eff. July 1, 2003. Renumbered as Rule 20-607, eff. July 1, 2007. Deleted, eff. January 1, 2018.)~~

RULE 20-609 EX PARTE ORDERS WILL NOT BE GRANTED UNLESS SPECIAL NOTICE IS WAIVED

~~All applications for ex parte orders must allege the existence or non-existence of requests for special notice on file. If any such notice has been requested, the ex parte application must contain a waiver of the request, a declaration that the requesting party was given at least twenty- four (24) hours' telephonic notice of the application, or a statement that the subject of the application is not covered by Probate Code section 1250(c). (Rev.~~

Dec. 1993. Amended, eff. July 1, 1998. Renumbered as Rule 20-609, eff. July 1, 2007. As amended, eff. January 1, 2018.)

RULE 20-610 DESCRIPTION OF REAL PROPERTY

~~Real property of the estate shall be fully described in the inventory and all petitions and orders dealing with it by the legal description, assessor's parcel number and street address, if any. If the property is unimproved it should be so noted. (Former Rule 617, rev. Dec. 1993. Renumbered as Rule 610 and amended, eff. July 1, 1998. Renumbered as Rule 20-610, eff. July 1, 2007. Deleted, eff. January 1, 2018.)~~

RULE 20-611 SPECIFICALLY BEQUEATHED PROPERTY

A petition for sale of stock or personal property must allege whether the property is specifically bequeathed. If the property is so bequeathed, the consent of the legatee must accompany the petition. (Eff. July 1, 1998. Renumbered as Rule 20-611, eff. July 1, 2007.)

RULE 20-612 REAL PROPERTY DISTRIBUTION ORDERS

Orders containing provisions for the distribution of real property shall set forth a mailing address of the distributee. (Former Rule 614, rev. Dec. 1993. Renumbered as Rule 612 and amended eff. July 1, 1998. Renumbered as Rule 20-612, eff. July 1, 2007.)

RULE 20-613 FAMILY ALLOWANCE: ORDERS FOR CONTINUING PAYMENTS MUST STATE TERMINATION DATE

~~All orders for family allowance shall include the commencement date and the termination date for payments. The court will not make orders for continuing payments of family allowance to run until the further order of the court. (Former Rule 610, rev. Dec. 1993. Renumbered as Rule 613 and amended eff. July 1, 1998. Renumbered as Rule 20-613, eff. July 1, 2007. Deleted, eff. January 1, 2018.)~~

RULE 20-614 PROBATE ORDERS

(a) All petitions, orders or decrees shall be ~~drawn~~ prepared and submitted by the petitioner or attorney involved. The caption shall clearly and fully identify its contents. A caption merely entitled "Petition" or "Order" is incomplete and shall not be used.

(b) All orders or decrees in probate matters must be complete in themselves. They shall set forth all matters actually passed upon by the court, the relief granted, the names of any persons affected, the descriptions of any property affected and the amounts of any money affected. Probate orders should be sufficiently clear ~~so drawn~~ that their general effect may be determined without reference to the petition on which they are based.

(c) While in orders settling accounts it is proper to use general language approving the account, the report, and the acts reported therein, it is not sufficient in any order to recite merely that the petition as presented is granted or that the relief sought in the petition on file is given. Orders settling accounts or orders made on waivers of account must also contain a statement as to the balance and description of the estate on hand, specifically

noting the amount of cash included in said balance.

(d) Three (3) lines of the contents of the order must appear on the page upon which the Judge's signature is affixed. In no case should any matter appear after the signature of the judge.

(Former Rule 613, rev. Dec. 1993. Renumbered as Rule 614 and amended, eff. July 1, 1998.

Amended eff. January 1, 2004. Renumbered as Rule 20-614, eff. July 1, 2007. As amended, eff. January 1, 2018.)

RULE 20-615 NUNC PRO TUNC ORDERS CORRECTING CLERICAL ERRORS

~~(a) If, through any inadvertence, the minute order or the signed decree fails to state the order actually made by the court, the court will on its own motion, supported by an affidavit if deemed necessary, make a nunc pro tunc order correcting the mistakes.~~

~~(b) The nunc pro tunc order must not take the form of an amended order and should be substantially in the following form: "On the Court's own motion, to correct a clerical error, the (identify the order to be corrected, giving the title and the date thereof) is corrected by striking the following: (here set out the matter to be eliminated) and by inserting in lieu thereof the following: (here set out the correct matter)."~~

~~(c) The original order is not to be physically changed by the clerk, but it is to be used in connection with the nunc pro tunc order correcting it.~~

~~(d) To prevent further errors, not less than a complete clause or sentence should be stricken, even if it is intended to correct one word or a figure.~~

~~(e) "It is so ordered Nunc Pro Tunc as of (date)" should be just prior to the judge's signature. (Former Rule 616, rev. Dec. 1993. Renumbered as Rule 615, eff. July 1, 1998. Renumbered as Rule 20-615, eff. July 1, 2007. Deleted, eff. January 1, 2018.)~~

RULE 20-617 DEATH OR MISSING PERSONS

~~Proceedings should not be initiated under Probate Code Section 200 to establish the death of missing persons. Rather, the provisions of Part 12 of Division 7 (commencing at Section 12400) are to be used. (Former Rule 618, rev. Dec. 1993. Renumbered as Rule 617, eff. July 1, 1998. Renumbered as Rule 20-617, eff. July 1, 2007. Deleted, eff. January 1, 2018.)~~

PART SEVEN
CREDITORS'
CLAIMS
(RESERVED)

PART EIGHT
SALES

RULE 20-801 CONDOMINIUMS, COMMUNITY OR COOPERATIVE APARTMENTS

(a) A condominium, ~~community or cooperative apartment~~ is an interest in real property and must be sold as such. ~~A community or cooperative apartment is personal property and must be sold as such. However, the~~ The overbid on such assets will be computed on the same basis as in sales of real property, and brokers' commissions will be allowed on the same basis as in sales of real property.

(b) The sale of a cooperative apartment ~~must be approved by the Board of Directors or other governing body prior to court confirmation of sale. will not be confirmed subject to the purchaser's later obtaining the acceptance of a board of directors or other governing body;~~ Therefore, the prospective purchaser should obtain acceptance before seeking Court confirmation.

(Former Rule 805, rev. Dec. 1993. Renumbered as Rule 801, eff. July 1, 1998 . Renumbered as Rule 20-801, eff. July 1, 2007. As amended, eff. January 1, 2018.)

RULE 20-802 SALE OF REAL AND PERSONAL PROPERTY AS A UNIT

~~When real and personal property of the estate is sold at a private sale as a unit, the petition for confirmation of sale shall clearly set forth the reasons for belief on the part of the personal representative that such sale is in the best interests of the estate. Sales of furniture and furnishings with dwelling houses, water stocks with lands served thereby, and similar transactions will require no detailed explanation. Sales of unrelated personal property should, however, be explained in detail. (Former Rule 806. Rev. Dec. 1993. Renumbered as Rule 802 and amended, eff. July 1, 1998. Renumbered as Rule 20-802, eff. July 1, 2007. Deleted, eff. January 1, 2018.)~~

RULE 20-803 TANGIBLE PERSONAL PROPERTY

(a) Necessity for Appraisal. Whenever a court order is being requested to approve or confirm the sale of tangible personal property, whether such order is or is not required by the Probate Code, an appraisal by a probate referee must first be made and filed. When necessary, a partial inventory and ~~appraisement~~ appraisal may be filed for this purpose, or a letter appraisal may be obtained from the court appointed referee or an alternate appraiser if authorized in accordance with Probate Code Section 8903.

(b) Commissions. Commissions on sales of tangible personal property will be allowed only to one holding a broker's license authorizing him to deal in the type of property involved. A commission will be allowed on the original bid only when the commission is

requested in the return of sale. The amount of the commission is within the court's discretion ~~and will not ordinarily exceed (1) six percent (6%) as to sales in which a broker procured the bid presented to court for confirmation or (2) three percent (3%) as to sales in which no broker procured the bid presented for confirmation.~~

(Former Rule 811, rev. Dec. 1993. Renumbered as Rule 803, eff. July 1, 1998. Renumbered as Rule 20-803, eff. July 1, 2007. As amended, eff. January 1, 2018.)

RULE 20-804 SALES OF DEPRECIATING AND PERISHABLE PROPERTY

~~Vehicles such as automobiles and mobile homes may be sold as depreciating property. Efforts to expose the property prior to sale should be shown in either the report and final account or the petition to approve such sale (unless such sales are made under I. A. E. A.). (Former Rule 812, rev. Dec. 1993. Renumbered as Rule 804, and amended, eff. July 1, 1998. Renumbered as Rule 20-804, eff. July 1, 2007. Deleted, eff. January 1, 2018.)~~

RULE 20-805 SALES OF SECURITIES

~~A verified petition for the sale of stocks, bonds, or other securities must set forth a minimum sale price as to all securities not listed on an established exchange or to be sold through a national market system on an interdealer quotation system by an S.E.C. registered broker dealer during the regular course of business. If the securities are "closely held", the petition must set forth the basis for fixing the minimum sales price. (Former Rule 813, rev. Dec. 1993. Renumbered as Rule 805 and amended, eff. July 1, 1998. Renumbered as Rule 20-805, eff. July 1, 2007. Deleted, eff. January 1, 2018.)~~

RULE 20-806 BROKER'S COMMISSIONS

(a) On sales subject to court confirmation, unless justified by special circumstances, the court will not approve payment of a broker's commission in excess of (1) six percent (6%) as to sales in which a broker procured the bid presented to court for confirmation or (2) three percent (3%) as to sales in which no broker procured the original bid presented for confirmation.

(b) Special circumstances may include the fact that the property has an appraised value or sales price of \$10,000.00 or less or the property is undeveloped land. Under such circumstances the court will not approve payment of a broker's commission in excess of (1) ten percent (10%) as to sales in which a broker procured the bid presented to court for confirmation; or, (2) five percent (5%) as to sales in which no broker procured the bid presented for confirmation.

(Eff. July 1, 1998. Renumbered as Rule 20-806, eff. July 1, 2007. Amended, eff. July 1, 2008.)

RULE 20-807 COURT CONFIRMATION OF PRIVATE SALES

(a) Bid Deposit. Ten percent (10%) of the total sales price must be deposited with the personal representative. However, exception may be made under special circumstances, for example when the sale is FHA or VA financed.

(b) Junior Deeds of Trust. The court will approve the taking of a promissory note secured by a junior deed of trust upon a showing that it serves the best interests of the estate. ~~Such showing may require a showing or representation of efforts that were made to sell for cash or a showing of knowledge on the part of the heirs and devisees and lack of objection to acceptance of a junior deed of trust.~~

(c) Vesting of Title. The petition for confirmation must set forth the vesting of title in the buyer. The court will not confirm a sale to a "nominee".

(d) Specifically Devised or Bequeathed Property. A sale of specifically devised or bequeathed real or personal property ordinarily will not be confirmed unless the written consent of the specific devisee or legatee is filed with the petition for confirmation.

(e) Notice of Hearing on Report of Sale and Petition for Order Confirming Sale of Real Property. In addition to all notices of hearings on return of sale required by law, notice should be given to (1) any specific devisee of such property, (2) any agent for the bid being presented to court, and (3) all beneficiaries, ~~or~~ heirs, or other parties entitled to notice.

(f) Earnest Money Deposit by Increased Bidder. When a sale is confirmed to an overbidder, the overbidder, at the request of the personal representative, must submit at the time of the hearing cash or a certified or cashier's check in the amount of ten percent (10%) of the initial overbid. The personal representative should notify all known anticipated overbidders of this requirement.

(g) Overbid Form. The personal representative or counsel may obtain from the court clerk a form to be completed on the overbid. This form is to be returned to the clerk before the order confirming the sale will be signed.

~~(h) Absence of Attorney for Estate at Confirmation Hearing. If the estate's attorney is absent from the hearing, the hearing will be continued, except where the fiduciary is present and requests that the sale proceed without the attorney.~~

(Former Rule 823, rev. Dec. 1993. Renumbered as Rule 807 and amended, eff. July 1, 1998.

Amended, eff. July 1, 2006. Renumbered as Rule 20-807, eff. July 1, 2007. As amended, eff. January 1, 2018.)

PART NINE **ACCOUNTS, FEES AND DISTRIBUTIONS**

RULE 20-901 ACCOUNTING REVIEW DATES

Accounting review dates are scheduled by the court in matters where an accounting is required. Accountings (or a status report in probate proceedings) shall be filed thirty (30) days prior to the accounting review date. This rule is applicable to probate, guardianship, conservatorship and trust accountings. (Eff. July 1, 1998. Amended, eff. January 1, 2003

and July 1, 2003. Renumbered as Rule 20-901 and amended, eff. July 1, 2007. Amended, eff. July 1, 2013.)

RULE 20-903 ATTORNEY'S SIGNATURE

~~All accounts, petitions, and other pleadings, which include a request for attorney's fees, whether statutory or extraordinary in nature, shall also be signed by the attorney of record who joins in the petitioner's request for said fees. (Former Rule 905, rev. Dec. 1993. Renumbered as Rule 903, eff. July 1, 1998. Renumbered as Rule 20-903, eff. July 1, 2007. Deleted, eff. January 1, 2018.)~~

RULE 20-904 EXTRAORDINARY COMPENSATION

Applications for extraordinary compensation will not be considered unless both the caption and prayer of the petition, and the notice of hearing of the petition, contain a reference to

the application for extraordinary compensation. Such applications must be accompanied by an itemized description of services rendered, time expended, and hourly rate. Ordinarily, a request for extraordinary compensation is made when a petition for final distribution is filed. All requests for fees shall include separate subtotals setting forth the number of hours charged at each different hourly rate for which payment is requested. (Former Rule 907, rev. Dec. 1993. Renumbered as Rule 904 and amended eff. July 1, 1998. Amended eff. January 1, 2003 and July 1, 2003. Renumbered as Rule 20-904 and amended, eff. July 1, 2007. As amended, eff. July 1, 2016.)

RULE 20-906 DESCRIPTION OF ASSETS

All petitions for distribution shall contain an allegation as to the character of the property, whether separate or community. The petition for distribution must describe in detail all property to be distributed, either in the body of the petition or in the prayer, or by a schedule incorporated in the petition for reference. (Former Rule 909, rev. Dec. 1993. Renumbered as Rule 909, eff. July 1, 1998. Renumbered as Rule 20-906, eff. July 1, 2007.)

RULE 20-907 MANNER OF ASSET DISTRIBUTION

(a) Detail of proposed distribution shall be set forth in the body of the petition. Terms of the will as to disposition of property and what is to be distributed under the laws of intestate succession shall be set forth.

(b) If there are unresolved issues regarding construction of the will, heirship or succession, the petition should frame each of those issues for resolution by the court.

(c) The decree of distribution, whether or not an accounting has been waived, must set forth specifically the manner in which the estate is distributed by showing the distributee's name, address and a description of the property or cash to be distributed. The order for distribution must be prepared so the judge's signature is at the end. No exhibits or schedules shall follow the judge's signature. In the event of the distribution of real property: (1) the property must be referenced by street address (if any), Assessor's Parcel Number, and legal

description; and (2) the address of the distributee must be set forth.

~~(d) If distribution may be made to the successor of an heir or beneficiary who died during administration, a Probate Code Section 13100 affidavit shall be filed in support of distribution to the successor. If the successor is the spouse of a deceased beneficiary under Probate Code Section 13500, the form of affidavit described in Section 13101 shall be used, except declarations (4) and (5) of part (a) of said section shall be replaced by the following declarations: _____~~

~~(4) "No proceeding is now being or has been conducted in California for administration of the decedent's estate. No election has been filed pursuant to Probate Code Section 13502 to have any of the described property administered as a portion of the decedent's estate."~~

~~(5) "No notice under Probate Code Section 13541 has been presented to the undersigned or recorded as of the date of this instrument."~~

~~If real property is to be distributed to a spouse of a deceased beneficiary under Probate Code Section 13500 et seq., the decree shall direct the distribution in a manner indicating the names of both the deceased beneficiary and his or her claimant spouse such as the following: "to Jane Doe, surviving wife of John Doe, deceased, pursuant to Probate Code Section 13500, et seq."~~

~~(e) All petitions for final distribution shall allege compliance with Probate Code section 9202 regarding notice to the Director of Health Services.~~

(Former Rule 910, rev. Dec. 1993. Renumbered as Rule 907 and amended eff. July 1, 1998. Renumbered as Rule 20-907 and amended, eff. July 1, 2007. As amended, eff. January 1, 2018.)

RULE 20-908 INVENTORIES AND ACCOUNTINGS (ESTATES & TRUSTS)

Copies of investment account statements verifying the balance of cash and/or securities on hand shall be attached to all inventories and accountings ~~or filed confidentially~~. Letter verifications from the financial institution stating the balance as of the applicable date may be substituted for copies of statements. Substantial variation between the statement or verification and the balance reflected in the inventory or account shall be explained. (Eff. January 1, 2000. Renumbered as Rule 20- 908 and amended, eff. July 1, 2007. As amended, eff. January 1, 2018.)

RULE 20-909 COSTS GENERALLY NOT ALLOWED COUNSEL OR ADMINISTRATOR

Duplicating, telephone, fax and other costs in probate and trust estates. Ordinarily the court will not allow reimbursement for costs of duplication of documents, telephone calls, postage, FAX (except court charges), parking fees or ordinary mileage incurred by the attorney, personal representative or trustee, as these are part of overhead, and should be absorbed in fees or commissions

The personal representative shall not be reimbursed for mileage, parking fees or any other travel expenses incurred in connection with their appearance before the court to

qualify as the personal representative unless they have waived their statutory commission. (Eff. July 1, 2003. Amended, eff. January 1, 2005. Renumbered as Rule 20-909 and amended, eff. July 1, 2007.)

RULE 20-910 ESCROW CLOSING STATEMENTS

Copies of escrow closing statements must be filed with all accounts covering a period during which estate real property was sold. (Eff. January 1, 2007. Renumbered as Rule 20-910, eff. July 1, 2007.)

RULE 20-911 RESERVES AFTER FINAL ACCOUNT

If the court, upon approval of a final account, authorizes a reserve of \$1500 or greater, an informal accounting of expenditures or distribution from the reserve, together with receipts for expenditures or distributions, shall be filed with the Ex parte Declaration and Order for Final Discharge.

(Eff. January 1, 2018.)

PART TEN
DISPOSITION WITHOUT PROBATE AND
PETITIONS TO SET ASIDE SMALL ESTATES
(RESERVED)

PART ELEVEN
FAMILY
PROTECTION

RULE 20-1101 HOMESTEADS

A petition for order setting apart probate homestead should contain the following information:

- (a) The name and current residence address of the surviving spouse (if any) and of all surviving minor children.
- (b) The date of birth of each surviving minor child.
- (c) The dates of filing of all inventories, supplemental inventories, and amended inventories.
- (d) As to the property on which the homestead is sought: Its legal description (or identifying data in the case of personal property); its common address (or location); the nature of the property (single family residence or other); whether it is community, quasi-community, or separate property of the decedent; whether any third party has an interest or claim thereto; whether it is specifically devised or bequeathed and, if so, to whom; its appraised value; the nature, amount, and basic details concerning all encumbrances; the

period of time during which it has been (if it has) the principal residence of the person or persons on whose behalf the homestead is sought; any other facts which will assist the Court in determining that the property is the most appropriate to be set aside.

(e) The period of time for which the homestead is sought.

(f) The needs of the surviving spouse and minor children, including a statement of what other residential facilities, if any, are available to them; whether the surviving spouse has remarried; whether the minor children are in the care and custody of someone other than the surviving spouse.

(g) The needs of the heirs or devisees of decedent.

(h) The intent and estate plan of decedent, if any, and how such was manifested.

(i) An itemization of all creditor's claims by name of claimant and amount, as well as the status of each claim. If time for filing claims has not expired, there should be a similar itemization of all known or suspected debts or claims against decedent as to which claims have not yet been filed. The extent to which (1) liquid assets, and (2) other non-exempt assets are available to satisfy claims and specific cash bequests.

(Former Rule 1201, rev. Dec. 1993. Renumbered as Rule 1101, eff. July 1, 1998. Renumbered as Rule 20-1101, eff. July 1, 2007.)

RULE 20-1102 PETITION FOR FAMILY ALLOWANCE

(a) Necessary Allegations. All petitions for family allowance must state facts to show that the allowance prayed for is necessary and reasonable including:

- (1) The solvency of the estate;
- (2) Whether others are entitled to family allowance;
- (3) Approximate needs of the applicant, with reference to his or her standard of living; and
- (4) A general itemization statement of the applicant's property and income.

(b) Ex Parte Petitions Before Inventory.

(1) Petitions for family allowance presented ex parte and without notice granted before inventory will not be granted for a period in excess of six (6) months.

(2) If the petitioner is not the personal representative, consent to the allowance or a waiver of notice by the personal representative must accompany the petition.

(c) Notice of Petition Before Inventory. The court may grant the family allowance

for longer than six (6) months before inventory on a noticed hearing.

(d) Petition After Inventory or Any Subsequent Petition. If application is made after the inventory has been filed, or is a second or subsequent petition, it should be noticed and placed on the calendar. Subsequent orders will be limited to a definite period.

(Former Rule 1202, rev. Dec. 1998. Renumbered as Rule 1102, eff. July 1, 1998. Renumbered as Rule 20-1102, eff. July 1, 2007.)

PART TWELVE
PETITIONS TO SET ASIDE SPOUSAL PROPERTY

RULE 20-1201 REQUIRED ALLEGATION IN SUPPORT OF CLAIMED PROPERTY AS PASSING OR BELONGING TO SURVIVING SPOUSE

If a community or quasi-community property claim is based on any document, a copy of the document showing signatures shall be attached to the petition. If counsel or the party reasonably believes that disclosure of the document would be detrimental to third parties, ~~counsel~~ they may request the court to file the document confidentially. (Former Rule 1301, rev. Dec. 1993. Renumbered as Rule 1201 and amended, eff. July 1, 1998. Amended eff. January 1, 2003. Renumbered as Rule 20-1201 and amended, eff. July 1, 2007. Amended, eff. July 1, 2013. As amended, eff. January 1, 2018.)

PART THIRTEEN
GUARDIANSHIPS OF MINORS

RULE 20-1301 APPOINTMENT OF GUARDIAN OF MINOR

Probate Code Section 2106 provides that the court in its discretion may issue letters of guardianship of the person or estate, or both, of more than one minor upon the same application. In proper cases the court will appoint a guardian of the person or estate of more than one minor, but only if the minors so joined have a common parent. (Former Rule 1401, rev. Dec. 1993. Renumbered as Rule 1301, eff. July 1, 1998. Renumbered as Rule 20-1301, eff. July 1, 2007.)

RULE 20-1302 SUPPORTING DOCUMENTATION

Petitions for appointment will be filed with all supporting documentation. When known, the full names, including middle names, of the petitioner(s), the minor(s), the mother and father must be set forth in all petitions for guardianship. When the father(s) is/are listed as “unknown,” a copy of each minor’s birth certificate shall be filed with the guardianship petition or a declaration stating why it is unavailable shall be filed. Petitioner shall make every effort to file the certificate with the court prior to or at the hearing on the appointment petition.

(Former Rule 1402, rev. Dec. 1993. Renumbered as Rule 1302, eff. July 1, 1998. Amended eff. January 1, 2003. Renumbered as Rule 20-1302, eff. July 1, 2007. Amended, eff. January 1, 2014.)

RULE 20-1304 ORDER PRESCRIBING AND DISPENSING NOTICE RE APPOINTMENT GUARDIAN OF MINOR

(a) Orders Prescribing Notice are not normally submitted to the court. The court will determine which persons must be given notice based upon the requirements of the Probate Code. Orders Dispensing Notice must be filed if the petitioner seeks to dispense with notice to a known living person. Orders Dispensing Notice for deceased persons or for people who do not legally exist (such as a father and/or paternal grandparents when no father was listed on the minor's birth certificate) are not required.

(b) All requests to dispense with notice for persons who are unknown to petitioners; or are deceased; or who cannot reasonably be located after a good faith, diligent search has been completed, must be accompanied by a fully completed declaration of Due Diligence form. These forms may be obtained in the Probate Clerk's office and Probate Courthouse.

(1) Requests to dispense with notice to an unknown father require the filing of a certified copy of the minor's birth certificate with the declaration of Due Diligence. Testimony and/or a declaration under the penalty of perjury may also be required regarding any knowledge or information about the father's identity.

(Former Rule 1404, rev. Dec. 1993. Renumbered as Rule 1304 and amended, eff. July 1, 1998. Amended, eff. July 1, 2006. Renumbered as Rule 20-1304, eff. July 1, 2007. As amended, eff. January 1, 2018.)

RULE 20-1305 GUARDIANSHIP QUESTIONNAIRE AND INVESTIGATIONS

(a) A Guardianship Questionnaire shall be completed, signed and filed with all petitions for probate guardianship. The Guardianship Questionnaire form (San Bernardino County Local Form SB-18074) is available at the court's website or the probate clerk's office. Each proposed guardian shall complete, sign and file a separate Guardianship Questionnaire, even if they are married and/or living in the same household.

(b) A Termination of Guardianship – Parent Questionnaire form shall be completed, signed and filed with all petitions to terminate probate guardianship that are filed by a parent. The Termination of Guardianship – Parent Questionnaire form (San Bernardino County Local Form 13-19740-360) is available at the court's website or the probate clerk's office. Each petitioner shall complete, sign and file a separate Termination of Guardianship – Parent Questionnaire, even if they are married and/or living in the same household.

~~(c) The Court Investigator shall investigate petitions for probate guardianship as ordered by the court pursuant to Probate Code section 1513 or otherwise.~~

~~(d) The court will assess an investigation fee pursuant to Probate Code section 1513.1 for each investigation or review conducted by the Court Investigator.~~

~~(e) Investigation fees shall be paid within one (1) year from the date of assessment unless payment is deferred or waived by the court.~~

~~(f) Any waiver of Court Investigator fees ordered by the court shall be limited to the fees imposed for a specific investigation, and not for any longer or indefinite period, unless the order specifically states otherwise.~~

~~(g) The court may review an order deferring payment of court investigator fees at the conclusion of the guardianship, or at any earlier time, to determine whether payment of the Court Investigator fees can and should be made.~~

(Former Rule 1405, rev. Dec. 1993. Renumbered as Rule 1305, eff. July 1, 1998. Amended, eff. July 1, 2006 and January 1, 2007. Renumbered as Rule 20-1305, eff. July 1, 2007. Amended, eff. July 1, 2013 and July 1, 2015. As amended, eff. January 1, 2018.)

RULE 20-1306 CONSULTATION WITH OTHER DEPARTMENTS RE HABEAS CORPUS OR CUSTODY PROCEEDINGS

Where a petition for guardianship of the person of a minor is pending, and where it appears to the court that a custody proceeding or a writ of habeas corpus concerning the same minor is pending in any other department of the superior court, proceedings will be suspended until a consultation can be had between the judge of the probate department and the judge of the department in which such proceeding or writ is pending and a determination made as to whether or not such matter should be heard separately or a ~~coordination~~ and/or consolidation arranged. (Former Rule 1408, rev. Dec. 1993. Renumbered as Rule 1306, eff. July 1, 1998. Renumbered as Rule 20-1306, eff. July 1, 2007. As amended, eff. January 1, 2018.)

RULE 20-1307 GUARDIANS OF THE PERSON WHEN ADOPTION PROCEEDINGS ARE PENDING

A guardian of the person of a minor will not be appointed if ~~it appears that~~ adoption proceedings are pending unless a report is filed under authority of Section 1513 of the Probate Code by the appropriate officer or investigator with the State Department of Social Services authorizing the granting of said guardianship. (Former Rule 1409, rev. Dec. 1993. Renumbered as Rule 1307, eff. July 1, 1998. Renumbered as Rule 20-1307, eff. July 1, 2007. As amended, eff. January 1, 2018.)

RULE 20-1308 INCREASING AND DECREASING BOND OF GUARDIAN

When an increase in the guardian's bond is ordered, the court favors the filing of an additional bond rather than filing of a substitute bond; and where a decrease in the liability of the guardian's bond is ordered the court favors the use of an order decreasing liability under the existing bond rather than the filing of a substitute. (Former Rule 1410, rev. Dec. 1993. Renumbered as Rule 1308, eff. July 1, 1998. Renumbered as Rule 20-1308, eff. July 1, 2007.)

RULE 20-1309 DUTIES OF GUARDIAN - LIABILITY OF PARENTS TO SUPPORT CHILD

As there is a statutory liability upon the parents to support their children when one or both parents are living, the court will not permit guardianship funds to be used for the minor's benefit except upon a showing of ~~the parents' financial inability to adequately support the minor or other~~

circumstances which would justify the court in departing from this rule in the best interest of the minor. (Former Rule 1412, rev. Dec. 1993. Renumbered as Rule 1309 and amended, eff. July 1, 1998. Renumbered as Rule 20-1309, eff. July 1, 2007. As amended, eff. January 1, 2018.)

RULE 20-1310 INVESTMENTS BY GUARDIANS

~~(a) The court will not ordinarily approve the investment of the ward's funds in unsecured or secured loans to a near relative.~~

~~(b) Investment in real estate will not be approved unless supported by an appraisal by the probate referee regularly appointed by the guardianship estate, and the guardian of the minor will not ordinarily be authorized to purchase real estate except for cash. (Former Rule 1416, rev. Dec. 1993. Renumbered as Rule 1310 and amended, eff. July 1, 1998. Renumbered as Rule 20-1310, eff. July 1, 2007. Deleted, eff. January 1, 2018.)~~

RULE 20-1311 ACCOUNTS OF GUARDIANSHIP

(a) The verified account is to be filed 30 days prior to the date set by the court for the review hearing. When a guardian accounts for the assets of more than one minor, the accounting for each minor must be set forth separately.

~~(b) When a copy of a final account and written notice of the hearing thereof is served upon the ward not less than fifteen (15) days prior to the hearing, or the ward's written approval is filed, no appearance by the ward may be necessary. However, the court does not favor the waiver by the ward of the guardian's final account where the ward has reached majority and normally will not approve a report when the account is waived unless the ward is present in court at the time of hearing.~~

~~(b)~~ Where payment for guardianship services is requested to be allowed to be made to third persons acting on behalf of a guardian, those persons shall sign a verification stating that they performed the services on the dates specified and received payment in the amount, if any, set forth in the account. The verification shall be attached to the account for the period in which the services were rendered.

~~(c)~~ Duplicating, telephone, fax and other costs in guardianship estates - ordinarily the court will not allow reimbursement for costs of duplication of documents, telephone calls, FAX (except court charges), parking fees incurred by the attorney or guardian or ordinary mileage incurred by the attorney or guardian, as these are a part of overhead, and should be absorbed in fees or commissions.

The guardian is not reimbursed for the expenses of his or her trip to qualify, unless the guardian is waiving his or her fee.

~~(d)~~ Private professional or licensed guardians or conservators who provide bank or investment account statements pursuant to Probate Code section 2620(c) shall provide two sets of documents under separate cover. The first set shall be filed with the court and shall include the account statements for the period preceding appointment (if a first accounting) and the periods for the start and end of the accounting period pursuant to Probate Code section 2620(c)(2). The second set shall be lodged with the court separately and shall include the

account statements for the rest of the accounting period pursuant to Probate Code section 2620(c)(3). The court shall retain all documents lodged pursuant to Probate Code section 2620(c)(3) until the court's determination of the accounting has become final, at which time the documents shall be returned to the person who lodged them or delivered to any successor appointed by the court. The court will accept copies (as opposed to originals) of documents supporting accountings that are required by Probate Code section 2620(c). Copies of documents shall be marked and filed as exhibits to the accounting. The original documents, where available, shall be maintained by the parties and produced to the court upon its request.

~~(f)(e) If all guardianship funds are held in a blocked account(s), in lieu of a formal accounting, the guardian may file Summary of Account – Standard and Simplified Accounts (Judicial Council Form GC-400(SUM)/GC-405(SUM), and attach all bank statements for the period of the account. The petition for approval of an account must identify any funds on deposit in a blocked account. Proof of deposit and the blocked account status must be filed with the accounting which may include bank statements clearly indicating that the funds are held in blocked accounts or a document on letterhead of the financial institution with an original signature of a bank representative.~~

~~(g)(f) No account balance may be larger than the amount covered by FDIC insurance.~~

~~(h)(g) Financial institution accounts must be vested in the name of the fiduciary (e.g., [Name of Probate Guardian] as guardian of the estate of [Name of Probate Guardianship Minor]).~~

(Former Rule 1417, rev. Dec. 1993. Renumbered as Rule 1311 and amended, eff. July 1, 1998. Amended, January 1, 2000. January 1, 2003, July 1, 2003, January 1, 2005, July 1, 2006 and January 1, 2007. Renumbered as Rule 20-1311 and amended, eff. July 1, 2007. Amended, eff. July 1, 2008, July 1, 2013 and January 1, 2014. As amended, eff. January 1, 2018.)

RULE 20-1312 GUARDIANSHIP INVENTORY AND APPRAISAL

Copies of investment account statements verifying the balance of cash and/or securities on hand must be attached to all Inventories and Appraisals. Letter verifications from the financial institution stating the balance as of the applicable date may be substituted for copies of the statements. Substantial variation between the statement or verification and the balance reflected in the inventory must be explained or reconciled. (Eff. July 1, 2008.)

RULE 20-1315 APPOINTMENT OF COUNSEL IN GUARDIANSHIPS OF MINORS

(a) Appointments of counsel are personal and cannot be delegated to other attorneys. Only the attorney appointed by the court may render legal services to the client and appear at hearings. If appointed counsel intends to delegate tasks to another attorney who is under his or her direct supervision, before such delegation, counsel must obtain an amendment of the appointment order to include the name of the supervised attorney.

(b) Requests for fees by counsel for the minor in ongoing cases shall be made at least every two years.

(c) Upon the termination of the guardianship, counsel shall submit the fee requests to be heard with or before the hearing on the final accounting or petition for waiver of accounting. ~~In all cases, fee requests shall be made within one year after termination of the guardianship.~~

(d) Requests for fees in violation of ~~this~~ ~~these~~ ~~guideline~~ guidelines will be denied absent a showing of good cause.

~~(e)~~(e) All requests for fees shall include separate subtotals setting forth the number of hours charged at each different hourly rate for which payment is requested.

(Eff., July 1, 2003. Amended, eff. July 1, 2006. Renumbered as Rule 20-1315, eff. July 1, 2007. Amended, eff. January 1, 2014 ~~—As amended, eff. and~~ July 1, 2016. As amended, eff. January 1, 2018.)

RULE 20-1317 NOTICE TO INCARCERATED PERSONS

Pursuant to Probate Code section 1460(e), when a person who is to receive personal notice of a guardianship proceeding is incarcerated in a jail or prison at the time of the filing of the Petition for Guardianship, the court may find that service upon the incarcerated person by certified mail is legally sufficient. Such a request for alternative service shall be accompanied by a declaration explaining why it would be a hardship for the petitioner to personally serve the incarcerated person. (Eff., January 1, 2007. Renumbered as Rule 20-1317, eff. July 1, 2007.)

PART
FOURTEEN
PROBATE CONSERVATORSHIPS

RULE 20-1401 APPOINTMENT OF COURT INVESTIGATOR

~~Unless the proposed conservatee is the petitioner or has signed a nomination of the conservator and both the proposed conservator and proposed conservatee will attend the hearing, the Court Investigator will conduct an investigation.~~ In all conservatorship cases the court investigator will conduct an investigation. To obtain the investigation, the following forms must also be prepared and filed with the petition: ~~A declaration signed by a licensed medical or accredited practitioner;~~ Medical Capacity Declaration; an Order Appointing Court Investigator, Judicial Council Form GC-330; and a Probate Court

Investigator's referral form, Local Form SB360. ~~If the proposed conservatee is able but unwilling to attend the hearing, the medical declaration need not be filed.~~ (Former Rule 1501, rev. Dec. 1993. Renumbered as Rule 1401 and amended, eff. July 1, 1998. Renumbered as Rule 20-1401, eff. July 1, 2007. Amended, eff. July 1, 2013. As amended, eff. January 1, 2018.)

RULE 20-1402 APPOINTMENT OF COUNSEL IN CONSERVATORSHIPS

(a) Appointments of counsel are personal and cannot be delegated to other attorneys. Only the attorney appointed by the court may render legal services to the client and appear at hearings. If appointed counsel intends to delegate tasks to another attorney who is under his or her direct supervision, before such delegation, counsel must obtain an amendment of the appointment order to include the name of the supervised attorney.

(b) Requests for fees by counsel for the ~~conservatee~~ minor in ongoing cases shall be made at least every two years. ~~Upon the termination of the conservatorship, counsel shall submit the fee requests to be heard with or before the hearing on the final accounting or petition for waiver of accounting. In all cases, fee requests shall be made within one year after termination of the conservatorship. Requests for fees going in violation of this guideline will be denied absent a showing of good cause.~~

(c) All requests for fees shall include separate subtotals setting forth the number of hours charged at each different hourly rate for which payment is requested.

(Former Rule 1502, rev. Dec. 1993. Renumbered as Rule 1402, eff. July 1, 1998. Renumbered as Rule 20-1402 and amended, eff. July 1, 2007. Amended, eff. January 1, 2014. ~~As and amended, eff. July 1, 2016. As amended, eff. January 1, 2018.~~)

RULE 20-1403 RESPONSIBILITIES OF THE CONSERVATOR

(a) In addition to Determination of Conservatee's Appropriate Level of Care (Judicial Council Form GC-355), each conservator shall file, a Confidential General Care Plan for the conservatee within 60 days of appointment as conservator. The general care plan shall be on Local Form SB-101120 ~~or on pleading paper which contains substantially the same information.~~

(b) The conservator of an estate must maintain all of the conservatee's liquid assets in the name of the conservatorship.

(c) A conservatee is not permitted to manage his estate without Court approval, except as to a reasonable allowance under Probate Code Section 2421 or as to earnings under Probate Code Section 2601. Allowances of not more than \$100.00 per month will be approved under Section 2403, without prior Court authorization. All other allowances should be presented to the Court for prior authorization under Section 2421.

(Former Rule 1504, rev. Dec. 1993. Renumbered as Rule 1403 and amended, eff. July 1, 1998. Renumbered as Rule 20-1403, eff. July 1, 2007. ~~As amended~~ Amended, eff. July 1, 2016. As amended, eff. January 1, 2018.)

RULE 20-1404 INVENTORY AND APPRAISAL

(a) A proof of service indicating compliance with the service requirements of Probate Code section 2610(a) must be attached to a filed Inventory and Appraisal.

(b) A successor conservator shall not be required to file an Inventory and Appraisal for assets received from the prior conservator, but instead shall sign and file a receipt for such assets. The assets listed on the receipt so filed shall constitute the beginning balance for purposes of accounting by the successor conservator. A conformed copy of the receipt shall be provided to the prior conservator.

(c) Copies of investment account statements verifying the balance of cash and/or securities on hand as of date of appointment must be attached or filed confidentially to all Inventories and Appraisals. Letter verifications from the financial institution stating the balance as of the applicable date may be substituted for copies of the statements. Substantial variation between the statement or verification and the balance reflected in the inventory must be explained or reconciled.

(Former Rule 1505, rev. Dec. 1993. Renumbered as Rule 1404, eff. July 1, 1998. Amended, eff. July 1, 2006. and January 1, 2007. Renumbered as Rule 20-1404 and amended, eff. July 1, 2007. Amended, eff. July 1, 2008. As amended, eff. January 1, 2018.)

RULE 20-1405 SUBSTITUTED JUDGMENT - CREATION OF TRUSTS

Refer to California Rule of Court, rule 7.903.

~~Creation of trusts of the property of a conservatee (Probate Code § 2580 (b)(5)) will normally be approved only on the conditions that (1) the trustee be subject to the same obligations, terms and conditions as a conservator of the estate during the lifetime of the conservatee and (2) the trust instrument so obligate the trustee. These obligations, terms and conditions shall normally include, but need not be limited to, the following:~~

- ~~1. Posting bond for assets and income of the trust;~~
- ~~2. Accounting to the court in the conservatorship proceeding;~~
- ~~3. Conservatorship investment limitations;~~
- ~~4. Court approval and confirmation of gifts, hypothecations or sales of assets;~~
- ~~5. Providing for the conservatee's needs without regard for the interest of remainder beneficiaries;~~
- ~~6. Prior court approval for payment of fees to attorneys, conservators and trustees; and Payment of court investigator fees.~~

(Eff. July 1, 1998. Renumbered as Rule 20-1405, eff. July 1, 2007. As amended, eff. January 1, 2018.)

RULE 20-1406 ACCOUNTINGS

(a) If the conservatorship also involves the person of the conservatee, the accounting petitions shall state the conservatee's residences during the accounting period.

(b) Requests to waive interim accountings under Probate Code section 2628 may be made on an ex parte basis. All final accountings, including estates qualifying under section 2628, shall be set for hearing. In all cases in which the conservator seeks an order dispensing with a formal accounting pursuant to section 2628, the beginning and ending dates of the accounting period sought to be waived must be specified. An order dispensing with the filing of a formal accounting does not relieve the conservator from the duty of filing subsequent 2628 petitions or, where the estate no longer qualifies, a formal accounting pursuant to section 2620. If, after payment of court approved conservator's and attorneys' fees, it appears to the satisfaction of the court that the estate will continue indefinitely to meet the requirement of section 2628, the court may dispense with future accountings.

(c) Where payment for conservatorship services is requested to be allowed to be made to third persons acting on behalf of a conservator, those persons shall sign a verification stating that they performed the services on the dates specified and received payment in the amount set forth in the account. The verification shall be attached to the account for the period in which the services were rendered.

(d) Duplicating, telephone, fax and other costs in conservatorship estates- ordinarily the court will not allow reimbursement for costs of duplication of documents, (telephone calls, postage, FAX (except court charges), parking fees or ordinary mileage incurred by the attorney or conservator, as these are part of overhead, and should be absorbed in fees or commissions. The conservator is not reimbursed for the expenses of his or her trip to qualify, unless the conservator is waiving his or her fee.

~~(e) A copy of any petition (except ex parte petitions for waiver of accounting pursuant to Probate Code section 2628) regarding an interim or final accounting and the notice of hearing on the petition must be served by mail 15 days prior to the hearing upon the conservatee, any spouse or domestic partner of the conservatee, anyone who has requested special notice, and any attorney who has represented the conservatee in the conservatorship matter unless that attorney has been dismissed from the case. Proof of service stating compliance with this Local Rule must be filed with the petition regarding an accounting.~~

~~(f) The court will accept copies (as opposed to originals) of documents supporting accountings that are required by Probate Code section 2620(c). Copies of documents shall be marked and filed as exhibits to the accounting. The original documents, where available, shall be maintained by the parties and produced to the court upon its request.~~

~~(g)~~ (e) The petition for approval of an account must identify any funds on deposit in a blocked account. Proof of deposit and the blocked account status must be filed with the accounting, which may include bank statements clearly indicating that the funds are held in blocked accounts or a document on letterhead of the financial institution with an original signature of a bank representative.

~~(h)~~(f) No account balance may be larger than the amount covered by FDIC insurance.

~~(i)~~(g) Financial institution accounts must be ~~vested~~ in the name of the ~~fiduciary~~ Conservator (*e.g.*, [Name of Conservator] as conservator of the estate of [Name of Conservatee]).

(Former Rule 1507, rev. Dec. 1993. Renumbered as Rule 1406 and amended, July 1, 1998. Amended January 1, 2000, July 1, 2003, January 1, 2005 July 1, 2005 and July 1, 2006. Renumbered as Rule 20-1406 and amended, eff. July 1, 2007. Amended, eff. July 1, 2008, July 1, 2013 and January 1, 2014. As amended, eff. January 1, 2018.)

RULE 20-1407 COURT INVESTIGATOR REVIEW/FEEES

(a) The Court Investigator shall review all conservatorships as ordered by the court pursuant to the requirements of the Probate Code including section 1850. This review shall include a personal interview with the conservator of the estate to examine conservatorship records and assets.

(b) The court ~~will~~ may assess the conservatee for each review conducted by the Court Investigator ~~unless there is a current fee waiver in effect.~~

(c) Court investigator fees for reviews shall be paid within one (1) year from the date of assessment unless payment is deferred or waived by the court.

(d) Any waiver of court investigator fees ordered by the court shall be limited to the fees imposed for a specific investigation, and not for any longer or indefinite period, unless the order specifically states otherwise.

(e) The court may review an order deferring payment of court investigator fees at the conclusion of the conservatorship, or at any earlier time, to determine whether the conservatee or his/her trust should then be held responsible for payment of the court investigator fees.

(Former Rule 1509, rev. Dec. 1993. Renumbered as Rule 1407 and amended, eff. July 1, 1998. Amended, January 1, 2003. Renumbered as Rule 20-1407, eff. July 1, 2007. Amended, eff. July 1, 2013. As amended, eff. January 1, 2018.)

RULE 20-1408 CHANGE OF RESIDENCE OF THE CONSERVATEE

All notices of change of residence pursuant to Probate Code section 2352(e)(1) and 2352(e)(3) must be served upon the court investigator and filed with the Probate Clerk's Office. Such notices must include the new telephone number for the conservatee. (Former Rule 1511, rev. Dec. 1993. Renumbered as Rule 1408 and amended, eff. July 1, 1998. Renumbered as Rule 20-1408 and amended, eff. July 1, 2007. As amended, eff. January 1, 2018.)

RULE 20-1409 INDEPENDENT POWERS

~~In order to obtain the independent powers set forth in Probate Code Section 2591, specific facts justifying each independent power requested must be alleged. These powers will only be granted upon a showing of specific need. Independent powers are not available to~~

~~temporary conservators unless granted after a noticed hearing. (Former Rule 1512, rev. Dec. 1993. Renumbered as Rule 1409 and amended, eff. July 1, 1998. Renumbered as Rule 20-1409, eff. July 1, 2007. Deleted, eff. January 1, 2018.)~~

RULE 20-1410 TERMINATION

~~Where a Petition for Termination is filed alleging the conservatorship is no longer required, the petition will ordinarily not be granted unless the conservatee personally appears in court.~~

~~(Former Rule 1513, rev. Dec. 1993. Renumbered as Rule 1410 and amended, eff. July 1, 1998. Renumbered as Rule 20-1410, eff. July 1, 2007. Amended, eff. July 1, 2013. Deleted, eff. January 1, 2018.)~~

RULE 20-1411 CHANGE OF VENUE

~~Upon transfer of a conservatorship to San Bernardino County notice shall be given to the Court Investigator's office. (Former Rule 1515, rev. Dec. 1993. Renumbered as Rule 1411, eff. July 1, 1998. Renumbered as Rule 20-1411, eff. July 1, 2007. Deleted, eff. January 1, 2018.)~~

RULE 20-1414 CONSERVATOR ORIENTATION CLASS

~~(a) Each proposed non-professional conservator must attend a conservator orientation class conducted by the Court must participate in and complete a conservator orientation class prior to the hearing on the petition for their his or her appointment as conservator. This class may be taken in person or online.~~

~~(b) Proposed non-professional conservators who live outside San Bernardino County and cannot travel to attend a conservator orientation class must contact the court and make alternate arrangements for training.~~

~~(c) Proof of compliance with this rule must be filed with the court before or at the time of the hearing on the petition.~~

~~(d) Temporary conservators are exempt from attending an orientation class unless the court orders otherwise, but may voluntarily attend the orientation class. The Public Guardian, the Inland Regional Center, and corporate fiduciaries, banks and other entities authorized by law to conduct the business of a trust company are also exempt. from this rule.~~

~~(e) Private LPS conservators are required to attend the orientation only once, prior to the hearing for approval of their initial appointment.~~

~~(Eff. July 1, 2009. As amended, eff. January 1, 2018.)~~

PART FIFTEEN
TRUSTS

RULE 20-1502 REQUIRED SUBMISSION OF TRUST INSTRUMENT

A copy of the entire subject trust instrument(s), including all amendments thereto and all attachments, schedules, and exhibits to the instrument(s), must be submitted with any petition based upon a trust filed with the court. It may be filed confidentially. (Eff. July 1, 2006. Renumbered as Rule 20-1502, eff. July 1, 2007. Amended, eff. July 1, 2008. ~~Amended, eff.~~ and July 1, 2009. As amended, eff. January 1, 2018.)

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