



**LOCAL RULES OF COURT**  
**SUPERIOR COURT OF CALIFORNIA**  
**COUNTY OF KERN**

**January 1, 2024**

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF KERN

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**Chapter I. General Rules**

**Rule 1.1 Authority for Rules** (Effective 1/1/10; rev. 7/1/22)

These local Court Rules (“local rules”) are adopted pursuant to Code of Civil Procedure section 575.1, California Rules of Court (“CRC”), rule 10.613, and Government Code section 68070, et seq.

**Rule 1.1.1 Remote Court Appearances** (Effective 7/1/03; rev. 7/1/09; renum. 1/1/13; rev. 7/1/14; rev. 3/7/22; **rev. 1/1/24**)

(a) Remote proceedings other than an evidentiary hearing or trial.

A party wishing to appear remotely in any proceeding other than an evidentiary hearing or trial, including conferences and law and motion hearings, which is allowed under Code of Civil Procedure section 367.75, may do so using the remote technology without advance notice to the court or other parties. By appearing remotely those persons will be deemed to have requested a remote appearance. Each judicial officer retains the discretion to require a party to appear in person at a conference, hearing, or proceeding, as authorized by Code of Civil Procedure section 367.75.

(b) Remote proceedings for an evidentiary hearing or trial.

Remote proceedings for evidentiary hearings or trials in proceedings authorized under Code of Civil Procedure section 367.75 shall be noticed and conducted as authorized by Code of Civil Procedure section 367.75 and California Rules of Court, rule 3.672.

(c) Remote proceedings in Family Law matters involving the Department of Child Support Services (DCSS) are limited to telephonic appearances in the Metropolitan Division.

(d) Parties must also follow the Local Rules of Court on remote appearances for specific proceedings as follows:

1. Local Rule 3.2.1 governs proceedings in General Civil, Unlawful Detainer, and Small Claims cases.
2. Local Rule 6.3.5 governs proceedings in Family Law cases.
3. Local Rule 8.2.1 governs proceedings in Probate cases.

(e) A remote appearance by a self-represented party will be construed to be agreement to appear remotely under Code of Civil Procedure section 367.75 subd. (g), unless otherwise indicated by the party.

(f) Self-represented parties with questions about in-person or remote proceedings may email the court at [WAdmin@kern.courts.ca.gov](mailto:WAdmin@kern.courts.ca.gov).

(g) Telephonic court appearances are allowed through CourtCall, LLC, and video court appearances are allowed through Zoom. Court Call may be arranged by contacting CourtCall, LLC’s toll free telephone number, which is (888) 882-6878. Notwithstanding any other time provision in the related California Rules of Court, Court Call arrangements must be confirmed no later than 3:00 p.m. the day before the scheduled hearing.

(h) Zoom appearances may be arranged using the procedures available on the Court’s website.

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- (i) Parties should consult the Court's website for procedures for the submission of exhibits for remote proceedings.
- (j) All other Local Rules of Court authorizing a telephonic appearance will also permit a video appearance, as both manners of appearances are allowed by California Rules of Court, rule 3.672. Rule 3.672 replaces references to California Rules of Court, rule 3.670, which has been suspended from January 1, 2022 to **January 1, 2026**.
- (k) This rule shall remain in effect until **January 1, 2026**.

**Rule 1.1.2** Late Attorney Notification (Effective 7/1/14)

In order to notify the court that an attorney will be late for a court appearance, the attorney or his or her representative may use the notification system on the Kern County Superior Court website at [www.kern.courts.ca.gov](http://www.kern.courts.ca.gov). A link to the "*Attorney Late Form*" appears under the "*Online Services*" tab. The form must be completed in its entirety and submitted prior to 8:20 a.m. on the morning of the scheduled appearance. Unforeseen emergencies after 8:20 a.m. may be reported to the Court by calling (661) 610-6244.

**Rule 1.2** **Duties of Presiding Judge** (Effective 7/1/03; rev. 1/1/12)

- (a) Selection and Succession of Presiding Judge (Effective 1/1/12)

The Superior Court, County of Kern, establishes the following procedure for the orderly transition of the Presiding and Assistant Presiding Judge.

1. Selection. In October of every odd year, the Presiding Judge shall call for a meeting of all judges for a vote selecting the Assistant Presiding Judge. The Assistant Presiding Judge shall be elected by a majority vote of the judges. Proxy votes are approved if the Proxy is in writing and signed by the respective judge authorizing a vote in their name.
2. Qualifications. A candidate for the Assistant Presiding Judge shall meet the minimum qualifications as outlined in California Rules of Court, rule 10.602(b).
3. Assistant Presiding Term and Duties. There shall be one Assistant Presiding Judge for the Superior Court, County of Kern. The Assistant Presiding Judge shall assume office on January 1 of the year succeeding the vote of the judges. The term shall be for one year. The Assistant Presiding Judge shall be assigned duties as needed by the Presiding Judge. He or she shall assume the office of the Presiding Judge, with all of its duties and powers, if the Presiding Judge is unavailable.
4. Presiding Term. At the end of the one-year term as Assistant Presiding Judge, he or she shall succeed to the office of Presiding Judge. The Presiding Judge shall serve a term of two years. At the end of his or her two-year term as Presiding Judge, he or she will serve another year as Assistant Presiding Judge.
5. Completion of Term. If a Presiding Judge is unable to complete his or her term, the Assistant Presiding Judge will serve as Presiding Judge for the balance of his or her term as Assistant Presiding Judge.
6. Removal. A Presiding Judge or Assistant Presiding Judge may be removed by a two-thirds (2/3) vote of the Judges of the Kern County Superior Court.

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Rule 1.2.1 Administrative Duties (Effective 7/1/03)

Give general direction and supervision to the Court Executive Officer and prescribe the general policy within which the Clerk's Office shall function. It shall be the responsibility of the Court Executive Officer to plan, organize, staff and direct the detailed operations of the non-judicial activities of the Court.

Rule 1.2.2 Master Calendar (Effective 7/1/03; rev. 7/1/15)

The Master Calendar Judge shall call the Master Trial Calendar in the department designated by the Presiding Judge to hear the Master Trial Calendar daily at the time fixed. Attorneys are required to be ready for trial and present unless excused by the Master Calendar Judge.

- (a) Jury and non-jury cases set for trial shall proceed to trial on the date set, subject to availability of trial departments and divisions.
- (b) Cases for which no trial department or division is available on the day set will be placed on the trailing calendar to proceed to trial on the next available date in order of precedence on the trailing calendar and will take precedence over cases of the same class set for subsequent dates, except as otherwise ordered by the Master Calendar Judge.
- (c) Any case remaining on the trailing calendar for ten court days without being assigned to a department or division for trial shall be reset to a date certain, and will be given precedence on such date, unless otherwise ordered by the Master Calendar Judge.
- (d) Any department unable to proceed with a trial of a case assigned shall promptly notify the Master Calendar Department.
- (e) No motions to continue a trial will be considered once the case is assigned to a trial department or division unless the grounds for the continuance were unknown, and reasonably could not have been known when approved for trial. The motion will be heard at the earliest possible convenience by the Master Calendar Judge only, and if denied, will be reassigned to a trial department or division if available.

Rule 1.2.3 Complaints Concerning Judicial Officers and Subordinate Judicial Officers (Effective 7/1/23)

- (a) A complaint concerning a Judicial Officer or Subordinate Judicial Officer must be in writing unless a disability prevents submission in writing, in which case the designated court employee receiving the complaint will cause it to be reduced to writing.
- (b) Electronic filing is not available for complaints concerning Judicial Officers or Subordinate Judicial Officers.
- (c) Each complaint must be mailed to the Court, to the attention of the Presiding Judge – Department 1, 1415 Truxtun Avenue, Bakersfield, CA 93301.
- (d) Each complaint must provide a return address to which a response may be mailed.

Rule 1.2.4 Judicial Vacation Days Defined (Effective 1/1/21; renum. 7/1/23)

Vacation time is an approved absence from the court, or from a court-approved remote assignment, for one-half business day (four hours) or one full day (eight hours). Other absences listed in California Rules of Court, rule 10.603(c)(2)(H) are excluded from this definition.

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**Rule 1.3**      **Calendars** (Effective 7/1/03; rev. 1/1/10)

Addenda, which are subject to change, are posted on the court's website at [www.kern.courts.ca.gov](http://www.kern.courts.ca.gov) or are available free at all Kern County Superior Court locations.

**Rule 1.4**      **Jurors** (Effective 7/1/03)

Rule 1.4.1      Selection of Jurors (Effective 7/1/03; rev. 1/1/10; rev. 7/1/12)

Prospective jurors who reside more than 75 miles from Bakersfield shall not be summoned to serve as jurors in the Metropolitan Divisions of Superior Court except as directed by the judge conducting voir dire or by the Presiding Judge.

Rule 1.4.2      Jury Instructions/Verdict Forms (Effective 7/1/03; rev. 1/1/06)

In both civil and criminal cases, the parties shall submit copies of requested jury instructions on the day the jury is sworn unless otherwise ordered by the trial judge.

- (a) The Court shall maintain printed copies of CACI Jury Instructions. A schedule that lists the designated instructions by number will be available to practitioners. (Effective 7/1/03; rev. 1/1/06)
- (b) Proposed pattern jury instructions that have been modified by a party shall specify in parenthesis, or other appropriate manner, the respect in which the instructions have been modified.
- (c) The party requesting a CACI or CALJIC or CALCRIM Instruction, which contains one or more blanks, shall type in the blank space all the words required to adapt the form for use in the pending case. (Effective 7/1/03; rev. 1/1/06)
- (d) Each party shall submit proposed verdicts in completed form suitable for use by the jury in the pending case. This requires a separate form for each verdict with the caption of the case typed on paper that has nothing on it to identify the form with any party.

**Rule 1.5**      **Subordinate Judicial Officers, Temporary Judges, and Referees** (Effective 7/1/04; rev. 7/1/18; rev. 7/1/20; **rev. 1/1/24**)

- (a) Commissioners of the Kern County Superior Court are appointed Judge Pro Tempore in all matters calendared, or otherwise assigned, to them. They are granted full judicial power until a final determination of the matter. A party's appearance, without prompt notice to the contrary, constitutes the party's stipulation to this appointment, which grants full judicial powers until a final determination of the cause.

The Court shall post notice that: "Commissioners are appointed Judge Pro Tempore for all hearings and trials before them. Your appearance, without prompt notice to the contrary, constitutes your stipulation to this appointment, which grants full judicial powers until a final determination of the cause." (Effective 7/1/20)

- (b) No cause submitted to a subordinate judicial officer shall remain undecided and pending for longer than 90 days. (Effective 7/1/04; renum. 7/1/18; renum. 7/1/20)
- (c) A party's consent to a subordinate judicial officer or temporary judge is implied in default matters, including those matters in which a party was properly noticed and failed to appear in court, uncontested matters, and matters in which attorneys proceed without objection to the subordinate judicial officer or temporary judge. (Effective 7/1/18; renum. 7/1/20)



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- (d) A “temporary judge” appointed at the request of the parties is an attorney appointed by the court upon stipulation of the parties to decide the case under Article VI, Section 21 of the California Constitution. Matters before such temporary judges are governed by California Rules of Court, rules 2.830-2.834. The Supervising Judge of the Civil Department appoints such temporary judges in all cases except family law cases. The Supervising Judge of the Family Law Division appoints such temporary judges in family law cases. (See Cal. Rules of Court, rule 2.831(b).) The stipulation and order for appointment must be made using mandatory local form available on the Court’s website. (Effective 1/1/24)
- (e) A “referee” is a person appointed by the court to hear issues in a case, which may include trial. A reference made pursuant to agreement of the parties is governed by Code of Civil Procedure section 638, and a reference made upon motion of a party or on the court’s own motion is governed by Code of Civil Procedure section 639. (See also Cal. Rules of Court, rules 3.900 - 3.907, 3.920 – 3.926, and 3.930 – 3.932.) The Supervising Judge of the Civil or Family Law Division may appoint a referee who will hear the case for all purposes, including trial. The trial court may appoint a referee who will hear limited issues and issue a report and recommendation for the trial court’s approval. (Cal. Rules of Court, rule 3.901(a).) The appointment must be made using the form available on the Court’s website. (Effective 1/1/24)
- (f) Proceedings Open to the Public. All proceedings before a temporary judge or referee must be open to the public, with no restriction on attendance that would not be applicable if the proceedings were held in a courthouse. A notice containing the contact information of a person for any member of the public to contact in order to attend proceedings shall be posted by the clerk as required by California Rules of Court, rules 2.834 and 3.931 on the Court’s website and in the courthouse lobbies of any courthouse where the Court has approved the parties’ request for a pending case to be assigned to a temporary judge or a referee has been appointed. (Effective 1/1/24)
- (g) Upon appointment the temporary judge or referee must also submit to the Court a “Statement of Public Access,” using the mandatory local form found on the Court’s website. The form should be emailed to [WMAAdmin@kern.courts.ca.gov](mailto:WMAAdmin@kern.courts.ca.gov) to ensure this information is accurately posted. (Effective 1/1/24)
- (h) This rule does not apply to probate referees. (Effective 1/1/24)

**Rule 1.6**

**Court Reporter Availability and Timely Submission of Bills** (Effective 1/1/06; rev. 1/1/19; rev. 1/1/21; rev. 7/1/21; rev.1/1/23)

Pursuant to the requirements of Government Code section 68086 and California Rules of Court, rule 2.956(b)(1), court reporter availability for each Kern County court location is posted in that local court. In addition, court reporter availability for all Kern County Superior Court locations is posted on the court’s website.

Parties may be required to pay for court reporters in accordance with Government Code sections 69953 and 68086 and as set forth in the court’s Civil Fee Schedule and local policies available on the court’s website.

If a party has been granted a fee waiver, the party may request that the court provide an official reporter for attendance at the proceedings. The court must provide an official reporter at no fee or cost to the fee waiver recipient unless an official transcript prepared from an electronic recording, and pursuant to California Rules of Court, rule 2.952, is available to the parties. Electronic recording provides the official record in limited civil, misdemeanor, and infraction cases. (Government Code section 69957) Electronic recording in any other type of proceeding may be

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used only for internal purposes and cannot be made publicly available. (Government Code section 69957(b)). (Effective 7/1/21)

All court reporters, acting either in an official reporter capacity or on a pro tempore basis, are required to follow the Kern County transcript format for all transcripts submitted to the court and parties. (See *Policy Regarding Normal Availability and Unavailability of Official Court Reporters*–KCSC Policy #CtSup-2013-2, ([www.kern.courts.ca.gov](http://www.kern.courts.ca.gov)) (Effective 1/01/19)

Attorneys must comply with Code of Civil Code of Procedure section 2025.550. The Court will not accept unsealed original transcripts submitted under what is known as “the SoCal Stip.” (Effective 1/1/23)

In order to allow the court to process timely refunds to parties to an appeal in accordance with California Rules of Court, rules 8.130(f)(3) and 8.834(d)(3), court reporters must submit their bills as required by these rules no later than 20 calendar days after the transcripts are completed. If the court does not receive the bills within this 20-calendar-day period, it will refund all of the deposit to the designated parties. (Effective 1/1/21)

**Rule 1.7 Superior Court of California, County of Kern, Departments, Divisions of the Court, and Venue** (Effective 7/1/08, rev. 1/1/11; renum. 1/1/13)

Rule 1.7.1 Apportionment (Effective 7/1/08; renum. 1/1/13)

The Presiding Judge per California Rule of Court, rule 10.603(b)(1)(B) shall apportion the business of the Court. Nothing in this rule shall abridge the authority of the Presiding Judge to assign cases in any Division or Branch as deemed necessary. The Presiding Judge may order a transfer at any time without motion or hearing in his or her discretion for reasons stated in the order to transfer.

Rule 1.7.2 Operations (Effective 7/1/08; renum. 1/1/13)

The Court consists of all the Departments, Divisions, Branches and Sections wherever they are located and whatever their function. These include all facilities located in the Metropolitan Division, East Division, North Division and South Division. The hours of operation are published on the Superior Court website, other legal publications, and are posted at each location.

Rule 1.7.3 Supervising Judge (Effective 7/1/08; renum. 1/1/13)

The Presiding Judge may appoint a Supervising Judge at each Court Division, Section or other specialized Department as needed. The Supervising Judge at each Division or Section is responsible for the administrative and calendar operations of the Departments located there and for assignment of proceedings in those cases that are filed there.

Rule 1.7.4 Venue by Zip Code (Effective 7/1/08; renum. 1/1/13)

Except as otherwise set forth in the following section or elsewhere in the Rules, venue for all cases will be according to zip codes per Appendix A which may be found on the Court’s website [www.kern.courts.ca.gov](http://www.kern.courts.ca.gov)

Rule 1.7.5 Metropolitan Division Venues (Effective 7/1/08; rev. 1/1/11; rev. 7/1/11; rev. 1/1/13; rev. 7/1/15; rev. 1/1/17; rev. 1/1/18; rev. 7/1/18; rev. 1/1/20; rev. 7/1/22; rev. 1/1/23; **rev. 1/1/24**)

The following matters must be filed in the Metropolitan Division

- (a) Venue for Appeals. Appeals for all case types, excluding Small Claims, may be filed in the Metropolitan Division, Appeals Department, or may be filed in the Division of original

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jurisdiction in accordance with the zip codes as set forth in Appendix A. Traffic, Misdemeanor, Unlawful Detainer and Limited Civil Appellate cases will be heard in the Metropolitan Division. (Effective 7/1/08; rev. 1/1/20)

- (b) Venue for Unlimited Civil Cases. Venue for unlimited civil cases per Code of Civil Procedure section 88 (see also, Code of Civil Procedure section 85) is the Metropolitan Division.
- (c) Venue for CEQA Cases. Venue for CEQA (California Environmental Quality Act) cases is the Metropolitan Division. Original petitions will be filed at the Civil Department.
- (d) Venue for Criminal Cases.
  - 1. Generally unless otherwise set forth in these rules, the People must file misdemeanor criminal cases in the Division in which the crime is alleged to have occurred in accordance with the zip codes as set forth in Appendix A except that cases arising in the City of Bakersfield must be filed in the Metropolitan Division, Misdemeanor Department.
  - 2. Generally unless otherwise set forth in these rules, the People must file felony criminal complaints in the division in which the crime is alleged to have occurred in accordance with the zip codes as set forth in Appendix A. (Effective 7/1/08; rev. 1/1/11)
  - 3. The People may file felony criminal complaints charging violations of Penal Code section 187 and 191.5 in the Metropolitan Division, Felony Department. (Effective 1/1/11; rev. 7/01/11)
  - 4. The People must file Delano prison cases involving four or more defendants in the Metropolitan Division, Felony Department. (Effective 1/1/23)
  - 5. Generally, unless otherwise set forth in these rules, the People must file felony criminal information in the Metropolitan Division, Felony Department. (Effective 1/1/11; renum. 1/1/23)
  - 6. The following felony criminal information must be filed in the Division in which the crime is alleged to have occurred in accordance with the zip codes as set forth in Appendix A. (Effective 1/1/11; rev. 7/1/11; rev. 1/1/13; renum. 1/1/23)

PC 243	Felony battery
PC 245	Assault with deadly weapon/force likely
PC 273.5	Spousal assault
PC 290	Failure to register as sex offender
PC 422	Threats
PC 460(a) & (b)	Burglary, 1 <sup>st</sup> & 2 <sup>nd</sup> degree
PC 470	Forgery
PC 476	NSF check, passing forgery
PC 487	Grand theft
PC 496	Receiving stolen property
PC 594	Vandalism
PC 666	Petty theft w/prior
PC 12020/12021	Possession of weapons/ammo/ex-felon
PC 4501	Battery by prison inmate
PC 4502	Possession of weapon by inmate
PC 4532(a) & (b)	Escape

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PC 4574	Bringing weapons into prison
PC 4600	Damaging jail/prison
All Prison Cases not having the potential of an indeterminate sentence:	
PC19100	Carry concealed explosive
PC 19200	Possession of hand grenade
PC 20310	Possession of air gauge knife
PC 20410	Possession of belt buckle knife
PC 20510	Possession of cane sword
PC 20610	Possession of lipstick case knife
PC 20710	Possession of shobi-zue
PC 20910	Possession of writing pen knife
PC 21110	Possession of ballistic knife
PC 21310	Possession of dirk or dagger
PC 21710	Possession of composite or wood knuckles
PC 21810	Possession of metal knuckles
PC 22010	Possession of nunchaku
PC 22210	Possession of leaded cane etc.
PC 22410	Possession of shuriken
PC 24310	Possession of camouflaging firearm container
PC 24410	Possession of cane gun
PC 24510	Possession of firearm not recognizable as firearm
PC 24610	Possession of undetectable firearm
PC 24710	Possession of wallet gun
PC 29800(a)(1) & (b)	Felon in possession of firearm
PC 29805	10 year firearm prohibition
PC 29815(a)	Firearm possession – violation of probation
PC 29820(b)	Firearm possession by specified persons prior to age 30
PC 29825(a) & (b)	Firearm with restraining order
PC 30210(a) & (b)	Possession of flechette dart or bullet with explosive agent
PC 31500	Possession of unconventional pistol
PC 32310	Possession of large capacity magazine
PC 32900	Possession of multi-burst trigger activator
PC 33215	Possession of short barreled rifle/shotgun
VC 10851(a) or (b)	Auto theft
VC 20001	Hit & run with injury
VC 23153	DUI with injury
VC 23550	Felony DUIs

7. All predisposition and post disposition filings submitted in Bakersfield cases with a felony prefix (i.e. BF, DF, SF etc.), whereby the felony charges have been reduced to misdemeanor, are to be noticed and heard in the Metropolitan Division, Misdemeanor Department. (Effective 1/1/20; renum. 1/1/23)
8. Generally unless otherwise set forth in these rules, the Probation Department must file Post Release Supervision Violations with the Metropolitan Division, Felony Department. (Effective 1/1/13; renum. 1/1/20; renum. 1/1/23)

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- (e) Venue for Child Support Cases. The Department of Child Support Services must file child support cases in the Metropolitan Division, Family Department, except for cases from zip codes served by the Ridgecrest Branch, East Division, as set forth in Appendix A.
- (f) Venue for Adoption, Petition to Declare Minor Free from Parental Custody and Control, Termination of Parental Rights, and Petitions related to Surrogacy Agreements/Contracts. The aforementioned cases shall be filed in the Metropolitan Division, Family Law Department. (Effective 1/1/11; rev. 7/1/18)
- (g) Venue for Family Law Cases: except as otherwise provided in paragraph (g)(2) and (g)(5). (Effective 7/1/08; rev. 1/1/10; rev. 7/1/11; rev. 7/1/15; rev. 1/1/17; **rev. 1/1/24**)
  - 1. Generally, unless otherwise set forth in these rules, the initial petition in family law cases shall be filed in the Division as determined by the “Venue by Zip Code” table in Appendix A according to the Petitioner or Petitioner’s attorney’s zip codes.
  - 2. Family law cases that would be filed in the Lamont **Multi-Divisional Courthouse** in accordance with the “Venue by Zip Code” table as set forth in Appendix A. shall be filed in the Metropolitan Division, Family Law Department. (Effective 7/1/08; rev. 1/1/10; rev. 7/1/11; **rev. 1/1/24**)
  - 3. When a case is filed in the Metropolitan Division by a Petitioner’s attorney who has an office in the Metropolitan Division, both parties reside in the Ridgecrest **Multi-Divisional Courthouse** venue, and at least one party is represented by an attorney whose office is in the East Kern Division venue, the case shall be transferred to the East Kern Division, Ridgecrest Branch, upon a properly noticed motion, unless the court hearing the motion finds that East Kern is an inconvenient forum. (Effective 7/1/08; **rev. 1/1/24**)
  - 4. Any Request for Order under the Domestic Violence Prevention Act (“DVPA action”) shall be exempt from the family law venue rules. Subsequent family law filings by the same parties shall not be exempt from the family law venue rules. Such filings will be noted in the Court’s Case Management System as “related” for consideration of future consolidation. If a party filing a DVPA action already has a family law case with the same parties in a Division different from where the DVPA action is being filed, the Division accepting the DVPA action will use the existing case number, review for Temporary Restraining Orders, and set the DVPA action for hearing in the Division where the current family law case is filed.
  - 5. Any Petition to Establish Parental Relationship that would be filed in the Lamont **Multi-Divisional Courthouse** in accordance with “Venue by Zip Code” shall be filed in the Metropolitan Division, Family Law Department. Filings that would be filed in the Delano, Shafter, Ridgecrest, and Mojave Branches, shall be filed in accordance with the “Venue by Zip Code” table as set forth in Appendix A. Out-of-County filings shall file in accordance with the “Venue by Zip Code” table as set forth in Appendix A based on the zip code of the minor child listed within the Petition. Petitions to Establish Parental Relationships related to surrogacy agreements are excluded from this paragraph, as they are subject to venue Rule 1.7.5 (f). (Effective 1/1/11; rev. 7/1/15; rev. 7/1/18; **rev. 1/1/24**)
- (h) Venue for Juvenile Delinquency Cases. Venue for all delinquency and truancy cases initiated by petition will be in the Metropolitan Division, Juvenile Justice Center. By order of the Presiding Judge, Courtroom J2, of the Kern County Superior Court, Metropolitan Division, Juvenile Justice Center, also known as the WD calendar, is designated the Delinquency Court for all purposes. All Delinquency matters, are assigned for all purposes to the judge assigned to that courtroom by the Presiding Judge. (Effective 7/1/08; rev. 1/1/18)

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- (i) Venue for Juvenile Dependency Cases. Venue for all dependency cases is the Metropolitan Division, Juvenile Justice Center. All adoption cases arising from a dependency case must be filed in the Metropolitan Division, Juvenile Justice Center.
- (j) Venue for Juvenile Traffic/Minor Offense Cases. Venue for infractions against juveniles (under 18 years of age) will be in the Division in which the violation is alleged to have occurred in accordance with the zip codes as set forth in Appendix A except that cases arising in the City of Bakersfield must be filed in the Metropolitan Division, Traffic Department.
- (k) Venue for Juvenile Misdemeanor Citations. Venue for misdemeanor citations against juveniles (under 18 years of age) will be in the Metropolitan Division, Juvenile Justice Center, except for VC 12500 (a) which will be in the Division in which the violation is alleged to have occurred in accordance with the zip codes as set forth in Appendix A. Note, the Kern County Probation Department is the filing agency for the aforementioned misdemeanor violations.
- (l) Mental Health
  1. Venue for all matters under the Lanterman-Petris-Short Act will be in the Metropolitan Justice Division. (Rev. 1/1/23)
  2. The people shall file all petitions under Welfare and Institutions Code 6500 in the Metropolitan Justice Division. (Rev. 1/1/23)
  3. Venue for all Reise hearings will be in the Metropolitan Justice Division. (Rev. 1/1/23)
- (m) Venue for Probate and Guardianship Cases. Venue for Probate and Guardianship cases, except for those in 1.7.5(i), shall be in the Juvenile Justice Center, located at 2100 College Avenue. (Effective 7/1/08; rev. 1/1/13; rev. 1/1/20; rev. 7/1/22; rev. 1/1/23)
- (n) Venue for Adult Traffic/Minor Offense Cases. Venue for traffic and minor offenses charged against adults will be in accordance with the zip codes as set forth in Appendix A except that cases arising in the City of Bakersfield must be filed in the Metropolitan Division, Traffic Department.

**Rule 1.7.6** Transfer of Actions Upon the Request of a Party (Effective 7/1/08; renum. 1/1/13; rev. 7.1.23)

Any action or proceeding may, for good cause shown on motion of a party, and after a hearing, be transferred to a different division. Motions and hearings on such transfer must be heard in the court where the action or proceeding is pending. In ruling on such a motion the judge presiding may, in his or her discretion, deny transfer of a case that has been filed in a court not authorized by Rule 1.7.4 above.

**Rule 1.7.7** Conformed Copies (Effective 7/1/09; rev. 1/1/10; renum. 1/1/13)

Notwithstanding any other provision of law or rule, the court will conform only one copy of each original submitted for filing. If conformed copies are to be returned by mail or messenger, a stamped, self-addressed envelope or messenger slip must be included.

**Rule 1.8** Photocopying Documents by Non-Court Personnel (Effective 7/1/09; renum. 1/1/13)

- (a) Any and all persons, designated as non-court personnel, requesting public access to any operational department of the Kern County Superior Court for purposes of photocopying only public documents within case files must be registered and identified accordingly as a Professional Photocopier pursuant to Business and Professions Code section 22450.

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- (b) A Professional Photocopier requiring public access will contact the Receptionist of the Kern County Superior Court to initiate the request. The respective department(s) will arrange place, time and case file availability with the requestor. Under no circumstances will any confidential material be accessed for photocopying or viewing.
- (c) Upon accessing the Kern County Superior Court for photocopying purposes, the Professional Photocopier must present the identification card issued by the County Clerk pursuant to Business and Professions Code section 22457 and in exchange will be issued a temporary “Visitor” badge. The “Visitor” badge must be worn throughout the duration of the visit in the department and promptly returned upon departure at which time the Court will return the identification card issued by the County Clerk.
- (d) The Professional Photocopier shall be responsible at all times for maintaining the integrity of the files and information accessed. All case files accessed for copying must be returned to the department in the same condition as received.
- (e) The Professional Photocopier is responsible for all necessary equipment/resources for photocopying requested case files.
- (f) Failure to follow any of the outlined rules will result in limited or denied access and may include relevant action(s) as outlined in statutory law.

Rule 1.8.1 Additional Court Fees (Effective 7/1/14; rev. 1/1/20; rev. 1/1/22; rev. 1/1/23; **rev. 1/1/24**)

The Superior Court of California, County of Kern will charge the following fees:

- (a) Off-site retrieval of files – \$20.00/per file
- (b) Copy requests on compact discs (CD provided by Court) for copies of 30 pages or more:

<u>Number of pages</u>		<u>Total Cost</u>
1-50 pages	-	\$ 14.00
51-75 pages	-	\$ 19.00
76-100 pages	-	\$ 24.00
101-125 pages	-	\$ 29.00
126-150 pages	-	\$ 34.00
151-200 pages	-	\$ 44.00

- (c) Additional fees:
  1. One-time fee to set up, administer and close out trust for funds on deposit with the Court in civil cases – \$50.00
  2. Cancellation of warrant and reissuance in civil trust due to attorney error – \$22.00
  3. Hourly research fee for trust administration – \$49.00
  4. Media platform (Blu-Ray, Cassette, VHS, etc.)
  5. \$58.00 per hour fee for:
    - a) CD/DVD - if transfer of recording requires more than one (1) hour of staff time
    - b) making photocopies from hardcopies
    - c) transfer of records from all other media platforms
    - d) search fees

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e) offsite records retrieval fees (if applicable)

6. Postage/Shipping (envelope provided by Court) for hardcopies:

<u>Number of pages</u>		<u>Total Cost</u>
1-15 pages	-	\$ 2.13
16-30 pages	-	\$ 2.73
31-45 pages	-	\$ 3.13
46-60 pages	-	\$ 3.73
61-75 pages	-	\$ 4.13

7. Postage for CD - \$ 4.86

The Court reserves the right to increase these fees when the cost of postage is increased by the U.S. Postal Service. A summary of the calculations and documentation that support any increases in additional fees are available upon written request from:

Superior Court of California, County of Kern  
Accounting Division  
1415 Truxtun Avenue  
Bakersfield, CA 93301

(d) **Fee for Late Cancellation of Non-Spanish Language Interpreters**

Requests for interpreters for limited English proficient (LEP) parties in languages other than Spanish shall be made no later than five (5) court days in advance. The Court will attempt to accommodate untimely requests to the extent possible.

If a request for a non-Spanish language interpreter has been made, and (1) the scheduled hearing's time and/or date are changed or canceled by the parties, or (2) the individual requiring the interpreter will not be present at the hearing, the party or counsel making the change, cancellation or decision about their presence, must notify the Court as soon as possible. Such notifications must be made not less than two (2) court days in advance of the original scheduled date. To cancel an interpreter, complete the online Request to Cancel an Interpreter Form (pdf) and submit via email to: [MetroInterpretersOffice@kern.courts.ca.gov](mailto:MetroInterpretersOffice@kern.courts.ca.gov) or call 661-610-6649 within the required time frame.

Any time an interpreter is requested and appears, but is not used regardless of the reason, the attorney or party may be held financially responsible for all interpreter fees. (Effective 1/1/24)

**Rule 1.9**

**Facsimile Filing** (Effective 7/1/03; rev.1/1/06; rev. 1/1/11; rev. 7/1/11; rev. 1/1/12; renum. 1/1/13; rev.1/1/17; rev. 7/1/18; rev. 7/1/20)

Notwithstanding Electronic Filing requirements in California and Kern County Local Rules of Court, the Superior Court of California, County of Kern, allows the filing of probate and family law documents by facsimile transmission through the use of a fax filing agency only as defined in California Rule of Court, rule 2.301(7). California Rules of Court, rules 2.300 et seq. applicable to fax filings through a fax filing agency apply. (Effective 7/1/03; rev. 1/1/11; rev. 7/1/11; rev 7/1/18; rev. 7/1/20)

(a) Fax filings delivered and/or received after 5:00 p.m. or on Court Holidays shall be deemed filed on the next court day. (Effective 7/1/03; rev. 1/1/11; rev. 7/1/11; rev 7/1/18)

(b) Fax filings not in compliance with applicable rules will not be accepted for filing by the court. The proper transmission of a document facsimile is the responsibility of the filing party, not



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the court. The filing agency must pay all applicable fees at the time of filing. (Effective 7/1/03; rev. 1/1/11; rev. 7/1/11)

- (c) Fax filing agencies are to utilize drop boxes outside of Court filing hours and are subject to Drop Box requirements in California Rule of Court, rule 2.210. (Effective 7/1/18)

**Rule 1.10 Electronic Filing and Service** (Effective 1/1/12; rev. 1/1/13; rev. 1/1/17; rev. 7/1/18; rev. 1/1/19; rev. 7/1/19; rev. 7/1/20; rev. 1/1/21; rev. 1/1/23; **rev. 1/1/24**)

This rule governs permissive and mandatory electronic filing and service of documents in the Superior Court of California, County of Kern. As authorized by Code of Civil Procedure (CCP) section 1010.6(d) and California Rules of Court (CRC), rule 2.253(b)(1), Mandatory Electronic Filing (E-File) will be required for represented parties in all cases filed in Limited and Unlimited Civil, case types, including Family Law cases, Probate cases, cases related to California Environmental Quality Act (CEQA), Civil Writ petitions cases, and Unlawful Detainers. Habeas Corpus proceedings are not subject to the mandatory e-filing requirement and appeal-related documents cannot be e-filed at this time. (Effective 1/1/12; rev. 1/1/17; rev. 7/1/19; rev. 7/1/20; rev. 1/1/21)

Except as otherwise specified, this requirement is specific to all attorneys, justice partners, and vendors. Represented parties in Habeas Corpus proceedings, attorneys in proceedings filed under the Domestic Violence Prevention Act, attorneys in proceedings filed under the Elder Abuse and Dependent Adult Civil Protection Act, attorneys representing minors in Family Law or Probate proceedings, and self-represented litigants are not required to E-File, but are encouraged to participate. (Effective 1/1/12; rev. 7/1/18; rev. 7/1/19; rev. 7/1/20; rev. 1/1/21)

Unless this rule provides otherwise, parties filing and serving documents electronically shall comply with all the requirements set forth in Code of Civil Procedure section 1010.6 and California Rules of Court, rules 2.252 et seq. (Effective 1/1/12; rev. 1/1/17; rev. 7/1/19)

- (a) An attorney or party who is required to file and receive documents electronically under this rule may request to be excused from those requirements by showing undue hardship or significant prejudice. An attorney or party requesting to be excused from mandatory electronic filing should serve on all parties and file with the court a Request for Exemption from Mandatory Electronic Filing and Service (Judicial Council Form EFS-007), with Proposed Order (Judicial Council Form EFS-008). Until an order on the Request for Exemption from Mandatory Electronic Filing is issued, an attorney will be allowed to file documents in paper form. (Effective 7/1/19)
- (b) All parties are encouraged to agree to electronic service. To indicate their willingness to accept electronic service, parties should serve on all parties and file with the court a Consent to Electronic Service and Notice of Electronic Service Address (Judicial Council Form EFS-005-CV). Consent to receive electronic service may be completed only by a party or other person entitled to service or that person's attorney. This affirmative consent allows all electronically filed documents to be served electronically, except when personal service is required by statute or rule. (Effective 7/1/19)
- (c) Consent to electronic service may be withdrawn at any time. Parties wishing to withdraw their consent should serve on all parties and file with the court a Withdrawal of Consent to Electronic Service (Judicial Council Form EFS-006). The withdrawal of consent to receive electronic service may be completed only by a party or other person entitled to service or their attorney. (Effective 7/1/19)
- (d) Electronic documents filed between 12:00 a.m. and 11:59:59 p.m. shall be deemed filed on

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that business day pursuant to Code of Civil Procedure section 1010.6(b)(3). Any document that is filed electronically on a non-court day shall be deemed filed on the next court day. Nothing in this rule shall limit the clerk's ability to reject deficient filings in accordance with California Rules of Court, rule 2.259. (Effective 1/1/12; rev. 7/1/18; rev. 7/1/19)

- (e) The proper electronic transmission of a document is the responsibility of the filing attorney or party, not the court. Documents must be filed using an Electronic Filing Service Provider (EFSP) located on the court's website at [www.kern.courts.ca.gov](http://www.kern.courts.ca.gov). (Effective 1/1/12; rev. 7/1/18; rev. 7/1/19)
- (f) The EFSP must pay all applicable fees at the time of filing and may charge reasonable fees in addition to any filing fees required by the court. Any party who has received a fee waiver from the court is exempt from the fees and costs associated with electronic filing and must designate so in related field(s) upon submission. (Effective 7/1/19)
- (g) A party whose electronic notification or service address changes while the action or proceeding is pending must serve on all parties and file with the court a notice of change of electronic address. This notice must be served on all other parties or their attorneys of record and filed with the court within seven (7) days of the change. The party should use the Notice of Change of Electronic Service Address (Judicial Council Form EFS-010). An electronic notification or service address is presumed valid for a party if the party files electronic documents with the court from that electronic address and has not filed and served notice that the electronic address is no longer valid. (Effective 7/1/19)
- (h) All documents electronically filed with the court shall be in a text searchable Portable Document Format (PDF), i.e. containing Optical Character Recognition (OCR) technology, and must adhere to the requirements for general format as required in California Rules of Court, rules 2.256 and 3.1110, including those related to electronic exhibits and bookmarks. (Effective 1/1/12; rev. 7/1/18; rev. 7/1/19)
- (i) Except as provided in California Rules of Court, rules 2.500 through 2.507, an electronically filed document is a public document at the time it is filed. In order to ensure immediate confidentiality upon electronic filing, the filing parties and filing attorneys shall designate documents that are required to be kept confidential by law as such by selecting "confidential" in the security field on the filing details prompt in the Court's electronic filing system. The document should also include the word "confidential" in the caption. Filing parties and filing attorneys shall at all times comply with California Rules of Court, rules 2.550-2.551 regarding sealed documents. Nothing herein is intended to contravene California Rules of Court, rules 2.550-2.551 or provisions similar thereto. Further, it is the sole responsibility of the filing parties and filing attorneys to exclude or redact personal data identifiers from all documents, including exhibits, filed with the court, as described in California Rules of Court, rules 1.201 and 2.256. The court will not review documents for compliance. The court may impose sanctions for violation of this rule. (Effective 1/1/19; rev. 7/1/19; rev. 1/1/23)
- (j) The Court's confirmation of filing constitutes verification of filing, as described in California Rules of Court, rule 2.259. (Effective 7/1/18)
- (k) Certain documents/filings are not eligible for submission through electronic filing and must be filed through conventional methods. These documents include: (Effective 7/1/18; rev. 7/1/19; rev. 1/1/21; rev. 1/1/24)
  - 1. Any and all documents deemed sealed by California Rules of Court or statute;
  - 2. Any and all documents requested or intended to be sealed by the Court;

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3. Subpoenaed documents;
  4. Bonds;
  5. Undertakings;
  6. Civil Bench Warrants;
  7. Original Contracts/Instruments;
  8. Over-sized Documents/Exhibits;
  9. Sister-State Judgments;
  10. Affidavits re Real Property of Small Value;
  11. Original Wills/Codicils;
  12. Filings related to Surrogacies, Petitions to Declare Minors Free from Parental Care and Control, Petitions to Terminate Parental Rights, and Adoptions submitted to the Family Law Department and;
  13. Any appeal-related documents.
- (l) Foreign Registrations and/or filings requiring notarizations, certification, or apostilles must be electronically filed. However, originals must be lodged at least ten (10) days before any hearing on the matter. (Effective 1/1/21)
- (m) Applications for entry of a judgment that include an instrument, contract, or written obligation must be electronically filed and the original instrument must be filed at the Clerk's office via conventional methods. The original document(s) will then be cancelled and merged if the judgment is entered, in accordance with California Rules of Court, rule 3.1806, after which the document will then be imaged and maintained in the electronic court record. The submitted document(s) will then be returned to the proffering party for safe-keeping. Parties must provide a suitable method of return along with the submitted document(s). If no method of return is included, the document(s) will be shredded and recycled. (Effective 7/1/18; rev. 7/1/19; renum. 1/1/21)
- (n) For CEQA petition cases the format of the administrative record must comply with California Rules of Court, rules 3.2200 through 3.2208. The party lodging the administrative record must submit two (2) copies of the administrative record, contained on a CD-ROM, DVD, or other electronic format, in a manner that cannot be altered, and one (1) copy of the administrative record in paper format. All copies of the administrative record should be submitted through conventional non-electronic means. The party lodging the administrative record shall file electronically and serve a Notice of Manual Filing for the administrative record. (Effective 7/1/19; renum. 1/1/21)
- (o) If a record in an administrative mandamus matter exceeds 100 pages in length, the party lodging the administrative record must submit two (2) copies of the administrative record, contained on a CD-ROM, DVD, or other electronic format, in a manner that cannot be altered. The copies of the administrative record should be submitted through conventional non-electronic means. The party lodging the administrative record shall file electronically and serve a Notice of Manual Filing for the administrative record. (Effective 1/1/21)
- (p) Letters filed electronically in the Probate Department must contain a signature of the appointed individual(s) in the affirmation section of the applicable form. The signature may be electronic, as defined in California Rules of Court, rule 2.257. (Effective 1/1/24)

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**Rule 1.11 Return of Exhibits** (Effective 7/1/20)

Absent a stipulation of the parties at the conclusion of the trial or hearing to return exhibits, and provided there is compliance with Penal Code sections 1417.2, 1417.3 and 1417.5 or Code of Civil Procedure sections 1952(a) and 1952.2, upon a noticed motion exhibits received in evidence at the trial or a hearing may be returned by the court to the party who offered them. For felony cases the noticed motion must be filed in the Criminal Calendar Department on the 8:30 a.m. calendar. For misdemeanor cases and civil cases the noticed motion must be filed in the department that handled the underlying case.

**Rule 1.12 Elimination of Bias** (Effective 1/1/21; rev. 7/1/22)

(a) The Kern County Superior Court (Court) is committed to following the procedures, goals, and guidelines contained within Title 10, Standard 10.20, Standards of Judicial Administration, in order to maintain a courthouse environment free of bias and the appearance of bias.

(b) Role of the Court's Bench and Bar Committee and Local Bar Associations

The Court's Bench and Bar Committee, the Kern Multicultural Bar Association, and the Kern County Bar Association are committed to providing and supporting educational programs designed to eliminate unconscious and explicit biases within the court and legal communities. These activities will include outreach to the local community. (Effective 7/1/22)

(c) Informal Complaint Procedure

The public can make a complaint of bias in court interactions based upon protected classifications. Complaints shall be based upon the interactions of court employees and judicial officers, including commissioners and temporary judges.

1. Complaints should be submitted in writing to the Presiding Judge or Court Executive Officer, either by email to [WAdmin@kern.courts.ca.gov](mailto:WAdmin@kern.courts.ca.gov) or by using the form available on the Court's website;
2. The procedure will not apply to anonymous complaints;
3. To the extent possible and unless disclosure is required by law, the confidentiality of the complainant, the person who is the subject of the complaint, and other interested persons will be protected;
4. The procedure applies to incidents of bias relating to age, ancestry, color, ethnicity, gender, gender expression, gender identity, genetic information, marital status, medical condition, military or veteran status, national origin, physical or mental disability, political affiliation, race, religion, sex, sexual orientation, socioeconomic status, and any other classification protected by federal or state law;
5. If the complaint is about the Presiding Judge, the Court Executive Officer will refer the complaint to the Assistant Presiding Judge. If the Assistant Presiding Judge believes there would be a conflict of interest, the Assisting Presiding Judge will designate another person, or the Chair of the Bench and Bar Committee to receive the complaint; and
6. Nothing in this procedure limits the ability of any person to submit a complaint of misconduct to an appropriate disciplinary body.

**Rule 1.13 Court Security Videos** (Effective 7/1/21)

The Kern County Sheriff's Office (KCSO) is responsible for the safety and security of all persons entering the courthouse. This responsibility requires the KCSO to respond to all incidents involving safety and security. The KCSO may use video monitoring systems, placed in courthouse public hallways, waiting areas, and some courtrooms, as well as lockups and the Clerk's Office, to assist in the security of courthouses. Not all video is recorded. Recorded video is retained for only a limited period of time. The recordings are not an official record of court proceedings, and may not be used as such. (Government Code section 69957). Public disclosure of such recordings presents a security risk, as it will inappropriately disclose significant aspects of the KCSO's security plan. The video monitoring systems are under the control of Court Executive Officer, and any recordings from such systems are maintained in the custody of the Sheriff until they are routinely deleted.

No public disclosure of any recordings shall be made except by authority of the Court Executive Officer or his/her designee or order of Court. Any request for a recording must: (1) describe as narrowly as possible, the time, date, and location of the video sought; (2) the specific reasons disclosure is warranted; (3) why there are no other alternatives' and (4) proposals for minimizing the potential impact on overriding interests, including maintaining the court's security, litigants' rights to a fair trial, protection of minor victims and witnesses, privacy interests of jurors, protection of witnesses from embarrassment or intimidation, protection of attorney-client privilege, national security, and the maintenance of courtroom dignity and decorum. (NBC v. Superior Court (1999) 20 Cal.4th 1178, 1222, n. 46.)

**Rule 1.14 Hazardous, Heavy, or Bulky Exhibits** (Effective 7/1/21)

- (a) Permission from the Judicial Officer assigned to the hearing or trial must be obtained before a party may bring hazardous, heavy or bulky exhibits into the courthouse. If possible, the party should substitute a photograph, technical report, or dummy object for proposed exhibits which are:
1. Inherently dangerous, such as:
    - a) Firearms and ammunition;
    - b) Any type of explosive powder;
    - c) Explosive chemicals, toluene, ethane;
    - d) Explosive devices, such as grenades or pipe bombs;
    - e) Flammable liquids such as gasoline, kerosene, lighter fluid, paint thinner,
    - f) ethyl-ether;
    - g) Canisters containing tear gas, mace;
    - h) Rags that have been soaked with flammable liquids;
    - i) Liquid drugs such as phencyclidine (PCP), methamphetamine
    - j) Corrosive liquids, pyrrolidine, morpholine, or piperidine;
    - k) Samples of blood, urine, human or animal tissue, or other items requiring refrigeration and/or humidity-controlled storage;
    - l) Controlled or toxic substances;
    - m) Corrosive or radioactive substance; or

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2. Heavy and bulky, such as a ladder, sewer pipe, or automobile chassis. Heavy objects are those exceeding three (3) pounds by weight. Bulky objects are those exceeding one (1) cubic foot in volume.
- (b) If a party or attorney believes the exhibit should be brought into the courtroom without substitution, a written application to the assigned judicial officer must be made, which describes the materials and the reason a substitution is insufficient. The option of viewing the materials at another location may be considered by the Court.
1. Prior to bringing any toxic, hazardous, or potentially hazardous materials into the courtroom, counsel shall provide a written statement containing the following information:
    - a) A list of the technical and street names of the materials.
    - b) The types and sizes of the containers to be utilized for the materials.
    - c) The name of the person who will transport the materials into the courtroom.
    - d) Where the materials will be stored and the conditions, under which the materials will be stored, viewed, or handled.
    - e) The name of the person who will remove the materials.
    - f) An explanation as to why the material is hazardous or potentially hazardous and the remedies to be followed in the event of a spill, leak, or other accident.
    - g) An explanation as to why the introduction of the materials into evidence must be accomplished by their physical presence in the courtroom, rather than proof of their existence by any other method.
  2. If the Court grants permission for an exhibit to be brought into the courtroom, without substitution:
    - a) The exhibit must remain in a securely sealed condition and properly labeled as to the exact contents;
    - b) The party bringing the exhibit into the courtroom shall retain it and shall be responsible for it and shall be responsible for the storage of the exhibit in accordance with Penal Code section 1417.3; and
    - c) At the time of submission of the exhibit, the party or attorney shall also provide a corresponding photographic record of the exhibit for purposes of this standing order.
- (c) When a dangerous, heavy, or bulky exhibit that has been marked and identified or received in evidence poses a security, storage, or safety problem, the Court may order that all or a portion of it be returned to the party who offered it pursuant to Penal Code sections 1417.2, 1417.3 and 1417.5. Such evidence shall be returned by stipulation of counsel as provided in Penal Code section 1417.2, and the transfer shall be recorded in a minute order. In the case of exhibits offered by the prosecutor in a criminal case, the Court may order that the exhibits be returned to the law enforcement agency involved. If an exhibit by its nature is severable, the Court shall retain a portion of the exhibit not exceeding three (3) pounds by weight or one (1) cubic foot by volume and shall order the return of the balance of the exhibit to the district attorney pursuant to Penal Code section 1417.3.

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- (d) Dangerous, heavy, or bulky exhibits that have been marked and identified or received in evidence at trial or a hearing in a civil case may be returned by the Court to the party who offered them, with an oral stipulation in open court or by written stipulation of the parties, in accordance with Code of Civil Procedure sections 1952(a) and 1952.2.
- (e) For all exhibits returned, a full and complete photographic record of the exhibit or the portion returned shall be provided by the offering party and substituted for the exhibit. The party or agency to whom the exhibit is returned shall be responsible for maintaining and preserving the exhibit until there is a final disposition of the action or proceeding. All exhibit tags and other identifying markings or information concerning each exhibit shall remain in place and shall not be disturbed. Each exhibit shall be maintained intact and in the same condition as during trial. In the event further proceedings of any Court having jurisdiction of the matter require the presence of the exhibit, the party or agency to whom it was returned shall promptly deliver the exhibit to the appropriate Court, with notice to all parties.

**Rule 1.15 Prohibition of Harassment, Discrimination, Retaliation, and Inappropriate Workplace Conduct Based on a Protected Classification** (Effective 1/1/22; rev. 7/1/22)

The Court shall ensure that all persons are free from sexual harassment, discrimination, retaliation, and inappropriate workplace conduct based upon a protected classification.

Any person who perceives he/she is the victim of such conduct in the courthouse, or any person who witnesses such conduct against another person, should immediately notify the Court Executive Officer, who may conduct an investigation. Alternatively, notification may be made to the Deputy Court Executive Officer of Human Resources, any supervisor or manager, the Presiding Judge, or the Assistant Presiding Judge. If the conduct originates from a judicial officer, notification should be made to the Presiding Judge or the Court Executive Officer.

The Court Executive Officer, or his/her designee, shall have the following duties and powers:

- (a) Investigate any complaints promptly and thoroughly.
- (b) Ensure that the complainant's rights are protected.
- (c) When appropriate, consult with attorneys and/or members of the public.
- (d) Maintain confidentiality.
- (e) Maintain quarterly reports on complaints received.
- (f) Make recommendations for policy or procedure changes, training, and any other means that will prevent and eliminate such conduct in the court system.

**Rule 1.16 Professional Conduct and Civility** (Effective 1/1/22; rev. 7/1/22)

Attorneys are expected to comply with the California Rules of Professional Conduct and strive to conduct themselves with dignity, courtesy, and integrity at all times.

**Rule 1.17 Restricting Access in Courthouse to Protect Confidential Criminal Information** (Effective 1/1/23)

In order for the Court to comply with FBI Criminal Justice Information Services Security Policy and all California Law Enforcement Telecommunications System (CLETS) operating policies, practices and procedures, a court escort is required to accompany any non-CLETS certified personnel before they will be permitted access to any areas in the Court facilities, in which such criminal justice information is generated or stored.

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Improper access to such restricted areas is serious and may result in administrative sanctions including, but not limited to, termination of services and State and Federal criminal penalties.

**Rule 1.18 Use of Recording and Photography Devices in Courthouse Facilities** (Effective 1/1/23)

Photographing, recording, and broadcasting in courthouse facilities must be conducted solely pursuant to California Rules of Court, rule 1.150 and this rule. This rule applies to the actions of the media, parties, lawyers, court employees, court security and the general public in taking, broadcast, use and/or publication of sound and visual recordings of court proceedings (including the movement of all individuals and parties to and from such proceedings), both still and moving, whether by analog, digital, film magnetic tape or by any other means of recording and/or storage.

Consistent with case law and California Rules of Court, rule 1.150, no photographs, video recordings or audio recordings may be taken anywhere in any courthouse facility with any device capable of photographing, recording or broadcasting, unless permitted by an order of the Court.

Photographing, recording or broadcasting any courtroom proceedings from within court facilities is permitted only if specifically authorized by the judge presiding over the involved proceedings, in an Order on Media Request to Permit Coverage, Judicial Council Form MC-510. The issuance of an order for the media, an attorney, a party, or a member of the public is within the discretion of the judge presiding over the involved proceedings. Each judge shall exercise his or her discretion as to what may and may not be appropriate or necessary to balance and protect the rights of litigants, witnesses, victims, the public and the media. There is no right to a hearing if a judge denies a request.

Notwithstanding this provision, parties to adoption proceedings may photograph, record or broadcast the proceedings unless otherwise ordered by the judge presiding over the proceedings.

No photographing, recording or broadcasting shall occur in the hallways of any courthouse in a manner to block or impede the flow of pedestrian traffic in and out of the courtrooms or in the hallways. If a court order (Form MC-510) is obtained, media activity shall take place in the designated media interview stations, as follows:

- (a) 1415 Truxtun Avenue, Bakersfield – First floor, in front of the Court lobby display in the Northeast corner of the lobby;
- (b) 1415 Truxtun Avenue, Bakersfield – Second floor, adjacent to Department 1 and Department 2; and
- (c) 1215 Truxtun Avenue, Bakersfield – First floor, Northwest lobby of the Court.

For all other courthouse facilities, if authorized, media activity shall take place in the lobby areas as designated by Court security personnel on duty.

There shall be no photography, recording or broadcasting in the Jury Assembly Room, or in any area designated for the jurors' use. There shall be no photography, recording or broadcasting of proceedings held in chambers; proceedings closed to the public; jury selection; jurors or spectators; conferences between an attorney and a client, witness, or aide; between attorneys; or between attorneys and the judge at the bench.

This order is not intended to restrict the ability to photograph, film, record or broadcast from outside the entrances and exits of any courthouse facilities, provided such activity does not obstruct access to or from the courthouse facilities.



**Rule 1.19 Demonstration, Distributions, Solicitation, and Other Expressive Activity** (Effective 1/1/23)

To facilitate safe, peaceful, and orderly public access to courthouses unhindered by threats, confrontation, interference, noise pollution, or harassment that may be directed at court users including those court users waiting in line outside a courthouse, the Court must implement some content-neutral restrictions on expressive activity. This rule regulates only conduct occurring in and around court facilities without regard to the content of any particular message, idea, or form of speech. The Court does not intend to ban all expressive activities from the environs surrounding court facilities and intends that this rule be construed so as to provide for ample alternative channels for communication of information near but not within court facilities or on courthouse grounds.

(a) Definitions:

1. "Prohibited Activity" means the acts of demonstrating, protesting, gathering, picketing, parading, proselytizing or preaching, posting written materials, distributing literature or other materials to the general public, recording or broadcasting (other than news media recording or broadcasting which is covered by a different order), soliciting sales or donations, engaging in commercial activity, or engaging in oral or demonstrative protest, education, unhygienic activity, or counseling, unless otherwise authorized by this Order or the Court.
2. "Walkway" means (a) the area of any corridor or sidewalk, or other path of pedestrian movement, directly from the edge of the public sidewalk nearest an entrance to any building containing a courtroom to that entrance; (b) the area of any corridor or sidewalk leading directly from any parking lot within a curtilage to an entrance to any building containing a courtroom; or (c) a corridor or passageway within a multi-purpose, commercial, or private building that leads directly to the part of the building containing a courtroom.
3. "Curtilage" means the area between any building containing a courtroom and the nearest edge of the public sidewalk surrounding the building. It shall not include the area adjacent to that portion of a multi-purpose, commercial or private building that does not contain a courtroom.
4. "Courthouse" means any building containing at least one courtroom. It shall also include that portion of a multi-purpose, commercial or private building that contains at least one courtroom.
5. "Courtroom" includes any space designated for judicial proceedings, whether permanently or temporarily.

(b) Prohibitions

1. No person shall engage in any activity prohibited by this rule within a courthouse.
2. No person shall engage in any activity prohibited by this rule on the exterior property of a courthouse, or within the curtilage of a courthouse, or engage in any prohibited activity that affects the exterior property of a courthouse.
3. No person shall obstruct, harass, impede, or interfere with persons entering or leaving a courthouse, persons waiting in line to enter a courthouse, or persons inside a courthouse.

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4. No person shall approach persons entering or leaving a courthouse, persons waiting in line to enter a courthouse, or persons inside a courthouse, for the purpose of engaging in any activity prohibited by this rule.
5. No person shall engage in any activity prohibited by this rule in or near a courthouse with the intent to interfere with, obstruct, or impede the administration of justice or with the intent to influence any judge, juror, witness, officer of the court, or court personnel in the discharge of his or her duty.
6. No person shall use amplification equipment to engage in activity prohibited by this rule in a manner that harasses or interferes with persons inside a courthouse, with persons entering or leaving a courthouse, or with persons waiting in line to enter a courthouse.
7. If sound from any prohibited activity travels onto Court property or inside a courthouse, that sound, at any decibel level, is subject to the restrictions of this Standing Order. It is not the decibel level of the sound that is prohibited; it is whether the sound interferes in any way with the business or purpose of the Court.
8. No person shall publish, post, or distribute any written material other than written material relating to official Court business published, posted or distributed by duly authorized Court personnel, inside any Court facility of this County, without the prior written approval of this Court.

(c) Exclusions

1. This Order shall not apply to authorized court personnel or law enforcement officers in the performance of their official duties.
2. Sections 1(b)(i), (ii), and (viii) above shall not apply to persons engaged in the stationary solicitation of sales as part of any commercial, primarily non-expressive activity (including but not limited to the sale of newspapers, reading materials, sundries, or food stuffs) expressly authorized by a written use permit, license, or agreement from the County, the Court, the Judicial Council, or other owner of a building containing a courtroom authorizing that activity in a specific space not dedicated to court functions.
3. The Kern County Liberty Bell, which is located in front of the Superior Court of California, County of Kern, at 1415 Truxtun Avenue, in Bakersfield, is a county facility. It has been designated as a landmark and historical place. This site is exempt from sections 1(b)(ii), (iii), and (iv) this Order. Permission for the use of this site must be obtained from the County of Kern.

**Rule 1.20 Employment Conflict of Interest Code (Effective 1/1/23)**

- (a) The Court hereby adopts this Conflict of Interest Code, as required by Government Code section 87300, and hereby incorporates by reference California Administrative Code, Title 2, Section 18730 ("Standard Code") and any amendments to it.
- (b) The Presiding Judge of the Court, or the Presiding Judge's designee(s), shall act as the Code Reviewing Body for this Conflict of Interest Code.
- (c) Pursuant to Section 4(c) of the Standard Code, designated employees must file statements of economic interests with the Court's Human Resources Department.
- (d) The California Fair Political Practices Commission will supply the Court with the required Statement of Economic Interests forms required by this Rule, the Court's Human Resources

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staff will distribute the forms to those persons required to file, and the designated employees, contractors and consultants are responsible for completing and filing their own forms (1) on assuming employment in a designated classification (2) on terminating employment in a designated classification, and (3) annually, while so classified.

(e) The Court adopts the designated employment classifications:

Job Classification Title	Disclosure
Accountant I, II, III	1, 2, 4
Audit & Compliance Officer	1, 2, 4
Chief Information Officer	1, 2, 4
Court Buyer I, II, III	1, 2, 4
Court Case Management System Manager	1, 2, 4
Court Executive Officer	1, 2, 4
Court Manager – Courtroom Support	1, 2, 4
Court Manager – Criminal	1, 2, 4
Court Manager – Multi-Divisional	1, 2, 4
Court Manager – Non-Criminal	1, 2, 4
Deputy CEO – Facilities	1, 2, 4
Deputy CEO – Finance	1, 2, 4
Deputy CEO – Operations	1, 2, 4
Financial Systems Manager	1, 2, 4
Information Security Officer	1, 2, 4
Managing Attorney	1, 2, 4
Public Affairs Officer	1, 2, 4
Revenue Recovery Officer	1, 2, 4
Supervising Buyer	1, 2, 4

(f) The Court adopts the disclosure categories for the Conflict of Interest Code:

1. Category 1 – Real Property

Interests in real property located within Kern County or within two (2) miles of Kern County. For the purpose of disclosure only (not disqualification), an interest in real property does not include a principal residence or investments and interests in real property which have a fair market value of less than \$2,000. However, interests in real property include those held by a spouse and/or dependent children.

2. Category 2 – Business Interests

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Business positions and/or investments in and income from business entities (including those of the filer's spouse) engaged in the manufacture, sale, lease or provision of supplies, materials, equipment, real property, and services of the type used by this court.

3. Category 3 – Disqualification

All investments, sources of income, interests in real property (excluding principal residences) and positions in business entities when the following circumstances exist (pertains to disqualification only)

- a) If during a reporting period a designated employee did not participate in, or was not required to disqualify themselves from participating in, a case or other assignment in which they/they had a financial interest (see section 9.0), the employee will sign a statement to that effect under penalty of perjury. This statement will be filed as the Annual Statement of Economic Interests with the Court Executive Officer.
- b) An employee who disqualified themselves from participating in a case or assignment in which they/they had a financial interest must disclose the case or assignment and the disqualifying interest and file the statement with the Court Executive Officer.

4. Category 4 – Gifts

- a) The name and address of the donor of any gift valued at \$50 or more (includes multiple gifts totaling \$50 or more from a single source); a description and estimated value of the gift.
- b) Reportable gifts include those from individuals who or business entities that contract or potentially contract to furnish goods or services to the court and from donors who may be affected by any decision made or participated in by the employee. Reportable gifts and exceptions can be found in Schedule E of the Form 700.

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**Chapter II. Small Claims Rules**

**Rule 2.1 Small Claims Filings** (Effective 1/1/08)

Small claims complaints are filed at the Civil Counter. Filings are accepted Monday through Friday, from 8:00 a.m. to 5:00 p.m. The Clerk of the Court will provide the "Information for Plaintiff" form with instructions for completion. The Clerk of the Court will file stamp the claim, ascertain the venue and jurisdiction and determine that the plaintiff is not an assignee of the claim. Small Claims cases will be set for trial pursuant to existing statutes.

**Rule 2.2 Service of Process** (Effective 7/1/03; rev. 1/1/13)

The plaintiff may exercise the option of service which includes service by certified mail or personal service. Service by certified mail is performed by the Clerk of the Court. Service of process may also be provided by registered process servers, the sheriff, or any person over the age of 18 who is not a party to the action (Code of Civil Procedure Part II, Title V, Jurisdiction and Service of Process). For personal service, it is the responsibility of the plaintiff to provide proof of service. The plaintiff shall not personally serve the Claim and Order.

**Rule 2.3 Failure to Serve Process** (Effective 7/1/03)

Cases in which there is no proof of service filed with the Clerk of the Court at least three (3) calendar days prior to the scheduled court date shall be removed from the court calendar by the Clerk of the Court and dismissed without prejudice.

**Rule 2.4 Postponements** (Effective 7/1/03)

After service, parties may request a single postponement of no longer than fifteen (15) days through a written request and payment of the fee to the Clerk of the Court at least five (5) court days prior to the scheduled trial. The Clerk of the Court will reset the matter and notice the parties.

**Rule 2.5 Extensions** (Effective 7/1/03)

If a plaintiff's claim has not been served, one extension of not greater than thirty (30) days for in-county claims and sixty (60) days for out-of-county claims may be granted by the Clerk of the Court upon the filing of a declaration to show cause. A declaration to show cause shall be filed with the Clerk of the Court three (3) court days prior to the scheduled court date. Additional extensions shall only be granted by the Court in exceptional circumstances.

**Rule 2.6 Trial Proceedings** (Effective 7/1/03)

**Rule 2.6.1 Exhibits** (Effective 7/1/03; renum. 1/1/13)

Documentary evidence to be presented in Court should include a copy for the judge and a copy for each party.

**Rule 2.6.2 Plaintiff Failure to Appear** (Effective 7/1/03; renum. 1/1/13)

Plaintiff's failure to appear will result in dismissal of the action. Subsequent failure to appear may result in a dismissal with prejudice.

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**Rule 2.7 Post Trial Proceedings** (Effective 7/1/03)

Rule 2.7.1 Judgments (Effective 7/1/03)

Notice of Entry of Judgment and Information after Judgment forms shall be mailed to all parties by the Clerk of the Court.

Rule 2.7.2 Setting Aside Default Judgments (Effective 7/1/03)

If a defendant fails to appear for trial and a default judgment is entered, a motion may be made to set aside the judgment. Appropriate legal forms for such motion must be prepared and presented to the court, with fees paid, within thirty (30) days from the date the default judgment is entered.

Rule 2.7.3 Enforcement of Judgments (Effective 7/1/03)

The methods available for the enforcement of judgment may include:

- (a) Order for Examination of Judgment Debtor.
- (b) Writ of Execution.
- (c) Abstract of Judgment.
- (d) Reporting unsatisfied judgment pursuant to California Vehicle Code Division 7, Chapter 2.

**Rule 2.8 Small Claims Legal Advisor** (Effective 1/1/08)

The services of a Small Claims Legal Advisor is available for persons seeking legal advice. Please call (661) 610-6000 for the hours the Advisor is available.

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**Chapter III. Civil Rules and Civil Case Management** (Effective 7/1/03; rev. 7/1/20)

It is the policy of the Superior Court of California, County of Kern, to manage all civil cases from the date of filing through final disposition. All parties are subject to this policy and are expected to proceed diligently and expeditiously in preparing civil cases for trial.

"Civil cases" as used in these Rules shall not include domestic relations/family law matters, juvenile court matters, probate matters, special petitions, actions brought for equitable relief only entitled to preferential setting for trial without the use of juries, asset forfeiture cases (Health and Safety Code sections 11470 et seq.), and criminal matters. All other cases will be included and classified at filing as general civil.

Nothing in these rules shall prevent a court, in an individual case, from issuing an exception order based on a specific finding that the interests of justice require a modification of the routine processes as prescribed by these rules.

In civil matters filed in the Multi-Divisional Courts, the court shall determine the appropriate location for the trial at the case management conference. The judge, using information concerning the parties' residences, the attorneys' residences, the likely witness' locations, estimated trial days, and other relevant factors, will determine the need to retain the case at the Multi-Divisional Court for trial or to transfer the matter to the Metropolitan Court Civil Division. (Effective 7/1/03; rev. 7/1/20)

If the matter is to be tried at the Metropolitan Division, the judicial officer shall set a trial setting conference no later than three (3) weeks following the case management conference. The Metropolitan Court Civil Division shall subsequently assign a judge for all purposes upon receipt of the filing, and notify all parties of the time and Department for the Trial Setting Conference.

A transfer to the Metropolitan Court Civil Division under this policy shall not affect the time standards for disposition of civil cases in this county.

**Rule 3.1 Application of Rules - Case Types** (Effective 7/1/03)

These rules apply to limited and unlimited jurisdiction general civil cases filed in the Kern County Superior Court.

**Rule 3.2 Telephonic Court Appearances** (Effective 7/1/03; rev. 7/1/09; renum. 1/1/13)

See Rule of Court 1.1.1, page 1.

**Rule 3.2.1 Remote Court Appearances** (Effective 3/7/22; rev. 1/1/24)

(a) Remote proceedings other than an evidentiary hearing or trial.

A party wishing to appear remotely in any civil proceeding other than an evidentiary hearing or trial, including conferences and law and motion hearings, is permitted to appear via Zoom without advance notice to the court or other parties. By appearing remotely those persons will be deemed to have requested a remote appearance. Instructions for accessing the court's Zoom account can be found on the court's website. Each judicial officer retains the discretion to require a party to appear in person at a conference, hearing, or proceeding, as authorized by Code of Civil Procedure section 367.75.

(b) Remote proceedings for an evidentiary hearing or trial.

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Remote proceedings for evidentiary hearings or trials in all divisions shall be noticed and conducted as authorized by Code of Civil Procedure section 367.75 and California Rules of Court, rule 3.672.

- (c) This rule shall be in effect until **January 1, 2026**.

**Rule 3.3 Case Assignments and Reassignments** (Effective 7/1/23)

- (a) Notice of Assignment and Service of Notice. New cases are assigned to a specific judicial officer for all purposes. The litigant will receive a Notice of Case Assignment when the case is filed. A copy of this notice must be served on the parties with the case initiating documents. Assignments of civil cases are for all purposes, within the meaning of Code of Civil Procedure section 170.6(a)(2). Assignments of civil cases as a result of a disqualification, recusal, or unavailability of another judicial officer will be assignments for all purposes within the meaning of Code of Civil Procedure section 170.6(a)(2).
- (b) Reassignment. Nothing in these rules shall prevent the court from reassigning a case to a different judge, in which case the court shall notify the parties of the assignment.
- (c) Reassignment Due to Change of Judicial Officer in a Department. All civil case reassignments initiated by the court, as a result of the change of a judicial officer in a department, are posted online and also on the courthouse electronic monitors or in the courthouse lobbies, and will be noticed through the court’s case management system, at least 30 days in advance of the reassignment. The court will mail case-specific notice to all self-represented litigants.

**Rule 3.3.1 Civil Law and Motion – Civil** (Effective 7/1/03; renum. 1/1/13; rev. 1/1/14; rev. 7/1/15; rev. 7/1/20; renum. 7/1/23; **rev. 1/1/24**)

All law and motion matters will be heard pursuant to applicable courtroom schedules.

Within the Metropolitan Division, hearing dates for regularly noticed law and motion proceedings in the unlimited general civil departments (“Fast Track”) that are filed by attorneys, shall be pre-cleared and reserved by calling the Civil Division at (661) 610-6000. All motions that are pre-cleared and reserved must be filed, and the motion filing fees paid within three (3) days of the date that the reservation is made, unless the motion is a type requiring notice to parties with delayed filing time limits, e.g., motions pursuant to Code of Civil Procedure section 128.7 or 437(c). Failure to pay the filing fee and file the moving papers timely will result in the expiration of the reserved hearing date.

This Rule does not apply to ex parte applications. (See, Local Rule 3.4.)

Attorneys with cases that are assigned as “NFT” (Non Fast Track) to a department other than one of the unlimited general civil departments do not need to call in to reserve law and motion dates. These motions are to be filed and served pursuant to statute with the date as chosen by the attorney noticing the motion. (Effective 7/1/03; renum. 1/1/13; rev. 1/1/14; rev. 7/1/20)

In the regional divisions, a civil law and motion date can be obtained at the particular court’s Civil Division office/counter by calling the appropriate regional court listed below: (Effective 7/1/03; renum. 1/1/13; rev. 1/1/14; **rev. 1/1/24**)

Superior Court - East Division (Ridgecrest)	(661) 610-7450
Superior Court - East Division (Mojave)	(661) 610-7400
Superior Court - North Division (Delano)	(661) 610-7300
Superior Court - North Division (Shafter)	(661) 610-7200



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Superior Court - South Division (Lamont) (661) 610-7100

Rule 3.3.2 Motions for New Trial or Motions to Set Aside and Vacate (Effective 7/1/03; renum. 1/1/13; renum. 7/1/23)

Motions for a new trial or motions to set aside and vacate a judgment shall be heard by the trial judge. When the trial judge is unavailable, the motion shall be noticed in a Department and before a judge designated by the Presiding Judge pursuant to Code of Civil Procedure section 663. A motion for a new trial shall be noticed by the Clerk of the Court in accordance with Code of Civil Procedure section 661.

Rule 3.3.3 Order to Appear for Judgment Debtor Examination (Effective 7/1/09; renum. 1/1/13; rev. 7/1/14; renum. 7/1/23)

There shall be no continuances granted if a Judgment Creditor is unable to serve a Judgment Debtor with the Order to Appear for Judgment Debtor Examination. In cases in which there is no proof of service filed with the Clerk of the Court at least three (3) calendar days prior to the scheduled court date, the matter shall be removed from the court calendar by the Clerk of the Court. If no timely proof of service is filed, the Judgment Creditor may again file an Order to Appear, which will require a new filing fee.

**Rule 3.4 Ex Parte Applications and Orders** (Effective 7/1/03; rev. 1/1/20)

- (a) All ex parte applications/petitions that require notice will be noticed in the Civil Division or Direct Calendar Court for a ruling. All ex parte matters must be pre-cleared with the Clerk's Office. Copies of all papers to be presented at the hearing must be filed with the Court no later than 12:00 p.m. the court day prior to the scheduled hearing.
- (b) Notice must be provided to all parties no later than 10:00 a.m. on the court day prior to the scheduled hearing, in accordance with California Rule of Court, rule 3.1203(a)(b), and all applications/petitions and supporting paperwork must be filed with the Court no later than 12:00 p.m. the court day prior to the scheduled hearing.
- (c) The Presiding or Direct Calendar Judge shall be available for the signing of ex parte orders or shall designate a judge or judges who will be available for such signing.
- (d) Attorneys shall not seek to have ex parte orders signed by judges other than those assigned by the Presiding Judge.
- (e) Requests for ex parte orders shall be based solely on the moving papers without oral argument or comment by counsel, but the judge may, in his or her own discretion, exempt matters from this provision.

**Rule 3.5 Juror Fees and Expenses and Reporter Fees** (Effective 7/1/03; rev. 1/1/10; renum. 1/1/13)

Jury fees and mileage shall be governed by the Code of Civil Procedure section 215. Unless otherwise ordered by the Presiding Judge, the Clerk's Office will not accept client's personal checks for daily jury fees. These fees should be paid by the attorney's firm's check. Daily fees shall be paid in full to the Clerk's office by the attorney's firm's check on a daily basis before 9:00 am.

**Rule 3.6 Actions on Promissory Notes and Contracts Providing for the Payment of Attorney's Fees** (Effective 7/1/03; renum. 1/1/13)

- (a) The following attorney's fees shall be awarded under normal conditions in actions on promissory notes and contracts providing for the payment of attorney's fees and foreclosures:

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Default action on note or contract, exclusive of costs:  
20% of the first \$5,000 with minimum fee of \$150.00;  
15% of the next \$10,000;  
10% of the next \$35,000;  
5% of the amount over \$50,000.

In an action upon contract providing for an attorney's fee, the clerk shall include in the judgment an attorney's fee in accordance with this schedule (not to exceed the amount prayed for).

(b) Additional Fees

A petition for compensation for additional services rendered under Subsection (a) of this rule, or in a probate or other proceeding, shall include an itemized statement of the services rendered or to be rendered by the attorney and a reference in the caption and prayer to the request for additional fees. An appearance by the attorney or the parties is not normally required. In determining such fees, the court shall consider the experience of counsel, the time expended, the complexity of the issues, the amount involved and the results achieved.

**Rule 3.7 Selection of Monitoring Judge and Setting of Case Management Conference** (Effective 7/1/03; rev. 1/1/13)

At the time the complaint is filed, a monitoring judge shall be assigned and the clerk of the court shall set a case management conference ("CMC") for the case on said judge's calendar within 180 days. The clerk shall issue Notice of CMC date, time, and department by notation on the face of the complaint or by a separate Notice of CMC.

- (a) Plaintiff must serve the Notice of CMC (if not noted on the face of the complaint) on each defendant along with the summons and complaint. Any cross-complainant shall serve upon any new party to the action a Notice of CMC, along with the cross-complaint and summons thereon. Proof of service of the complaint or cross-complaint and summons shall include proof of service of a Notice of CMC if not noted on the complaint. (Effective 1/1/13)
- (b) The term "monitoring judge" as used in these rules shall include direct calendaring judges as well as judges who are assigned cases for "all purposes" by the Presiding Department. The monitoring judge to whom the case is assigned shall be responsible to move the case along to an orderly disposition under these rules. All motions provided for under these rules shall be made to the monitoring judge. If the assigned judge is operating a direct calendar court, the assignment shall be deemed for "all purposes." (Effective 1/1/13)

**Rule 3.8 Discovery** (Effective 7/1/03; renum. 1/1/13)

During the period prior to the case management conference, the parties are, at a minimum, to engage in the basic discovery necessary to determine the presence or absence of all necessary parties in the action, to determine the issues which are in actual controversy and those without substantial controversy, and to properly evaluate the case for meaningful settlement negotiations.

**Rule 3.9 Final Case Management Conference** (Effective 7/1/03; rev. 1/1/06; renum. 1/1/13; rev. 1/1/14)

- (a) At least five (5) days prior to any final case management conference set in advance of the day of trial but no less than fifteen (15) days prior to the date the matter is set for trial each party shall serve on every other party and submit to the court the following:

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1. Said party's proposed jury instructions. All parties are invited to use the Instruction Request form for the standard CACI instructions. If any standard instructions are not on the request form, or if any special instructions are going to be requested, they must be served with the request form. (Effective 7/1/03; rev. 1/1/06)
2. All motions in limine in written form, together with any points and authorities in support thereof.
3. A list of all witnesses that said party intends to call in his or her case in chief.

A proposed generic statement of the case to be read to the jury at the beginning of the case.

A list of all photographs, documents, physical objects or other tangible things that said party intends to have marked as an exhibit and introduced in evidence at the time of trial. (In matters where a final case management conference has been set, said items will actually be brought to the final case management conference for examination).

- (b) Prior to the final case management conference, or prior to the trial if no final case management conference is set, counsel will confer in an effort to resolve the jury instructions, issues raised in the motions in limine, the generic statement of the case, and the admissibility of the various photographs, documents, physical objects and other tangible things included in each party's exhibit list. In addition, counsel shall review the witness lists and make their best estimate of the time anticipated for the direct and cross-examination of each of the witnesses. Counsel will also attempt to work out stipulations concerning issues which are not contested. At the time of the final case management conference or at the time of trial, if no final case management conference is set, efforts will be made to resolve the remaining issues and, to the extent that they are unresolved by agreement, will be ruled upon by the court. Final Case Management orders shall be generated settling the jury instructions (subject to augmentation after the evidence is received), providing rulings on the motions in limine, providing for the admission of certain photographs, documents, physical objects or other tangible things, and settling the generic statement of the case. A master list of witnesses and the anticipated time involved for each witness will also be generated for use of court and counsel. Such other orders will be made as may be appropriate for the management of the anticipated trial.
- (c) All final case management documents shall be filed (pursuant to California Rules of Court, rule 3.1110) under a cover sheet which lists the documents submitted.

**Rule 3.10 Disallowance of Interruptions** (Effective 7/1/03; renum. 1/1/13)

Once the case has been assigned to a trial court by the Presiding Department or called to trial by a Direct Calendar Department, it shall proceed without interruption to conclusion. No adjournment will be allowed to explore settlement, conduct discovery, marshal evidence or prepare for the presentation of any subsequent portion of the trial, except in unusual circumstances without fault of the moving party where good cause is shown in the sound discretion of the trial judge. It is also anticipated that each party will have his or her witnesses available to present his or her case without interruption or delay. An unexcused inability of a party to proceed because of a failure to schedule adequate witnesses, or otherwise, may result in sanctions being imposed, including a determination by the trial judge that said party has rested.

**Rule 3.11 Differential Case Management** (Effective 7/1/03; renum. 1/1/13; rev. 1/1/20)

Pursuant to California Rule of Court, rule 3.714(b), all general civil cases are subject to disposition within twelve (12) to twenty-four (24) months from date of filing of complaint.

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**Rule 3.12 Collection Cases** (Effective 7/1/03; rev. 1/1/07; renum. 1/1/13)

In the event that during the pendency of the action, whether the defendants have appeared or not, the parties agree to resolve that matter with a program of periodic payments, all monitoring and time requirements can be terminated, provided that the conditions in (a) through (d) below are met. If the periodic payment agreement satisfies these conditions, the case will be deemed "disposed of" and will no longer be monitored. (Effective 7/1/03; rev. 1/1/07)

- (a) The parties file with the court a written stipulation and agreement setting forth in detail the terms of the periodic payments which, if made, will fully satisfy the obligations which generated the litigation.
- (b) That the stipulation and agreement further provide that on full performance of the agreement by the defendants, plaintiff will request a dismissal of the entire action with prejudice; and in the absence of such a request, the court may dismiss the action on its own motion, without notice to the parties, after forty-five (45) days has expired from the due date of the last payment unless plaintiff, within that time, requests entry of judgment as provided in Subparagraph (c).
- (c) That the stipulation and agreement further provide that in the event defendant fails to make any of the payments required, plaintiff may, by written declaration, notify the court of defendant's default and the amount then due under the agreement and request that the court enter judgment accordingly, together with costs of suit.
- (d) That the stipulation and agreement be unconditional so that a judicial determination will not be required and the court's only remaining function in the case would be to enter a dismissal as provided in Subparagraph (b) or a judgment as provided in Subparagraph (c).
- (e) That the parties shall file with the court a request for dismissal without prejudice reserving to the court jurisdiction to set aside such dismissal to enter judgment as provided in (c) hereof.

**Rule 3.12.1 Application of Rules 3.12.2 and 3.12.3** (Effective 1/1/08; renum. 1/1/13)

Rules 3.12.2 and 3.12.3 apply only to those cases designated on the civil case cover sheet as Rule 3.740 collections.

**Rule 3.12.2 Time for Filing** (Effective 1/1/08; renum. 1/1/13; rev. 7/1/14)

- (a) All named defendants must be served and a proof of service must be filed or an order for publication of the summons must be obtained as to each named defendant within one hundred eighty (180) days of the date of filing of the complaint. (Effective 1/1/08; renum. 1/1/13)
- (b) At the time the complaint in Rule 3.740 collection action is filed, the clerk shall issue an order to show cause to the plaintiff designating a date of hearing on the order to show cause not less than one hundred eighty (180) days nor more than two hundred (200) days after filing, for compliance with Rule 3.740(d), and not less than three hundred forty (340) days and nor more than three hundred sixty (360) days after the date of filing of the complaint, for compliance with Rule 3.740(f). If not less than ten court (10) days prior to the order to show cause the plaintiff files a proof of service or an order for publication of the summons as to each named defendant or answer or other responsive pleading filed by each named defendant in compliance with Rule 3.740(d) or a default judgment, a request for dismissal of the entire action, a stipulated judgment or stipulation for entry of judgment, or a notice of settlement in compliance with Rules 3.740 and 3.741, the order to show cause will be vacated by the clerk. (Effective 1/1/08; rev. 7/1/14)

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Rule 3.12.3 Case Management Conferences (Effective 1/1/08; renum. 1/1/13)

- (a) Upon the filing of an answer or other responsive pleading by any named defendant in a collections case, the clerk shall set a case management conference not less than ninety (90) days following the date of filing of the first answer or responsive pleading. The clerk shall give notice to all parties appearing in the action of the date, time and department of the case management conference.
- (b) The plaintiff shall serve written notice of the case management conference on any parties appearing in the action after service of notice of the case management conference by the clerk.
- (c) All parties who have appeared in the action shall file with the court and serve on all parties a case management statement no less than fifteen (15) days prior to the date of the case management conference. Failure to timely file and serve a case management statement constitutes a waiver of any objection to action taken by the court at the case management conference, including setting the case for trial, ordering the case to judicial arbitration, or setting a mandatory settlement conference.
- (d) If, based on its review of the written submissions of the parties and such other information as is available, the court determines that appearances at the conference are not necessary, the court may issue a case management order and notify the parties that no appearance is required.
- (e) At the case management conference, counsel for each party and each self-represented party must appear personally or by telephone as provided in California Rules of Court, rule 3.670 and 1.1.1 of these rules; must be familiar with the case; and must be prepared to discuss and commit to the party's position on the issues listed in Rules 3.724 and 3.727 of the California Rules of Court. (Effective 1/1/08; rev. 7/1/15)

**Rule 3.13 Uninsured Motorist Cases** (Effective 7/1/03; renum. 1/1/13)

- (a) At the time of filing a complaint for personal injury or wrongful death or at any time thereafter, plaintiff may file a declaration with the court establishing the items set forth in (1) through (4) below. On receipt of such a declaration, the court may classify the case as "uninsured motorist".
  - 1. All the named defendants are believed to be uninsured and the action is filed to protect the running of the statute of limitations in the event that insurance is later discovered or plaintiff, after filing the action, has learned that all the defendants are uninsured.
  - 2. Plaintiff is proceeding to arbitration with his or her insurer under the uninsured motorist provision of his or her insurance policy, and does not intend to proceed in the action against the uninsured defendants.
  - 3. In resolving the case with the defendants, it has been determined that defendants were underinsured within the meaning of plaintiff's policy which provides underinsured motorist's coverage.
  - 4. Plaintiff's counsel has sought from plaintiff's insurer a concession of uninsured status of defendant to avoid the filing of the action or to dismiss it and plaintiff's insurer has refused.
- (b) Cases classified as uninsured motorist will be placed on a review calendar and plaintiff will file a certificate of progress every 90 days advising the court of the status of his claim against his insurer and the progress of the arbitration proceeding, if any.

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- (c) In the event that plaintiff's claim against his insurer is not resolved within 180 days after being designated uninsured motorist, the court may require plaintiff's counsel to appear for a hearing to determine when the matter will be resolved and the action dismissed or reclassified as general civil litigation.
- (d) When plaintiff's claim is resolved against his insurer, plaintiff's counsel shall give notice to the insurer that the action is pending in this court and shall seek consent from the insurer to dismiss the action. The notice shall contain the complete title of the cause, case number and a statement to the effect that the case is governed by these Rules and that, effective as of that date of the notice, the case is reclassified as general civil litigation and a proof of service or certificate of progress is due sixty (60) days therefrom under California Rule of Court, rule 3.110. In filing the original of such notice with the court with appropriate proof of service, plaintiff's attorney shall provide the court with the name, address and phone number of the appropriate representative of plaintiff's insurer. The filing of such a notice with the court does not preclude the need to file a formal substitution of attorneys unless plaintiff's attorney intends to remain of record.

**Rule 3.14 Alternative Dispute Resolution** (Effective 7/1/03; Amended 1/1/10 to add 3.16.6, rev. 7/1/10; rev. 7/1/11; renum. 1/1/13; rev. 1/1/15)

Rule 3.14.1 Alternative Dispute Resolution Policy (Effective 7/1/03; rev. 7/1/10; renum. 1/1/13; rev. 1/1/15)

The Kern County Superior Court encourages civil litigants to resolve controversy by means of Alternative Dispute Resolution (ADR), such as mediation, early neutral evaluation, and arbitration. Kern County Superior Court requires mandatory judicial arbitration pursuant to California Rules of Court, rule 3.811. Thus, the parties in all civil litigation cases in which the parties agree or the court finds the amount in controversy as to each individual plaintiff is \$50,000 or less, shall participate in judicial arbitration prior to the matter proceeding to trial unless the court finds that the parties are not amenable to arbitration because the parties have participated effectively in an alternate ADR process or for some other reason. (*See* California Rules of Court, rule 3.811)

Rule 3.14.2 Order to Show Cause (OSC) Procedure (Effective 7/1/03; rev. 7/1/10; rev 7/1/11; renum. 1/1/13; rev. 1/1/15)

At the time of the Case Management Conference (CMC), the court shall refer the matter to judicial arbitration under the California Rules of Court (See California Rules of Court, rules 3.800-3.830). The court may set the case for an OSC as to why arbitration has not occurred within ninety (90) days of the assignment date set by the clerk.

Rule 3.14.3 Assignment/Election to Arbitration (Effective 7/1/03; rev. 7/1/10; rev. 7/1/11; renum. 1/1/13; renum. 1/1/15)

Cases assigned to court-ordered arbitration or for which arbitration has been elected by all plaintiffs or by stipulation of the parties, shall be assigned to an arbitrator from the Kern County Superior Court Arbitration Panel in accordance with California Rules of Court, rule 3.815(b), unless all parties have stipulated to a particular arbitrator from the Kern County Superior Court Arbitration Panel prior to the CMC, the selected arbitrator has agreed to serve as arbitrator in the matter, the selected arbitrator has agreed to have the arbitration completed within the time set forth in Rule 3.14, and the court is apprised of the selection of the arbitrator in the CMC statement or at the time of the CMC.

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Rule 3.14.4 Responsibility and Authority of the Arbitrator (Effective 7/1/03; rev. 7/1/10; renum. 1/1/13; renum. 1/1/15)

The arbitrator shall be responsible for and have the authority to:

- (a) Contact all parties upon assignment as arbitrator;
- (b) Notify all parties of the required completion date and propose available times and dates for arbitration;
- (c) Assign a date and place for arbitration consistent with the required completion date;
- (d) Conduct court-ordered arbitration allowing for adjournment and reconvening the arbitration at a reasonable time for good cause shown, so long as the arbitration is completed within 90 days from the date of assignment; and
- (e) Within ten (10) days of completion of the arbitration or the 90<sup>th</sup> day from the date of assignment file an Arbitration Award with the court.

Rule 3.14.5 Compensation of Arbitrators (Effective 7/1/03; rev. 7/1/10; rev. 7/1/11; renum. 1/1/13; rev. 1/1/15)

Arbitrators shall be compensated as provided in Civil Code of Procedure section 1141.18 and California Rules of Court. (Effective 7/1/03; rev. 1/1/15)

Rule 3.14.6 Tolling of Time Limits (Effective 7/1/03; rev. 7/1/10; rev.7/1/11; renum. 1/1/13; rev 1/1/15)

Submission of a case to judicial arbitration under the California Rules of Court does not affect the time period specified in the Trial Court Delay Reduction Act (Government Code section 68600 et. seq.), except that upon written request of all parties filed with the court, the court may, in its sole discretion, order an exception of up to 90 days to the delay reduction time standards to permit arbitration of an action. (Effective 1/1/10; rev. 7/1/10; rev. 7/1/11; rev 1/1/15)

Rule 3.14.7 Procedure for Handling Complaints about Arbitrators on the Court's Panel (Effective 1/1/10; rev. 7/1/10; renum. 1/1/13; rev. 1/1/15)

These rules establish the court's procedures for receiving, investigating, and resolving complaint about arbitrators listed on the court's panel. Nothing in these rules should be interpreted in a manner inconsistent with the California Rules of Court or as limiting the court's inherent or other authority, in its sole and absolute discretion, to determine who may be included on or removed from its lists of arbitrators. These rules also do not limit the court's authority to follow other procedures or take other actions to ensure the quality of arbitrators who serve in any court ADR program in contexts other than when addressing a complaint. The failure to follow a requirement or procedure in these rules will not invalidate any action taken by the court in addressing a complaint.

Rule 3.14.7.1 Confidentiality (Effective 1/1/10; rev. 7/1/10; renum. 1/1/13; rev. 1/1/15)

- (a) Preserving the confidentiality of ADR communications

All complaint proceedings will be conducted in a manner that preserves the confidentiality of communications as required by law, including, but not limited to, the confidentiality of any communications between an arbitrator and all other participants in the case.

- (b) Confidentiality of complaint proceedings

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All complaint proceedings will occur in private and will be kept confidential. No information or records concerning the receipt, investigation, or resolution of a complaint will be open to the public or disclosed outside the course of the complaint proceeding except as otherwise required by law.

Rule 3.14.7.2 Submission of Complaints to the Complaint Coordinator (Effective 1/1/10; rev. 7/1/10; renum. 1/1/13)

All complaints shall be in writing and should be submitted or referred to the ADR Coordinator.

Rule 3.14.7.3 Acknowledgment and Preliminary Review of Complaints (Effective 1/1/10; rev. 7/1/10; renum. 1/1/13; rev.1/1/15)

(a) Acknowledgment of complaints (Effective 1/1/10; rev. 7/1/10)

When the ADR Coordinator receives a complaint, the coordinator will send the complainant a written acknowledgment of receipt. (Effective 1/1/10; rev. 7/1/10)

(b) Preliminary review of complaints (Effective 1/1/10; rev. 7/1/10)

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

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

b) Communicate informally with the arbitrator to obtain the arbitrator's perspectives.

2. If it appears to the ADR Coordinator that the arbitrator may have violated a provision of the rules of conduct, or other applicable ethics requirements, the ADR Coordinator must inform the arbitrator about the complaint and give the arbitrator an opportunity to provide an informal response. (Effective 1/1/10; rev. 1/1/15)

3. The ADR Coordinator may close a complaint without initiating an investigation if;

a) The complaint is withdrawn by the complainant;

b) No violation of the rules of conduct or other ethics requirements appears to have occurred or the complaint is without sufficient merit to warrant an investigation;

c) The conduct alleged would constitute a very minor violation of the rules of conduct or other ethics requirements, the coordinator has discussed the complaint with the arbitrator, and the arbitrator has provided an acceptable explanation or response; or

d) The complainant, the arbitrator, and the ADR Coordinator have agreed on a resolution to the complaint. (Effective 1/1/10; rev. 1/1/15)

(c) Notification of closure (Effective 1/1/10; rev. 7/1/10)

If the ADR Coordinator closes a complaint without initiating an investigation, the coordinator must send the complainant notice of this action. (Effective 1/1/10; rev. 7/1/10)



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Rule 3.14.7.4 Appointing an Investigator or Complaint Committee (Effective 1/1/10; rev. 7/1/10; renum. 1/1/13; rev. 1/1/15)

The presiding judge or, at the direction of the presiding judge, the court's ADR Committee, will appoint an investigator who has experience as an arbitrator and is familiar with the applicable rules of conduct or ethics requirements, or a complaint committee that includes at least one such individual, to investigate and make recommendations concerning any complaint that is not resolved or closed by the ADR Coordinator as a result of the preliminary review.

Rule 3.14.7.5 Investigations (Effective 1/1/10; rev. 7/1/10; renum. 1/1/13; rev. 1/1/15)

(a) Application

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

(b) Referral of a complaint for investigation

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

1. A copy of the complaint;
2. A copy or summary of any response from the arbitrator;
3. A list of any violations of the rules of conduct or other applicable ethics requirements that may have occurred; and
4. Copies of any previous complaints about the arbitrator relevant to the current complaint. (Effective 1/1/10; rev. 1/1/15)

(c) Initiation by the ADR Coordinator

The ADR Coordinator may initiate an investigation based on information received from any source, including an inquiry, indicating that an arbitrator may have violated a provision of the rules of conduct or other ethics requirements. To initiate the investigation, the ADR Coordinator must refer the information received to an investigator or complaint committee with a list of the violations of the rules of conduct or ethics requirements which may have occurred. (Effective 1/1/10; rev. 1/1/15)

(d) Arbitrator's notice and opportunity to respond

1. The investigator or complaint committee must provide the arbitrator with a copy of the materials provided to the investigator or complaint committee by the ADR Coordinator under (b) or (c).
2. The arbitrator will be given an opportunity to respond to the complaint and the list of apparent violations. (Effective 1/1/10; rev. 1/1/15)

(e) Preparing report and recommendation

The investigator or complaint committee will conduct the investigation that the investigator or complaint committee considers appropriate. Thereafter, the investigator or complaint

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committee will prepare a written report that summarizes the investigation and states the investigator's or complaint committee's recommendation concerning the final decision on the complaint. The investigator or complaint committee may recommend that the court take no action or that it take appropriate action, including but not limited to: counseling, admonishment, or reprimand of the arbitrator; imposition of additional training for the arbitrator; or suspension or removal of the arbitrator from the panel. (Effective 1/1/10; rev. 1/1/15)

(f) Informing arbitrator of recommendation

The investigator or complaint committee may inform the arbitrator of its recommendation and inquire whether the arbitrator accepts the recommendation. If the arbitrator accepts the recommendation, the investigators or complaint committee's report must so indicate. (Effective 1/1/10; rev. 1/1/15)

(g) Submitting report and recommendation

The investigator or complaint committee must submit its report and recommendation to the ADR Coordinator. The ADR Coordinator must promptly forward a copy of the report and recommendation to the presiding judge or, at the direction of the presiding judge, to the court ADR Committee. (Effective 1/1/10)

Rule 3.14.7.6 Final Decision on a Complaint that was Investigated (Effective 1/1/10; rev. 7/1/10; renum. 1/1/13; rev. 1/1/15)

(a) Responsibility for final decision

The presiding judge is responsible for making the final decision about the action to be taken on any complaint that was investigated under Rule 3.14.7.5, or for designating the Chair of the ADR Committee or ADR Committee to perform this function. (Effective 1/1/10; rev. 7/1/10)

(b) Acting on recommendation

1. Within 30 days after the investigator's or complaint committee's recommendation is forwarded to the presiding judge or the presiding judge's designee, the presiding judge or designee may submit to the ADR Coordinator a decision: (Effective 1/1/10; rev. 7/1/10)

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

b) Directing a different action. (Effective 1/1/10; rev. 1/1/15)

2. If the presiding judge or his or her designee does not submit a decision within 30 days after the investigators or complaint committee's recommendation is forwarded, as provided in (1), the investigator's or complaint committee's recommendation will become the final decision on the complaint. (Effective 1/1/10; rev. 7/1/10)

(c) Notification of final action

The ADR Coordinator must promptly notify the complainant and the arbitrator in writing of the final action taken by the court on the complaint. (Effective 1/1/10; rev. 7/1/10)

(d) Authorized disclosures

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After the decision on a complaint, the presiding judge, or his or her designee, may authorize the public disclosure of information or records concerning the complaint proceeding that do not reveal any confidential communications. The disclosures that may be authorized under this subdivision include the name of an arbitrator against whom action has been taken, the action taken, and the general basis on which that action was taken. In determining whether to authorize the disclosure of information or records under this subdivision, the presiding judge or designee should consider the purposes of the confidentiality of complaint proceedings stated in California Rules of Court, rule 3.871. (Effective 1/1/10; rev. 7/1/10)

Rule 3.14.7.7 Interim Suspension Pending a Final Decision on a Complaint (Effective 1/1/10; rev. 7/1/10; renum. 1/1/13; rev. 1/1/15)

If the preliminary review or the investigation indicates that an arbitrator may pose a threat of harm to ADR participants or to the integrity of the court's ADR programs, the presiding judge or his or her designee may suspend the arbitrator from the court's panels or lists pending final decision on the complaint. The ADR Coordinator may make a recommendation to the presiding judge or the designee regarding such a suspension.

**Rule 3.15 Unlawful Detainers** (Effective 1/1/07; renum. 1/1/13)

Rules 3.15 through 3.15.16 apply to all unlawful detainer and forcible detainer actions filed after January 1, 2007.

Rule 3.15.1 Filing the Complaint (Effective 1/1/07; rev 1/1/10; renum. 1/1/13; rev. 1/1/14)

- (a) All complaints for unlawful detainer shall, if based upon a notice terminating the tenancy or right to possession, be accompanied by the original such notice attached as an exhibit to the complaint as required by Code of Civil Procedure section 1166.
- (b) A complaint for unlawful detainer of residential property shall be accompanied by a copy of any written rental agreement or lease regarding the premises, including any amendments or addenda to such agreement, as required by Code of Civil Procedure section 1166, unless the complaint alleges that the lease or rental agreement is oral, that neither the original nor a copy of the written rental agreement or lease is in the possession or control of the plaintiff, or the action is based solely on subdivision (2) of Code of Civil Procedure section 1161.
- (c) At the time the complaint in an unlawful detainer action is filed, the clerk shall issue an order to show cause re dismissal to the plaintiff designating a date of hearing on the order to show cause not more than ninety (90) days after filing. The order to show cause will be dropped from calendar upon filing of an amended complaint converting the action to an ordinary civil action, a request for dismissal, a judgment or a notice of settlement. (Effective 1/1/07; rev 1/1/10; rev. 1/1/14)
- (d) Unless otherwise ordered, the minimum undertaking required for an order for immediate possession of the premises pursuant to Code of Civil Procedure, section 1166(a) shall be ten (10) times the monthly rental or \$2,500, whichever is greater.

Rule 3.15.2 Proof of Service (Effective 1/1/07; rev. 1/1/10; renum. 1/1/13)

- (a) A proof of service or application for service by posting and mailing pursuant to Code of Civil Procedure section 415.45 must be filed within twenty (20) days of the date of filing of the complaint, unless an answer or other responsive pleading has been filed.

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- (b) No application for service by posting and mailing pursuant to Code of Civil Procedure section 415.45 shall be granted unless the requirements of due diligence have been satisfied. The requirements of due diligence shall be deemed satisfied if the declaration of attempted service shows at least three (3) separate attempts to serve, on three (3) different dates, not more than two (2) of which may be on a holiday as defined in Code of Civil Procedure section 10, with at least one (1) such attempt before noon and one (1) such attempt after noon.
- (c) In cases in which service of the summons and complaint is made by posting and mailing pursuant to Code of Civil Procedure section 415.45, proof of service by posting and mailing shall be filed within ten (10) days of the date of issuance of the order permitting service pursuant to Code of Civil Procedure, section 415.45.

Rule 3.15.3 Settlement (Effective 1/1/07; renum. 1/1/13)

- (a) A settlement agreement may provide that, in the event of default, the non-defaulting party may seek additional relief from the court by filing an ex parte application for such relief. Any settlement agreement providing for such ex parte relief shall contain one (1) of the following:
  - 1. A proof of service showing that the ex parte application was served on the defaulting party.
  - 2. A declaration stating either that notice of the filing of the ex parte application was given to the defaulting party, specifying how and when such notice was given.
  - 3. A declaration demonstrating that such notice should be excused pursuant to Rule 3.1204(b)(2) or (3) of the California Rules of Court.
- (b) Unless notice is excused, the ex parte application or the declaration shall describe the relief requested, and the date and time of the hearing on the ex parte application.
- (c) A hearing on the ex parte application shall be held no sooner than forty-eight (48) hours after the filing of the application re notice to the allegedly defaulting party unless such notice was excused. If service of the notice is by mail, then the hearing shall be held no sooner than five (5) days after the date of mailing.
- (d) Objection, if any, to the ex parte application shall be by written declaration under penalty of perjury, filed and served on all interested parties at or prior to the time of the hearing, and shall state with specificity the grounds for such objection.
- (e) Applications for further relief in cases in which the settlement agreement does not provide for an ex parte application procedure for further relief shall be upon noticed motion. There shall be a rebuttable presumption that applications for orders shortening time for hearing of such motions seeking possession and other cases in which time is of the essence are meritorious.
- (f) Nothing in these rules shall preclude a party from seeking to enforce the terms of a settlement agreement in an unlawful detainer action by appropriate motion pursuant to Code of Civil Procedure section 664.6 or other controlling authority.

Rule 3.15.4 Stipulations for Entry of Judgment (Effective 1/1/07; renum. 1/1/13)

Any stipulation between parties that provides terms and conditions for settlement of an unlawful detainer action must include by entry of judgment:

- (a) A statement, pursuant to Rule 3.1385 of the California Rules of Court, that plaintiff will file a request for dismissal of the entire action either within forty-five (45) days of the date of the

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filing of the stipulation or upon some other specified date no more than ninety (90) days following the date of filing of the stipulation.

- (b) A place for the court to set a date for an order to show cause re dismissal at which the parties may appear if the terms and conditions are not met and upon which the court may dismiss the case if the parties fail to appear and the plaintiff has not filed a request for dismissal as provided in Rule 3.17.4(a).
- (c) If the stipulation is presented for court approval prior to the date of trial, and the parties do not intend to appear at trial, an order vacating the trial date.
- (d) A clear and concise statement of the ex parte application, opposition and order process by which remedies are available to either party in the event of a default in any of the terms and conditions of the stipulation. The clerk shall not enter judgment upon the mere declaration of either party.

Rule 3.15.5 Setting Case for Trial (Effective 1/1/07)

- (a) Within twenty-five (25) days of the date of filing of the complaint, the plaintiff shall file a request to set for trial unless a request for entry of default judgment or request for dismissal has been filed.
- (b) The case will be set for trial not more than twenty (20) days after the date of filing of the memorandum to set the case for trial. The court shall give notice of trial in accordance with Code of Civil Procedure section 594.
- (c) If a jury is demanded, the clerk shall, in addition to the trial date, set the case for a case management conference within ten (10) days of the date of filing of the request to set for trial.

Rule 3.15.6 Request/Counter Request to Set for Trial (Effective 1/1/07; renum. 1/1/13)

- (a) A request or counter request to set for trial shall be completed on the Judicial Council for Request/Counter Request to Set Case for Trial-Unlawful Detainer form UD-150. The filing of a request or counter request to set the case for trial shall be deemed a representation by such party that the case is at issue and will be ready for trial on the date first assigned for trial.
- (b) Any other party to the action may file a counter-request to set the case for trial. Failure of any party to file a counter-request to set the case for trial shall be deemed agreement by the party failing to file with all the matters represented in the request to set the case for trial.

Rule 3.15.7 Case Management (Effective 1/1/07; renum. 1/1/13)

All parties, or counsel if represented, shall appear at the case management conference. Parties or counsel appearing at the case management conference shall be fully prepared to discuss all aspects related to trial of the case, including the estimated time of trial and matters which may be stipulated to prior to trial.

Rule 3.15.8 Default (Effective 1/1/07; renum. 1/1/13)

- (a) Request for entry of default shall be made within forty-five (45) days of the date of filing of the action unless an answer or other response has been filed, or the action is dismissed or finally disposed of in its entirety.
- (b) Plaintiff shall, within six (6) months of entry by the clerk of a default judgment for possession of the premises only, set the case for a default hearing for judgment for money damages, or

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shall submit a declaration pursuant to Code of Civil Procedure section 585(b) and (d). Failure of the plaintiff to cause a request for judgment for such damages to be entered within six (6) months of the date of entry of a judgment for possession only shall result in an order to appear to show cause why sanctions for such failure shall not be imposed. Monetary or other appropriate sanctions may be imposed at the order to appear for failure to comply with this rule.

Rule 3.15.9 Conversion of Cases to Ordinary Civil Action (Effective 1/1/07; renum. 1/1/13)

In the event possession becomes no longer an issue at any time prior to trial, or, in the event of an uncontested proceeding, prior to entry of judgment of possession, it shall be the duty of plaintiff to immediately notify the court. If, at any time prior to entry of judgment for possession, it appears that no defendant is in possession, or that possession is otherwise not an issue, then the trial date shall be immediately vacated, and the case shall be converted by the court to an ordinary civil action. Plaintiff shall thereafter have thirty (30) days within which to file an amended complaint, and the case shall be set for an order to show cause re dismissal to be heard forty-five (45) days following conversion of the action to an ordinary civil action.

Rule 3.15.10 Trial (Effective 1/1/07; renum. 1/1/13)

- (a) Trial will take place on the date scheduled unless continued by order upon properly noticed motion showing good cause for such continuance.
- (b) Motions for continuance of the trial made on the date of trial are disfavored, and will be granted only upon a clear showing of good cause.
- (c) The prevailing party after trial shall prepare the judgment.
- (d) All unlawful detainer trials, including jury trials, shall be electronically recorded unless a party requests that the trial be stenographically recorded. Any request for stenographic recording shall be made in writing not less than five (5) days prior to the date the case is first set for trial. The party requesting stenographic recording shall post court reporter fees equal to one-half day's fees at the time the request is made. Refer to Local Rule 1.6.

Rule 3.15.11 Jury Trials in Unlawful Detainer Actions (Effective 1/1/07; renum. 1/1/13)

- (a) Jury fees and court reporter's fees, if a court reporter is desired, shall be posted by the party requesting a jury not later than five (5) days prior to the date first assigned for trial.
- (b) If the estimated time for trial exceeds one (1) calendar day, for each subsequent day of trial, the jury fees and court reporter's fees, if a reporter is desired, shall be posted by the party requesting the jury trial, by the close of business the day before the next scheduled trial date.
- (c) All requested and relevant jury instructions shall be submitted to the court no later than 9:00 a.m. on the date first assigned for trial.
- (d) All motions, including motions in limine, shall be submitted in writing to the court no later than 9:00 a.m. on the date first assigned for trial.
- (e) Case management conference will be set at the time jury is demanded.
- (f) Failure to comply with any of the above will result in a waiver of jury and the trial will proceed immediately by court.

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Rule 3.15.12 Attorney Fees (Effective 1/1/07; renum. 1/1/13)

- (a) In actions for unlawful detainer for possession of residential property, whether multi-family or single family, if the prevailing party is entitled to an award of attorney's fees the attorney's fees awarded by the court shall not, except upon good cause shown, exceed the following amounts:
  - 1. In cases in which judgment is entered by default as a result of the failure of any defendant to respond to the complaint, the sum of \$300.
  - 2. In cases in which at least one (1) defendant has filed an answer or responsive pleading, but which are uncontested at trial, the sum of \$400.
  - 3. In cases contested at trial, the sum of \$500.
- (b) Where a party in a residential unlawful detainer action wishes to seek attorney fees in excess of the fees set forth in Rule 3.15.12(a), such fees may be awarded only upon application and declaration setting forth good cause therefor in cases in which no answer or response has been filed by any defendant, or upon regularly noticed motion in cases in which an answer or response has been filed by at least one (1) defendant.
- (c) In actions for unlawful detainer for possession of non-residential property, the prevailing party may recover, if entitled to recovery of attorney's fees, such amount as may be awarded upon ex parte application and declaration in cases in which no defendant appeared, or upon properly noticed motion for an award of attorney's fees in actions in which at least one (1) defendant has appeared.

Rule 3.15.13 Order to Show Cause Re Dismissal (Effective 1/1/07; renum. 1/1/13)

- (a) An order to show cause re dismissal will be taken off calendar if a trial date has been set, a request to set case for trial has been filed, the case is dismissed, or if there has been a settlement or other final disposition of the entire matter.
- (b) All parties who have made a general appearance in the case shall attend the hearing on the order to show cause, either in person or by telephonic appearance.

Rule 3.15.14 Motion to Set Aside Default and Vacate Default Judgment and/or for Stay of Execution of Judgment (Effective 1/1/07; renum. 1/1/13)

- (a) Ex parte applications for orders shortening time for hearing on a motion to vacate a default judgment and/or set aside a default, or for a stay of execution of a writ of possession shall comply with California Rules of Court, rule 3.1200.
- (b) Except for good cause shown, only one (1) request for stay of execution will be granted per case, and stays of execution will be limited to seven (7) days from the date originally scheduled for the lock-out to occur.
- (c) Except for good cause shown, no stay of execution will be granted in cases settled or disposed of by agreement of the parties or by stipulation of the parties, unless the parties have agreed otherwise in writing or on the record in open court.
- (d) Except for good cause shown, motions to vacate a default judgment and/or to set aside a default shall not be granted ex parte.

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Rule 3.15.15 Failure to Comply with Rules (Effective 1/1/07; renum. 1/1/13)

Any failure to comply with these rules shall result in the issuance of an order to show cause why sanctions, including monetary sanctions, issue sanctions, evidence sanctions or terminating sanctions, should not be imposed.

Rule 3.15.16 Eminent Domain Deposits (Effective 7/1/10; renum. 1/1/13)

All deposits of probable compensation in eminent domain proceedings pursuant to Code of Civil Procedure section 1255.010, et seq., shall be deposited with the State Treasury pursuant to Code of Civil Procedure section 1255.070, unless the motion or ex parte application therefor specifically requests that the funds be deposited with the County of Kern. All deposits of probable compensation deposited with the County shall be deposited into an interest bearing account.



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**Chapter IV. Traffic Rules**

**Rule 4.1 Traffic Court Rules** (Effective 7/1/03; rev. 1/1/20)

The Traffic Division is responsible for all infractions, traffic and non-traffic, including: Moving violations, parking violation appeals, Business and Professions Code violations, Weights and Measures citations, Alarm System citations, Health Department citations, Animal Control Department citations, Municipal Code violations, County Ordinance citations, Park and Recreation citations, and Fish and Game citations.

**Rule 4.2 Infraction Alternate Procedures** (Effective 7/1/03; rev. 1/1/20; rev. 7/1/21)

Any person who has received a written notice to appear for an infraction may, prior to the appearance date, declare an intention to plead not guilty before a clerk of the court or in writing. The full bail amount as stated on the written notice to appear must be submitted at the time of the request. For those electing to enter their plea at arraignment, no deposit of bail is required unless ordered by the court consistent with California Rules of Court, rule 4.105(c)(3). The clerk shall set an arraignment and trial on the same date, no earlier than thirty (30) days or later than forty-five (45) days, from the date of receipt of the declaration, unless a time waiver is obtained.

**Rule 4.3 General Matters** (Effective 7/1/03)

All traffic matters filed for Law and Motion hearings shall comply with California Rules of Court, rule 4.111 and all applicable laws and Local Rules of Court. The hearings for motions are to be heard ten (10) days from the filing date. If a motion is to be abandoned, notice shall be given to the court as soon as reasonably possible.

**Rule 4.4 Appeals – Transcript** (Effective 1/1/18)

The trial court judge may order a transcript of the oral proceedings be prepared as the record of oral proceedings pursuant to California Rules of Court, rule 8.916(d)(6)(B).

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**Chapter V. Criminal Rules**

**Rule 5.1 Misdemeanors** (Effective 7/1/03)

**Rule 5.1.1 Filings of Actions** (Effective 7/1/03; rev. 7/1/12)

All misdemeanor cases filed in the Superior Court of California, County of Kern, will be presented at the Criminal Division/Counter of the appropriate Court Division. Filings are accepted Monday through Friday from 8:00 a.m. to 4:00 p.m.

**Rule 5.1.2 Misdemeanor Informal Arraignments** (Effective 7/1/23)

In misdemeanor cases, subject to the exceptions noted below, attorneys may use the informal arraignment process. This process is not available to self-represented litigants. To participate in an informal arraignment, the attorney must be authorized by the defendant to enter a plea of “Not Guilty,” and to waive time for trial.

(a) The informal arraignment process cannot be used when:

1. A defendant has failed to appear;
2. A warrant is outstanding;
3. A violation of Penal Code section 166(a)(4) has been charged;
4. A violation of Penal Code section 192(c) has been charged;
5. A misdemeanor offense involving domestic violence, as defined by Family Code section 6211, has been charged;
6. A violation of Vehicle Code sections 23152 and/or 23153 has been charged and a prior conviction of either offense has been alleged; or
7. A court case number has not been issued.

(b) Representations of Counsel

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

1. That the client has expressly authorized the attorney to appear on the client’s behalf pursuant to Penal Code section 977(a);
2. That the informal arraignment constitutes a general appearance by the attorney, that the attorney is the attorney of record, and that he/she represents the defendant;
3. That the client has expressly waived a formal arraignment and advisement of constitutional and statutory rights, including the defendant’s rights to: confront witnesses, subpoena witnesses, remain silent, and be present in the courtroom at the time of arraignment;
4. That the client has specifically authorized the attorney to act as the client’s agent for the purpose of receiving notice from the court of the pretrial date;
5. That the client and attorney have agreed that notice to the attorney of the pretrial date shall be deemed full, complete, and valid notice to the client;

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6. That the attorney's use of the informal arraignment process constitutes a representation to the Court that the attorney has specifically advised the client that failure of the client to appear timely on the court date set for pretrial may constitute the crime of failure to appear, and a bench warrant may be ordered.

### (c) Informal Arraignment Process

There are two options for informal arraignments: (1) attorney appearance on the defendant's scheduled court appearance date; or (2) submission of the Misdemeanor Informal Arraignment Form by electronic mail, U.S. mail, facsimile, or to the appropriate Clerk's Office location where the case is initially scheduled to be heard.

#### 1. Informal Arraignment by Attorney Appearance

An attorney appearance on the defendant's scheduled court appearance date, if approved by a judicial officer, will allow a pretrial date to be set by the deputy clerk pursuant to Penal Code section 977(a), without having the matter called and addressed on the record.

#### 2. Informal Arraignment by Submission of the Misdemeanor Informal Arraignment Form

At the Court's discretion, attorneys who represent misdemeanor defendants who are not in custody, may arraign their clients by electronic mail, U.S. Mail, facsimile, or by submitting the form at the Clerk's Office location where the case is initially scheduled to be heard. This informal arraignment option can be utilized no later than five (5) court days before the defendant's in-court appearance date.

### (d) Requirements for All Informal Arraignment Requests

1. The Misdemeanor Informal Arraignment Form must be completed in full by the attorney and delivered to the court. The form is available at the court and on the court's website at [www.kern.courts.ca.gov](http://www.kern.courts.ca.gov) by selecting Forms & Filing and Local Forms. Forms submitted in person in the courtroom, at the clerk's office window, or by U.S. Mail, must be submitted in duplicate and must be accompanied by a self-addressed, stamped envelope.
2. If any information requested on the Misdemeanor Informal Arraignment Form is omitted, the form will be rejected and returned to the attorney.
3. A date for pretrial will be set as directed by the Court, with the waiver of time required to participate in the informal arraignment process taken into account. In any case in which the District Attorney's Office has filed an objection to setting an initial appearance past 21 days, the date for pretrial will be set accordingly.
4. The attorney for the defendant may locate the pretrial date set by the Court by accessing the court's website at [www.kern.courts.ca.gov](http://www.kern.courts.ca.gov) by selecting Case Information, selecting Criminal Case Search, and then using the menu for Criminal Case Information and Calendar Schedule.
5. Any bail bond or cash bail posted, cite and release, or own recognizance release must remain in force from the date of the informal arraignment to the next appearance date in the matter. The attorney agrees that any bail bond or cash bail posted, cite and release, or own recognizance release issues are reserved for the next hearing date.
6. For informal arraignments submitted by electronic mail, U.S. Mail, or facsimile, or by submission at the appropriate Clerk's Office, notice of the arraignment will be sent to the attorney by 5:00 p.m. on the court day following the date the Misdemeanor Informal

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Arraignment Form is signed by the judicial officer. If the informal arraignment request is rejected, the defendant and his or her attorney are required to appear in court on the originally scheduled in-court arraignment date.

(e) Failure to Comply

Failure to comply with any of the provisions of this rule may result in the rejection of the informal arraignment request.

Rule 5.1.3 Motions (Effective 7/1/03; rev. 1/1/06; rev. 1/1/15; rev. 1/1/20; renum. 7/1/23)

All criminal matters filed for Law and Motion hearings shall comply with all applicable laws and Rules of Court, including the notice requirement that mandates notice be provided to all opposing counsel, co-counsel, and counsel for all codefendants. If a motion is to be abandoned, notice shall be given to the court as soon as reasonably possible. Business hours for the filing of any paper and court calendars concerning misdemeanor proceedings can be found on the Kern County Superior Court website at [www.kern.courts.ca.gov](http://www.kern.courts.ca.gov).

Rule 5.1.4 Appeal from Electronically Recorded Misdemeanor Proceedings (Effective 7/1/03; rev. 7/1/12; renum. 7/1/23)

Rule 8.868 of the California Rules of Court, is adopted and governs all misdemeanor appeals where the proceedings were electronically recorded.

**Rule 5.2 Felonies** (Effective 7/1/03)

Rule 5.2.1 Case Management (Effective 7/1/03)

Rule 5.2.1.1 Arraignment (Effective 7/1/03; rev. 7/1/04; rev. 1/1/15)

At the initial arraignment, each case will be assigned pre-preliminary hearing and preliminary hearing dates. Probation revocation and exclusion hearings may be set concurrently with the pre-preliminary hearing and preliminary hearing. At arraignment following an order holding the defendant to answer, each case will be assigned motion, readiness and trial dates. Arraignments are held as provided on the Kern County Superior Court website at [www.kern.courts.ca.gov](http://www.kern.courts.ca.gov).

Rule 5.2.1.2 Pre-Preliminary Hearing/Readiness Conference (Effective 7/1/03; rev. 7/1/15)

At the pre-preliminary, and later at the readiness conference, the court will attempt to resolve the cases pending against the defendant.

Rule 5.2.1.3 Motions - Generally (Effective 7/1/03; rev. 7/1/12; rev. 1/1/15; rev. 1/1/20)

Motions are either evidentiary (requiring the presentation of evidence other than declarations or a transcript) or non-evidentiary and are heard pursuant to the Kern County Superior Court website at [www.kern.courts.ca.gov](http://www.kern.courts.ca.gov). Except as otherwise provided by law or order shortening or lengthening time, motions must be filed and served no later than ten (10) court days before the hearing on the motion. Service is required on all opposing counsel, co-counsel and counsel for all codefendants.

Rule 5.2.1.4 Particular Motions (Effective 7/1/03)

Rule 5.2.1.4.1 Motions to Sever/Consolidate (Effective 7/1/03)

Motions to sever counts based exclusively upon the claim that separate classes of crimes are improperly joined must be set on the criminal calendar. All other motions to sever, including those

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based upon Aranda, must be made in the trial court. Motions to consolidate or to sever cases previously consolidated for trial must reflect in their title the number of each case for which consolidation or severance is sought, the applicable motion, trial, and readiness dates, and must also include a proposed amended information. The case number for a consolidated case is the lowest case number of the affected cases.

Rule 5.2.1.4.2 Section 995 (Effective 7/1/03)

Motions pursuant to Penal Code section 995 must refer by page and line to that portion of the transcript upon which the parties rely.

Rule 5.2.1.4.3 Motions to Modify (Effective 7/1/03; rev. 1/1/15)

Except for cases processed pursuant to Penal Code section 1210.10 (Proposition 36) and cases where sentence was imposed after trial, motions to modify sentences must be heard on the criminal calendar. Motions to modify cases processed pursuant to Penal Code section 1210.10 are heard pursuant to the Kern County Superior Court website at [www.kern.courts.ca.gov](http://www.kern.courts.ca.gov).

Rule 5.2.1.4.4 Orders Shortening Time (Effective 7/1/03; rev. 1/1/19)

Applications for orders shortening time must be presented to the Clerk's Office and must include a proposed order providing in substance that service must be made upon opposing counsel no later than \_\_\_\_\_ a.m. /p.m. on \_\_\_\_\_, 20\_\_\_\_; and opposing counsel may file a response no later than \_\_\_\_\_ a.m. /p.m. on \_\_\_\_\_, 20\_\_\_\_, without further order from the Court.

Rule 5.2.2 Calendars (Effective 7/1/03; rev. 1/1/06; rev. 1/1/15)

Business hours for the filing of any paper and court calendars concerning felony proceedings are set forth on the Kern County Superior Court website at [www.kern.courts.ca.gov](http://www.kern.courts.ca.gov).

**Rule 5.3 Rules Applicable to All Criminal Cases** (Effective 7/1/03)

Rule 5.3.1 Appointment of Investigators/Ancillary Services (Effective 7/1/03)

Requests for the appointment of investigators or other ancillary services must be submitted to the Clerk's Office. In capital cases, such requests must be determined by the Presiding Judge. All other requests must be determined by the judge assigned to the criminal calendar, except that such requests made during trial must be made to the trial judge. Requests for funds must be accompanied by counsel's declaration indicating all charges and enhancements then pending, the amount sought, the reasons for that amount, the number and type of applications previously made, and the amount of funding previously ordered. Copies of papers previously submitted which resulted in an order denying funds must be attached to the declaration.

Rule 5.3.2 Evidence Code Section 1017 (Effective 7/1/03)

Appointments made pursuant to Evidence Code section 1017 may be made upon ex parte application. The party obtaining an appointment must serve a copy of the order upon the District Attorney's Office within two (2) court days of the order's date. Proof of service must be filed with the court.

Rule 5.3.3 Release of Evidence/Discovery (Effective 7/1/03)

Upon a written stipulation and for good cause shown, orders may be obtained permitting the release of physical evidence for the purposes of testing, the release of property (other than weapons and contraband) to its lawful owner, and uncontested discovery.

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Rule 5.3.4 1203.4 Penal Code Motions and Associated Motions (Effective 7/1/03)

- (a) A motion for dismissal of a case pursuant to Penal Code sections 1203.4 or 1203.4(a) shall be filed with the court with proof of service on the District Attorney's office. The court will refer the matter to the Probation Department for review and recommendation prior to the hearing on the motion. The moving party shall be required to pay any fees charged by the Probation Department for such review. If the District Attorney's office does not wish to oppose the motion, it may file a notice of non-opposition, and then need not appear at the hearing.
- (b) A motion for the early termination of probation shall be a separate noticed motion filed with the Court.

Rule 5.3.5 Penal Code Section 186.11 Provisional Remedies (Effective 1/1/21)

- (a) Petition Initiating Proceeding Under Penal Code section 186.11
  1. A prosecuting agency seeking one or more of the provisional or protective remedies specified in Penal Code section 186.11(d)(2) must file a petition with the Criminal Division. The petition should be styled as a "Petition to Preserve Assets Under Penal Code section 186.11," or similar designation. The filing of the petition commences a new proceeding. The clerk's office will assign the petition an "FP" case number.
  2. The petition must contain the allegations required under Penal Code section 186.11(d)(2), including the specific assets and property to be affected by an order under Penal Code section 186.11.
- (b) Case Designation. All notices, applications, pleadings, claims, supplemental petitions, and papers filed in the proceeding under Penal Code section 186.11 must list the assigned "FP" case number on the front page of the filing, and must also list the criminal proceeding case number to which it is pendent, e.g., "Case no. FP00000X [Pendent to BF00000X]."
- (c) Order to Disclose Account Information; Supplemental Petition
  1. A prosecuting agency seeking an order requiring the disclosure of account information under Penal Code section 186.11(d)(S) must file an application for the order, which may be filed ex parte. The application should be styled as "Application for Order Disclosing Account Information Under Penal Code section 186.11(d)(S)," or similar designation. A proposed order must accompany the application. The application and proposed order will be submitted to a judge for review and action.
  2. A supplemental petition identifying account information must contain the information required by Penal Code section 186.11(d)(S). A supplemental petition should be styled as a "Supplemental Petition Identifying Account Information," or similar designation, and successive supplemental petitions should indicate if previous supplemental petitions have been filed, e.g., "First Supplemental Petition Identifying Account Information," "Second Supplemental Petition Identifying Account Information," etc.
- (d) Verified Claim by Person Claiming Interest in Property. Any claim that is filed by a person who claims an interest in assets or property described in a petition, supplemental petition, or order granting provisional or protective relief, must be verified. A verified claim must describe the asset or property in which the person claims an interest, and state the nature and amount of that interest. A verified claim submitted to the court for filing should be styled as "Claim of [name of claimant] Asserting Interest in Property." A verified claim submitted to the court for filing must be accompanied by a proof of service on the prosecuting agency.

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- (e) Hearing on Motion or Order to Show Cause ("OSC") re: Preservation of Property; Temporary Restraining Order ("TRO")
1. Concurrent with or subsequent to the filing of a petition under Penal Code section 186.11(d)(2), a prosecuting agency may schedule a hearing to obtain one or more orders described in Penal Code section 186.11(e) by: (a) serving and filing a noticed motion, or (b) obtaining from the court and serving an order to show cause ("OSC"). Hearing dates on noticed motions must be cleared with the Criminal Division before the motion is filed. An OSC may issue upon application to the court, which must describe the relief sought and applicable legal authority. An OSC may be issued ex parte, and the application must be accompanied by a separate proposed order. The proposed order should be styled as "Order to Show Cause re: Preliminary Injunction," or similar applicable designation, and should leave space for the court to insert the date, time and place of the hearing.
  2. Pending the hearing on the noticed motion or OSC to obtain one or more of the orders described in Penal Code section 186.11(e), a temporary restraining order ("TRO") may issue, ex parte, upon application of the prosecuting agency. The application for a TRO must consist of: (a) an application describing the relief sought and applicable legal authority, (b) the sworn declaration of a peace officer required by Penal Code section 186.11(f)(1), and (c) the proposed TRO. Because the TRO is issued "pending" the hearing, it is limited in duration. The proposed TRO must include provisions that it is issued "pending the hearing on" the motion or OSC, and that the TRO "expires on" the date set for hearing on the motion or OSC, "unless the expiration date is extended by court order." If the TRO is sought concurrently with the application for an OSC, the TRO may be included as part of the OSC.
- (f) Request for Hearing by Defendant or Claimant
1. A defendant or a claimant who has filed a verified claim, who seeks a hearing under Penal Code section 186.11(f)(2) to determine if a TRO should remain in effect, or if other relief should be granted, must serve on the prosecuting agency and file with the court a request for hearing.
  2. The defendant or claimant should contact the Criminal Division clerk to clear a hearing date.
  3. The request for hearing should be styled as a "Request for Hearing by [name of person making request] Under Penal Code section 186.11(f)(2)," or similar designation, and must include the hearing date obtained from the Criminal Division clerk.

Rule 5.3.6 Police Reports Concerning Confidential Personal Information (Effective 7/1/21)

In accordance with Penal Code section 964 and the public policy set forth therein, prosecutors and law enforcement agencies should not submit police reports, arrest reports, or investigative reports containing "confidential personal information" (as defined in subd. (b) of Penal Code section 964) of victims or witnesses to the court in support of a criminal complaint, indictment, or information, or in support of a search or arrest warrant. Rather, prosecutors and law enforcement agencies should present the court with written declarations from law enforcement officers that are devoid of this confidential personal information.

In the alternative to providing declarations to the court, the parties may submit copies of police reports, arrest reports or investigative reports that are redacted of all "confidential personal information" of victims and/or witnesses. The redacted copies of these reports provided to the court

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must be attached to a declaration attesting to the fact that all “confidential personal information” of victims and/or witnesses has been effectively redacted from the reports.

The Court will not undertake the task of redacting any confidential personal information of victims or witnesses from documents submitted for the Court’s consideration. The burden to ensure that this information is not included within any documents presented falls squarely on the agencies preparing and presenting them to the court. In this respect, the Court may exercise its discretion to accept or reject a police, arrest, or investigative report containing confidential personal information that is submitted in support of a criminal complaint, indictment, or information, or in support of a search or arrest warrant.

Rule 5.3.7 Access to Previously Filed Reports in Criminal Cases by Counsel of Record (Effective 1/1/23)

Prior to a hearing on (1) resentencing, (2) a request that prior serious felony enhancements be stricken, or (3) a petition for the issuance of a certificate of rehabilitation, and if a proper request to review the court file, including any reports previously filed by the probation officer or psychologist, the attorney for each party is deemed authorized by law, pursuant to Penal Code section 1203.05(d), to inspect and receive a copy of any probation report(s) or mental health report(s) pertaining to the petitioner.

Upon a request submitted to the Clerk’s Office, and without further order of the Court, such reports will be provided to the petitioner’s attorney of record and the Office of the Kern County District Attorney. The reports received by counsel shall not be released to the public, and standard court costs and fees for the production of documents will apply.

Rule 5.3.8 Bail Schedule (Effective 1/1/23)

Under Penal Code section 1269(b)(d), the Presiding Judge may appoint a committee of judges to prepare, adopt, and annually revise the uniform countywide schedule of bail for all bailable felony offenses and for all misdemeanor and infraction offenses except Vehicle Code infractions. The bail schedule will be deemed adopted by the Court upon approval by a majority of the judges appointed to the committee at the time of review. The schedule will be effective on the date adopted or as specified by the approving judges.



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**Chapter VI. Family Law Rules**

**Preamble** References in these rules to Orders to Show Cause and Motions shall also be deemed to apply to Requests for Orders. (Effective 1/1/3)

All parties and attorneys in family law proceedings are expected to be familiar with and to comply with California Rules of Court, rule 5.83 and the procedural milestones set forth therein.

**Rule 6.1 Case Assignments and Reassignments** (Effective 7/1/23)

- (a) Notice of Assignment and Service of Notice. New cases are assigned to a specific judicial officer for all purposes. The litigant will receive a Notice of Case Assignment when the case is filed. A copy of this notice must be served on the parties with the case initiating documents. Assignments of family law cases are for all purposes within the meaning of Code of Civil Procedure section 170.6(a)(2). Assignments of family law cases as a result of a disqualification, recusal, or unavailability of another judicial officer will be assignments for all purposes within the meaning of Code of Civil Procedure section 170.6(a)(2).
- (b) Reassignment. Nothing in these rules shall prevent the court from reassigning a case to a different judge, in which case the court shall notify the parties of the assignment.
- (c) Reassignment Due to Change of Judicial Officer in a Department. All family law case reassignments initiated by the court as a result of the change of a judicial officer in a department, are posted online and also on the courthouse electronic monitors or in the courthouse lobbies, and will be noticed through the court's case management system at least 30 days in advance of the reassignment. The court will mail case-specific notice to all self-represented litigants.

**Rule 6.1.1 Pleading Filed by Self-Represented Litigants – Pleading Prepared by Third Parties** (Effective 7/1/03; rev. 1/1/17; rev. 1/1/20; renum. 7/1/23)

Parties who retain the services of non-attorney third parties (e.g.: typing services or paralegals) to prepare their pleadings must submit a declaration to the court with the following information: (Effective 7/1/03; rev. 1/1/20)

- (a) Name, including Doing Business As (DBA) and Legal Document Assistant (LDA) number, address, and telephone number of person preparing the pleadings;
- (b) Amount of compensation paid to third party for the preparation of the pleadings; and
- (c) Authorization pursuant to Family Code section 7643, if access to Confidential Uniform Parentage Act action is requested.

**Rule 6.1.2 Forms of Documents Presented for Filing** (Effective 1/1/10; rev. 1/1/17; rev. 1/1/20; rev. 7/1/22; rev. 1/1/23; renum. 7/1/23)

- (a) All pleadings shall comply with California Rules of Court, rule 2.100, et. seq., 2.256(b), and 3.1110, et. seq. All documents and/or pleadings submitted in which a matter is set for hearing must specify the division, hearing date, and time underneath the title of the document and/or pleading. (Effective 1/1/10; rev. 1/1/17; rev. 1/1/20; rev. 1/1/23)
- (b) Unless they are submitted by a self-represented party, exhibits must comply with Rule 3.1110(f), which requires electronic bookmarks with links. Where there is a single attachment or exhibit, the index requirement is inapplicable. All documents must contain a titled cover

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sheet between attachments, schedules, and/or exhibits. (Effective 1/1/10; rev. 1/1/17; rev. 1/1/23)

- (c) The page limits set forth in California Rules of Court, rule 5.111 shall not apply to evidentiary attachments to pleadings or to the submission of exhibits to be used at any hearing in which at least one of the parties is appearing remotely. A party may apply to the court ex parte, with written notice of the application to the other parties, for permission to exceed the page limitation in rule 5.111. The application must state reasons why the additional are necessary. Parties should not attach copies of pleadings already contained in the Court file to any new pleading. (Effective 1/1/20; rev. 7/1/22)
- (d) The Court shall endorse and/or conform up to three (3) copies of all submitted documents for filing. (Effective 1/1/10; rev. 1/1/17; renum. 1/1/20)

**Rule 6.1.3** Obtaining a Hearing Date (Effective 1/1/10; rev. 1/1/17; renum. 7/1/23)

Hearing dates are obtained at the time of the submission of motions, including, but not limited to Orders to Show Cause, Notices of Motion, or Requests for Order. Hearing dates are assigned by the Court.

**Rule 6.1.4** Qualified Domestic Relations Order (QDROs) (Effective 1/1/20; renum. 7/1/23)

No Qualified Domestic Relations Order (QDRO) may be submitted for approval unless the order includes a signature by a plan representative approving it, or there is documentation that the plan has approved the order.

**Rule 6.2** **Result of Failure to Comply with Rules** (Effective 7/1/03)

Failure of a party or parties to comply with these rules may result in one or more of the following on the request by the other party or on the court's own motion:

- (a) Removal of the matter from the calendar;
- (b) A continuance;
- (c) An award of attorney's fees and costs against the non-complying party, the party's attorney, or both, without the necessity of filing an Income and Expense Declaration, or any noticed motion;
- (d) An order based solely upon the pleadings properly before the court; and
- (e) Such other orders as the court deems appropriate.

**Rule 6.3** **Continuances** (Effective 7/1/03; rev. 1/1/07; rev. 7/1/14)

**Rule 6.3.1** Request for Orders, Orders to Show Cause, and Motions (Effective 7/1/03; rev. 7/1/10; rev. 7/1/18)

- (a) Notice of a request for continuance must be given to the other party at the earliest opportunity. If a written notice is not presented to the adverse party at least three (3) court days prior to the date set for the hearing and a continuance is granted, an award of attorney fees may be ordered to the nonmoving party.
- (b) Continuance of Request for Orders, Orders to Show Cause, and motions by stipulation may be presented in written form to the Clerk's Office prior to the hearing date or may be requested

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orally of the court at the time set for the proceeding, provided counsel for all parties are present. (Effective 7/1/03; rev. 7/1/18)

- (c) Stipulations for Continuances may be presented on the date of the hearing so long as all counsel or self-represented litigants have signed. In such cases, not all parties or counsel need to be present and no filing fees will be required for stipulations so presented and submitted on the date of hearing. (Effective 7/1/03; rev. 7/1/10)

**Rule 6.3.2** Trial (Effective 7/1/03)

Any request for a continuance of a trial date shall be submitted in written form signed by the attorney, the party, or both. In the event of a stipulation to continue the trial date, both counsel must sign the stipulation. The proposed stipulation must be accompanied with a detailed explanation of the reason for the continuance. The stipulation must be submitted to the Family Law Department not less than five (5) days before the trial date. The new date must be approved by the Court before the Stipulation is submitted.

**Rule 6.3.3** Calendar Conflicts (Effective 7/1/03; rev. 1/1/06)

In the event of a calendar conflict preventing or delaying a hearing, the attorney with the conflict shall notify the Court and, to the extent possible, the opposing counsel or unrepresented party, at the earliest opportunity. If notice is not given, the Court may award attorney's fees.

**Rule 6.3.4** Attorney Late Line Call-In Protocol (Effective 1/1/07; rev. 7/1/09; renum. 1/1/13)

See Rule of Court 1.1.2, page 1.

**Rule 6.3.5** Remote Court Appearances (Effective 3/7/22)

- (a) Remote proceedings other than an evidentiary hearing or trial.  
A party wishing to appear remotely in any Family Law proceeding other than an evidentiary hearing or trial, including conferences and law and motion hearings, is permitted to appear via Zoom without advance notice to the court or other parties. By appearing remotely those persons will be deemed to have requested a remote appearance. Instructions for accessing the court's Zoom account can be found on the court's website. Each judicial officer retains the discretion to require a party to appear in person at a conference, hearing, or proceeding, as authorized by Code of Civil Procedure section 367.75.
- (b) Remote proceedings for an evidentiary hearing or trial.  
Remote proceedings for evidentiary hearings or trials in all divisions shall be noticed and conducted as authorized by Code of Civil Procedure section 367.75 and California Rules of Court, rule 3.672.
- (c) Remote civil proceedings in Department of Child Support Services cases in Division A of the Metropolitan Division of the Superior Court are limited to telephonic appearances.
- (d) This rule shall be in effect until **January 1, 2026**.

**Rule 6.4** **Ex Parte Matters** (Effective 7/1/03; rev. 7/1/09)

Ex Parte matters are noticed in the Family Law Division.

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- (a) Ex Parte hearings must be set in matters requesting residence exclusion, change of custody, or a substantial change in current visitation orders.
- (b) Notice shall be given to all counsel and all opposing parties, if not represented by counsel, by 10:00 a.m. the court day before the scheduled hearing. All paperwork for the Ex Parte hearing shall be returned to the clerk by 12:00 p.m. the court day before the scheduled hearing.
- (c) This rule shall not apply to matters filed under the Domestic Violence Act. (Effective 7/1/09)

**Rule 6.5** **Return of Service** (Effective 7/1/03; rev. 7/1/18)

- (a) Requests for Orders, Orders to Show Cause, and Notices of Motion shall be calendared when filed. Proof of service must be filed before the matter is called. If there is no proof of service filed, yet both parties appear and agree to proceed, the court, in its discretion, may hear the matter.
- (b) If a party receives cash aid such as CalWORKs/TANF or Medi-Cal, and a Request for Order, Order to Show Cause, or Notice of Motion is filed relating to child support, the moving party must serve a copy of their moving papers on the Department of Child Support Services (local child support enforcement agency).
  - 1. Prior to filing an enforcement motion, the obligee must comply with the requirements of Family Code section 17404. (Effective 7/1/2018)

**Rule 6.6** **Confidential Documents** (Effective 1/1/13; rev. 7/1/18)

All documents obtained from any juvenile case file or from any child welfare agency must be treated as confidential by all parties and attorneys in accordance with Welfare and Institutions Code sections 827, 827.10, and California Rules of Court, rule 5.552. Any party who seeks to file with or present to the Family Court any juvenile case or child welfare agency document or record must first present a request to file such documents under seal. Any pleading filed with the Family Court which attaches, recites, or quotes from any juvenile case or child welfare agency record without a prior request and order to file under seal, may be stricken from the Family Court file or ordered to be placed in a confidential portion of the file.

- (a) It is the responsibility of the person filing the document to redact confidential information or to utilize the Confidential List of Identifiers form pursuant to California Rules of Court, rule 1.201. (Effective 7/1/18)

**Rule 6.7** **Stipulations** (Effective 7/1/03; rev. 1/1/10; rev. 1/1/13)

Written stipulations resolving all or part of issues to be litigated are encouraged and have priority. While a matter is trailing, the court should be kept informed of the status of settlement negotiations.

- (a) Written stipulations resolving all or part of issues to be litigated are encouraged and have priority. While a matter is trailing, the court should be kept informed of the status of settlement negotiations.
- (b) Stipulated Judgments or Judgments containing a Marital Settlement Agreement must include signatures from all parties and their respective attorneys, if any. Parties and/or Counsel may waive signatures and submit the terms of a stipulated Judgment on the record pursuant to Code of Civil Procedure section 664.6. (Effective 1/1/10)
- (c) Parties requesting to vacate or otherwise terminate personal conduct or stay-away orders issued under the Domestic Violence Prevention Act cannot do so by Stipulation and must file

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a noticed motion and appear before the Court to request relief. (Effective 1/1/10)

**Rule 6.8 Case Status Conferences, Family Centered Case Resolution, and Settlement Conferences**  
(Effective 1/1/13)

These rules apply to all cases filed after January 1, 2013, seeking Dissolution of Marriage; Nullity; Legal Separation; Termination of Domestic Partnership; and establishment of paternity under the Uniform Parentage Act. The parties and attorneys are expected to comply with the procedural milestones set forth in California rules of Court, rule 5.83.

**Rule 6.8.1 Status Conference** (Effective 1/1/13)

- (a) When the Petition is filed, the Clerk of the Court shall set an initial Status Conference in approximately 180 days. The notice of the initial Status Conference date shall be provided to the Petitioner at the time the Petition is filed. The Petitioner shall serve a copy of the Notice on the Respondent along with the Petition.
- (b) If the Response is filed after the initial Status Conference, the Court shall provide to all parties notice of the next Status Conference. If the next Status Conference is set more than 90 days after the Response is filed, the Court may advance the Status Conference to a date that is closer to 60 calendar days after the Response is filed.
- (c) If the Petition has been served and proof of service filed, a Response has been filed or default entered, and Preliminary Declarations of Disclosure have been served, any party may file a Request and Order to Change Status or obtain a Case Resolution Conference Date and request a new Status Conference date or a Family Centered Case Resolution Conference (FCCRC). Preliminary Declarations of Disclosure are not required in cases filed under the Uniform Parentage Act. In any action, if a final and complete Judgment has been entered, the Status Conference will be vacated.
- (d) The purpose of the Status Conference is to review the status of the case and progress toward resolution, including whether the procedural milestones described in California Rules of Court, rule 5.83, subd. (c)(4), have been met.
- (e) At the Status Conference the Court may do any of the following:
  - 1. Refer the case to mediation;
  - 2. Consider the procedural steps to reach disposition in the case;
  - 3. Set time limits and deadlines, including but not limited to service of process and filing proof of service, entry of default, service of preliminary declarations of disclosure, or submission of judgment;
  - 4. Appoint an attorney for a minor child upon the stipulation of the parties or schedule a hearing for this issue to be considered;
  - 5. Schedule a FCCRC, hearing, or trial on all or some issues;
  - 6. Schedule a further Status Conference;
  - 7. Put on the record stipulations of the parties resolving all or some of the issues in the case, and terminate the marital status if the parties are in agreement and all appropriate milestones have been met;

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8. Take any other actions permitted by law that would promote a just and efficient disposition of the case.
- (f) Attorneys and self-represented parties shall attend each Status Conference unless excused in advance by the Court, the case has been dismissed, or a Judgment resolving all issues has been filed. Parties who are represented by an attorney are not required to attend a Status Conference unless ordered by the Court to appear.
  - (g) Appearance at a Status Conference may be made via teleconference, provided that the party or attorney has made arrangements with CourtCall, LLC, for such an appearance and that the Court has not ordered the party or attorney to appear in person. At least ten calendar days before the scheduled Status Conference, the attorney or party must arrange for the telephonic appearance and pay the required fee for CourtCall's services. On the day of the Status Conference, those appearing by telephone must call the toll-free conference line designated by CourtCall at least five minutes before the Status conference.
  - (h) If the procedural milestones described in California Rules of Court, rule 5.83, subd. (c)(4), have not yet been met, the Status Conference will be continued for no more than 60 days upon a showing of due diligence by the Petitioner.
  - (i) If no party appears at a scheduled Status Conference without leave of Court obtained in advance, a further Status Conference will be scheduled. The Clerk shall provide notice of the Status Conference, notifying the parties that if they fail to appear at the next Status Conference, the case may be subject to dismissal. If both parties fail to appear at the next Status Conference, notice will be given that the case is subject to dismissal unless identified action is taken.
  - (j) Parties who are participating in mediation or who are actively negotiating a settlement of their case will be exempt from the Status Conference for 180 days, if they file notice of the same with the Court. If the Judgment or a Request for Dismissal is not filed within 180 days of the filing of the notice, the Court will proceed with the Status Conference.
  - (k) Parties who are attempting reconciliation will be exempt from the Status Conference for 180 days, if they file notice of the same with the Court. If a Judgment or Request for Dismissal is not filed within 180 days of the filing of the notice, the Court will proceed with the Status Conference.

Rule 6.8.2 Family Centered Case Resolution Conference (Effective 1/1/13)

- (a) Attendance at the Family Centered Case Resolution Conference (FCCRC) is mandatory. Personal appearance by the parties and attorneys is encouraged. However, if a party is out of state or must travel long distances to attend the FCCRC, consideration will be given to allow the party to appear by counsel or telephonically, if the party is self-represented.
- (b) At the FCCRC the Court may set the matter for further FCCRC, Status Conference, Settlement Conference, or Trial and a Mandatory Settlement Conference.

Rule 6.8.3 Mandatory Settlement Conference (Effective 1/1/13; rev. 7/1/18)

- (a) When a matter is set for trial, a Mandatory Settlement Conference will be scheduled 30-60 days prior to the trial. (Effective 1/1/13; rev. 7/1/18)
- (b) At least five (5) days prior to the Mandatory Settlement Conference, the parties shall exchange and file current Income and Expense Declarations and a Settlement Conference Statement that identifies all issues in detail, and that party's position with respect to each issue in all cases

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involving monetary issues. The Settlement Conference Statement shall include points and authorities, if appropriate. An updated Income and Expense Declaration will not be required if there are no remaining issues of child support, spousal support, or attorneys' fees.

- (c) A request to continue a settlement conference is within the discretion of the court and requires a showing of good cause.

**Rule 6.9 Appointment of Expert Witnesses** (Effective 7/1/03; rev. 1/1/13)

Requests for costs for appraisers, accountants and experts will not be considered in the absence of a specific showing by declaration of the need for expert assistance, and the projected cost of the examination requested. Projected costs must be established by the declaration of the expert, which must include a general breakdown of anticipated costs.

**Rule 6.10 Child Custody and Visitation** (Effective 7/1/03; rev. 1/1/13; rev. 7/1/18; rev. 1/1/20)

- (a) In all original and subsequent proceedings where child custody, visitation, or both, are issues, the parties must attach a completed Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) form. A party has a continuing duty to file an updated UCCJEA form and have it served on the other party if he or she obtains additional information (Effective 7/1/03; rev. 1/1/20)
- (b) Before a hearing involving a disputed issue of custody, visitation, or both, the parties must meet with a mediator at Family Court Services.
- (c) The mediation session is private and confidential. Statements made during mediation by the mediator, or by any party, are inadmissible in future hearings. Use of an audio or visual recording device of any type is not permitted during a mediation session. (Effective 7/1/03; rev. 1/1/20)
- (d) No party or attorney for a party shall initiate contact with a mediator, orally or in writing, to discuss the merits of the case without notice to the other party and an opportunity to be present or to receive a copy of a written communication. (Effective 1/1/20)
- (e) Nothing in this rule restricts any person from reporting or serving as a witness where a crime has been committed, or is alleged to have been committed, in his or her presence. (Effective 1/1/20)
- (f) Nothing in this rule restricts Family Court Services staff from complying with any law requiring reporting of child abuse and the fact that such a report was made or exists shall not be deemed confidential. (Effective 1/1/20)
- (g) Nothing in this rule restricts Family Court Services staff from complying with any law requiring the disclosure of information if a mediation participant presents a danger to him/herself or to another person. (Effective 1/1/20)
- (h) Children over eight (8) years of age must attend the mediation session and be interviewed by the mediator. In addition to the child(ren), only the parent or the parties named in the action may be present in the mediation session. (Effective 7/1/03; rev. 1/1/20)
- (i) In the event mediation does not result in an agreement, the mediator shall make no recommendation to the court about custody and visitation. The mediator may not be called as a witness. (Effective 7/1/03; rev. 7/1/18; renum. 1/1/20)

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- (j) The mediator may recommend to the court that counsel be appointed to represent a minor, and the mediator may inform the court of the reason the appointment of counsel is recommended. If the parties have not reached an agreement upon completing mediation, the mediator may recommend that a full or partial custody investigation be conducted by Family Court Services. If a partial custody investigation is recommended, the mediator shall identify the issues to be investigated. (Effective 7/1/03; rev. 7/1/18)

**Rule 6.11**

**Custody Investigations by Family Court Services** (Effective 7/1/03; rev. 1/1/13; rev. 7/1/18; rev. 7/1/21; rev. 1/1/22; **rev. 1/1/24**)

- (a) When directed by the court, a Family Court Services investigator must conduct a full or partial custody investigation and file a confidential written report and recommendation. All evaluations and written reports must comply with California Rules of Court, rule 5.220(f) and (g). (Effective 7/1/03; rev. 7/1/18; rev. 7/1/21)
- (b) Questionnaires must be submitted to the investigator within ten (10) days of the court's order referring the matter for evaluation.
- (c) The parties must disclose the existence of any related case involving either of the parties or the minor children of the parties. Examples of related cases include family law, guardianship, domestic violence, criminal, and/or juvenile cases involving a minor child of one or both of the parties. This information shall be provided to the court by filing a Confidential-Party Identification and Notice of Related Case(s) (local mandatory form KRN CRT FL-0122). The court must maintain the form as confidential and shall require a court order to release said information at any time to any party. (Effective 1/1/22)
- (d) A completed Confidential-Party Identification and Notice of Related Case(s) must accompany every Family Law case-initiating pleading and any ex parte applications. This document is to be filed with the court. It is not to be served on any party. (Effective 1/1/22)
- (e) Nothing in this rule shall prevent an investigator from reporting to the Court the existence of another court case involving minor child(ren) at issue or their parent, stepparents, or legal guardians, for the purposes of coordinating court hearings and delivery of services. (Effective 1/1/22)
- (f) Family Court Services mediations and investigations shall be held in private and shall be confidential. All communications, both verbal or written, made by the parties to the mediator/investigator during the investigation are deemed confidential. Family Court Services staff will not release information to any individual, except as authorized by the Court or statute. (Effective 1/1/22)
- (g) It is the responsibility of the Court to assure that Family Court Services investigators and mediators adhere to the minimum qualifications, training, continuing education, and experience requirements as set forth in the California Rules of Court, rule 5.225. The Court's Human Resources Department will maintain a record of all required training. (Effective 1/1/22)
- (h) Family Court Services investigators and mediators must document that they meet the qualifications and training requirements by submitting Judicial Council form FL-325 (Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications), to the Court. The FL-325 will be submitted: (1) within 10 days of the appointment; (2) prior to initiating evaluation services on a case; and (3) annually by January 1st of each year. The Court's Human Resources Department will maintain the FL-325 forms. (Effective 1/1/22)



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- (i) The witness fee required for a Family Court Services investigator is set under Government Code section 68097.2 and must be paid in the Family Law Department before serving the subpoena. Witness fees will not be required from requesting parties with a valid fee waiver or from court appointed counsel compensated by the County of Kern. (Effective 1/1/24)

**Rule 6.12 Family Law Facilitator** (Effective 7/1/03; rev. 1/1/07; rev. 1/1/13)

- (a) The services of the Office of the Family Law Facilitator are available to all unrepresented parents and parties at times and dates as set by the Family Law Facilitator. (Effective 7/1/03; rev. 1/1/07)
- (b) When performing duties under the Family Law Facilitator Act (Family Code section 10000, et. seq.) and specifically Family Code section 10004, the duties of the Facilitator may include any or all of the duties set out in Family Code section 10005, as designated by the court and subject to adequate funding. (Effective 1/1/07)
- (c) The Court may assign duties to the Facilitator outside the scope of the Family Law Facilitator Act if funding other than AB 1058 funding is available to expand the Facilitator's services. (Effective 1/1/07)
- (d) Neither the Family Law Facilitator nor their staff may be called as a witness. (Effective 1/1/07)

**Rule 6.13 Judicial Council Form-191 Child Support Case Registry** (Effective 1/1/07; rev. 1/1/13)

- (a) Any submission of a Findings and Order After Hearing or Judgment containing an initial order or modification of child or family support must include a completed Judicial Council Form-191 Child Support Case Registry form with the order.
- (b) Any change to a party's information previously submitted through the Child Support Case Registry form must be resubmitted with the completion of an updated Child Support Case Registry form within ten (10) days of the change.
- (c) Parties shall not be required to submit this Form-191 if the Department of Child Support Services is currently involved in the collection of support.

**Rule 6.14 Counsel for Minor Children** (Effective 1/1/10; rev. 7/1/11; rev. 1/1/13; rev. 7/1/18)

**Rule 6.14.1 Qualifications** (Effective 1/1/10; rev. 7/1/11; rev. 1/1/13; rev. 7/1/18)

Any and all attorneys accepting appointments as counsel for minor children in family law proceedings must lodge with the Family Law Department proof of their qualifications pursuant to California Rule of Court, rule 5.242 by filing the required Judicial Council Form FL-322 in the appointed case within ten (10) days after appointment.

**Rule 6.14.2 Termination of Appointment** (Effective 1/1/10; rev. 7/1/11; rev. 1/1/13; rev. 7/1/18)

An attorney appointed as minor's counsel may be relieved as attorney of record by a Judicial Officer following disposition of the matter in Court. If an attorney appointed as minor's counsel wishes to withdraw from a proceeding as attorney of record for the minor and has not been previously relieved by a Judicial Officer, he or she must file a motion seeking such relief.

**Rule 6.14.3 Complaint Procedure** (Effective 7/1/11; rev. 1/1/13)

In a family law proceeding in which the Court has appointed counsel for a minor child or children, any party or attorney for a party in the action or the minor child may present a complaint about the

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performance of appointed counsel. The complaint must be in writing, fact specific, and filed and served on all counsel and self-represented parties. A copy of the complaint with proof of service on all attorneys and self-represented parties must be delivered to the Supervising Family Law Judge in care of the Judicial Secretary. The Supervising Family Law Judge or his or her designee shall review the complaint and respond by doing one of the following:

- (a) Issuing a written response to the complaint, which will be provided to the complainant and to all attorneys and self-represented parties, and to the assigned bench officer in the case, if any;
- (b) Requesting a written response or written comments from the other attorney(s) or self-represented party(ies);
- (c) Investigating the complaint;
- (d) Setting a hearing on the complaint.

**Rule 6.15 Collaborative Law Cases** (Effective 7/1/10; rev. 1/1/13)

**Rule 6.15.1 Contested Matters** (Effective 7/1/10; rev. 1/1/13)

It is the intent of the Collaborative Law Process that, no contested matters shall be filed with the Court in matters designated as Collaborative Law Cases.

- (a) “Contested Matters” filing is defined as the filing of an at-issue memorandum or any pleading, motion, or order to show cause requesting that the court resolve an issue of fact or law. The filing of a Petition, or Response, a stipulated order, or a Request to Enter Default where the issues subject to disposition by the Court in a proceeding are the subject of a written agreement, shall not be considered a contested matter.

**Rule 6.15.2 Designation** (Effective 7/1/10; renum. 1/1/13)

- (a) A case may be designated a “Collaborative Law Case” upon the filing of a signed a written Collaborative Law Agreement that provides for 1) a full exchange of information, 2) the withdrawal of the collaborative attorney (whether or not said attorney is of record) upon the termination of the collaborative law process, 3) the joint retention of any consultants needed to assist the parties in the Collaborative Law Process, unless otherwise authorized by the written agreement of the parties, and 4) the agreement by the parties to use their best efforts and make a good faith attempt to resolve family law disputes without resorting to adversary judicial intervention.
- (b) The words “Collaborative Law Case” shall be placed below the case number in the case caption on all documents filed with the Court.
- (c) Attorneys representing parties to a Collaborative Law Case may be, but are not required to be of record.

**Rule 6.15.3 Terminations/Filing of Contested Matters** (Effective 7/1/10; renum. 1/1/13)

- (a) Either party may terminate the designation of a case as a Collaborative Law Case without cause by either providing a written notice of such termination to the other party and filing with the court the original notice of termination and a proof of service upon the other party.
- (b) The filing of a contested matter by either party shall also terminate the designation for the case as a Collaborative Law Case, effective on the date of such filing.

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- (c) Upon termination of the Collaborative Law Case designation, any party's attorney's status as attorney of record shall terminate without further notice.
- (d) The filing by an attorney of record of a motion to withdraw from a Collaborative Law Case does not terminate the designation of a Collaborative Law Case.

**Rule 6.16 Failure to Comply with Rules** (Effective 1/1/13)

Any failure to comply with these rules may result in the issuance of an order to show cause why sanctions, including monetary sanctions, issue sanctions, evidence sanctions, or terminating sanctions, should not be imposed.

**Rule 6.17 Title IV-D Support Actions** (Effective 1/1/13)

**Rule 6.17.1 Meet and Confer Requirement** (Effective 7/1/12; rev. 1/1/13)

Prior to the hearing of any matter on the IV-D calendar, all attorneys and self-represented parties must in good faith participate in a "meet and confer conference" with an attorney or other representative designated by the Chief Attorney of the local child support agency in Room 300 of the Justice Building. The purpose of the "meet and confer conference" is for the parties to identify and narrow issues that will require a hearing, exchange and review documentary evidence, and attempt to resolve the issues of the matter by stipulated agreement.

This rule does not apply to hearings regarding motions or requests to modify or quash income withholding orders or health insurance assignments, requests for issuance of a SLMS release, or to persons who are appearing telephonically.

**Rule 6.18 Elisor Signatures by Clerk of Court** (Effective 1/1/17)

- (a) The Clerk of the Court is assigned the duty of Elisor signatures required or arising from orders made pursuant to Family Code section 1101.
- (b) The Clerk of the Court shall not execute any document or otherwise participate in the enforcement of community property orders issued pursuant to Family Code section 1101, prior to the expiration of the time to appeal in California Rule of Court, rule 8.104.
- (c) On noticed motion, the Court may find good cause exceptions to this rule.
- (d) Elisor signatures by the Clerk of the Court shall be limited to affect only real property found in the State of California.
- (e) The following shall be submitted for review by the Clerk of the Court prior to execution of documents:
  - 1. Original Interspousal or other deed/title for signature by Clerk of the Court;
  - 2. Relevant fees assessed by the Court;
  - 3. A filed order or judgment awarding the property, which order or judgment includes the legal description and APN of the property; awarding the property to the party requesting signature; and ordering the Clerk of the Court to sign forthwith on behalf of a party due to that party's noncompliance with the order or judgment;
  - 4. The original deed to property at issue;
  - 5. A copy of the current tax bill; and

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6. Proof of compliance and/or enforcement attempts.

- (f) The Court does not provide notary services. Notary services and arrangements for the same are the responsibility of the party requesting services.

**Rule 6.19 Temporary Spousal Support** (Effective 7/1/18)

In determining the proper amount of temporary spousal support, the court may use the Santa Clara Guidelines.

**Rule 6.20 Specialized Filings** (Effective 7/1/18)

- (a) For purposes of this rule, the following filings shall be deemed specialized filings within the Family Law Division of the Kern County Superior Court.
1. Petitions to Declare Minors Free from Parental Custody/Control-FC 7800 et seq. PrC 1516.5;
  2. Petitions to Terminate Parental Rights-FC 7660 et seq.;
  3. Adoptions-FC 8500 et seq. including but not limited to Step Parent Adoptions; Relative Adoptions, Independent Adoptions, Agency Adoptions, InterCountry/Foreign Adoptions; Adult Adoptions;
  4. Petitions to Establish Parentage-Surrogacy FC 7960 et seq.
- (b) Petitions filed under this part shall contain complete party/minor(s) legal names listed consistently throughout all filings. Parties list birth names in their entirety to include first name, middle name, surname, married/maiden name. Initials shall not be acceptable in filings. Parties include, but are not limited to, Citee(s), Objector(s), Biological Parent(s), Adopting Parent(s), Child(ren), and Petitioner(s)/Respondent(s).
- (c) Upon filing of these specialized Petitions, parties shall lodge a certified copy of Birth Certificate for the minor(s)/adult(s) subject to the applicable proceedings. This rule does not apply to surrogacy related filings.
- (d) Upon filing a Petition to Establish Parental Obligations involving Surrogacy Agreements, the Surrogacy Agreement/Gestational Contract shall be lodged with the Court. The agreement/contract will be returned upon final disposition to the submitting party.
- (e) Self-Represented Parties shall notarize their signature within specialized Petitions filed under this part.
- (f) Filings under this section shall be deemed confidential as provided by their respective statutory authority. Prior to case disposition, only parties allowed by Statute may obtain case information. Following case disposition, the matter shall be deemed sealed and no information shall be provided to parties or those affected within the case without obtaining leave of Court. The exception to this rule: Petitioners/Citee/Adoptive Parent(s) or their respective counsel may obtain a copy of the Final Order upon verification of Identification.

**Rule 6.21 Processing and Maintaining Reports and Declarations from Supervised Visitation Providers** (Effective 7/1/21; rev. 1/1/22)

Supervised visitation providers have a number of legal responsibilities and duties under Family Code section 3200.5 and Standard 5.20 of the California Standards of Judicial Administration

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(Uniform Standards of Practice for Providers of Supervised Visitation). Providers should be familiar with all requirements. In addition, the following obligations must be satisfied.

(a) Professional Supervised Visitation Providers' Obligations:

All professional supervised visitation providers must sign a Declaration of Supervised Visitation Provider (Professional) (form FL-324(P)) stating that all training and qualification requirements to be a professional provider have been met. See Standard 5.20(e)(13). Only trainings approved by the Judicial Council of California will be accepted by Kern County Superior Court. The Declaration must be submitted to the Manager of the Family Court Services Department before the first supervised visit for new providers. The FL-324(P) must be submitted the first week of January each year for professional providers already included on the list. Every time the professional visitation provider submits a report to the court required by Standard 5.20(j)(3), a separate copy of the report must be submitted to the Manager of the Family Court Services Department. The forms and reports will be maintained by the Family Court Services Department. The Family Court Services Department will maintain a roster of providers who have submitted a form FL-324(P) in the past year. The roster will also be available on the Court's website, and the forms are available for review upon request. The Court has the discretion to add or remove providers from the list based upon the needs of the Court, but does not endorse, evaluate, supervise, or monitor the listed providers or their facilities.

(b) Nonprofessional Supervised Visitation Providers' Obligations:

All nonprofessional supervised visitation providers must sign a Declaration of Supervised Visitation Provider (Nonprofessional) (form FL-324(NP)) stating that all requirements to be a nonprofessional provider have been met. See Standard 5.20(d)(3). The Declaration must be submitted to the Manager of the Family Court Services Department. The forms will be maintained by the Family Court Services Department.

### **Rule 6.22 Family Law Case Management Plan for Complex Matters** (Effective 7/1/23)

- (a) Designation of Case Subject to Family Law Case Management Rules. For any case in which counsel or the parties have a reasonable basis to foresee that the Court will need to oversee and direct discovery, make orders concerning financial matters, and/or order the appointment of experts, either party may serve on the other party and file with the Court a Family Law Case Management Notice ("FLCM Notice") requesting that the case be subject to Local Rule 6.22 ("FLCM Rules"). The Court may also, on its own motion, make an order that the case before it shall be subject to the FLCM Rules.
- (b) FLCM Notice. The FLCM Notice shall (i) notify the Court and the opposing party of the requesting party's request to subject the case to the FLCM Rules, (ii) notify the opposing party of his or her right to serve and file an objection to the application of the FLCM Rules within 20 days of the FLCM Notice's being served, (iii) notify any public retirement plan that may be impacted as a result of the Court's order(s), and (iv) state the basis for the requesting party's request that the case be subject to the FLCM Rules. Nothing in the FLCM Rules relieves either party of his or her fiduciary duties or his or her duty to comply with the California Code of Civil Procedure or other mandatory disclosures under the California Family Code.
- (c) Timing of FLCM Notice. Either party shall have the right to serve and file the FLCM Notice within 60 days of filing a petition or a post-judgment modification in a family law action or 60 days after a response to a petition or a post-judgment modification has been filed. Notwithstanding the foregoing, with the permission of the Court, the FLCM Notice may be

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filed at any time. A Court may, in its discretion, also order the parties to comply with the FLCM Rules.

- (d) Family Law Case Management Conference. Upon filing of the FLCM Notice, the clerk shall set an initial status conference in 60 days. At the initial status conference, the Court shall meet with counsel to determine the status of and make any rulings on any objections and/or set a Family Law Case Management Conference (herein “FLCMC”).
- (e) Objections to FLCM Notice. If a party objects to the application of the FLCM Rules, that party must serve on the other party and file with the Court a written objection within 20 days of the service of the FLCM Notice. The objection shall state any applicable factual or legal basis for the objection. If an objection has been served and filed, the party seeking application of the FLCM Rules may file a response prior to the initial status conference explaining that party’s basis for ordering the parties to comply with the FLCM Rules.
- (f) Electronic Service. When the parties consent to, or the Court orders the application of, the FLCM Rules, all parties will be subject to electronic service of all pleadings and documents. Each party shall notify the other party in writing as soon as possible of all electronic addresses to be included in electronic service and shall update any proofs of service accordingly.
- (g) Initial Disclosures. Each party subject to the FLCM Rules has an affirmative duty to provide to the other party with all relevant documentation as early as possible. In addition to statutory disclosure under the California Family Code, a party must, without awaiting a discovery request, provide to the other parties the following verified information:
  - 1. Document Requests. The Court handling the FLCM case will attach a document request to its standard scheduling order. The parties will be expected to comply fully with these document requests pursuant to the deadlines set forth in the FLCM Rules. It is understood that the parties may ask the Court to append or modify the document requests according to the specific issues or facts of each case. The Court will adopt a standard template document request that will be presumptively non-objectionable.
  - 2. Documents. Produce a copy of all documents and tangible things necessary to determine the character, cash flow, value of any assets, business or businesses, or any other relevant financial information. If any documents cannot be obtained after reasonable efforts by the producing party, a description by category and location and with information sufficient to support a subpoena, shall be provided by the producing party identifying where the relevant documents can be found.
  - 3. Categorization. The disclosing party shall ensure that all documents shall be categorized and put into an electronic file repository that is accessible by the parties and, if applicable, any experts retained or appointed who will need to review this information.
  - 4. Electronically Stored Information. The disclosing party shall produce all documents as they are kept in the normal course of business including the production of documents in their native file format. Upon stipulation of the parties, documents produced can be placed into a shared electronic document repository.
  - 5. Stipulations. Unless designated otherwise, a party producing documents agrees to foundation and waives any hearsay objections to any documents produced. For all other documents, the parties shall meet and confer prior to a case management conference as to whether, for trial purposes, foundation and hearsay for documents placed into the electronic repository can be waived to avoid the time and expense of authenticating documents that are not reasonably in dispute for purposes of trial or hearing. If the parties

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cannot agree on the admissibility of documents, the basis for each objection shall be set forth in the status report.

- (h) **Timing of Initial Disclosures.** Unless an objection has been filed, all initial disclosures must be made within 60 days after service of the FLCM Notice, unless a different time is set by stipulation or order of Court.
- (i) **Verified Initial Disclosure Document.** The initial disclosure to the opposing party shall be verified.
- (j) **Duty to Meet and Confer.** The parties shall meet and confer after service of the FLCM Notice to discuss any issues related to compliance with the FLCM Rules. If an objection has been filed, the parties shall meet and confer as soon as possible after the Court orders that the parties be subject to the FLCM Rules. These issues may include, but are not limited to, (i) specific documents needed by either party, (ii) problems with obtaining ESI, (iii) third party privacy concerns and/or whether any protective orders are necessary, (iv) support issues, and (v) attorney's fees.
- (k) **FLCMC Status Report.** A status report shall be made to the Court no later than 10 days prior to the FLCMC. The status report shall state (i) what documents have been requested, (ii) what documents have not been produced, (iii) each party's position with regards to the respective requests for relief and any problems in obtaining discovery covered by the FLCM Rules to obtain that relief, (iv) any other expected issues that have arisen or are expected to occur, (v) whether any experts should be appointed under section 730 of the California Evidence Code, (vi) expected motions that a party anticipates filing, and (vii) a proposed solution to any problems with obtaining compliance with these rules. If attorney's fees are being requested, and if not already served, updated Income and Expense Declarations shall be served concurrently with the status report.
- (l) **FLCMC.** It is the expectation of the Court that before the FLCMC, both parties have been working in good faith to meet disclosure deadlines and be ready for the Court to make temporary rulings at the FLCMC. At the FLCMC, the Court should have enough information (i) to determine compliance with initial disclosures under the FLCM rules, (ii) to make any appropriate orders to ensure each party's compliance with his or her duties to disclose documentation and information to the other party, including sanctions, (iii) to make orders regarding temporary spousal support and child support, and (iv) to make orders appointing any experts. The Court has the discretion to set a further FLCMC with deadlines for compliance.
- (m) **Attorney's Fees.** So that the Court can comply with its duty to make an award of attorney's fees early in the proceeding, the parties shall have provided sufficient information to the Court sufficient for the Court to make orders concerning attorney's fees.
- (n) **Sanctions.** Separate and apart from any other remedy provided to the Court, the Court shall have the discretion to sanction a party for its failure to comply with the FLCM Rules. Failure to follow this local rule may result in sanctions including, but not limited to, monetary sanctions under section 177.5 of the California Code of Civil Procedure, vacating existing hearing dates, or evidence exclusion orders as may be determined by the Court.

**Rule 6.23 Use of Live Scan (Effective 7/1/23)**

- (a) Where an adoption, child custody, or Freedom from Parental Rights case requires an investigation by statute, and the required investigation includes criminal history, that criminal

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history information will generally be obtained from the California Law Enforcement Telecommunications System (CLETS).

- (b) Should a party believe that the criminal history is incorrectly reported, or is unclear, they shall have the option of obtaining another criminal history check by completing the California Department of Justice's Form BCIA 8016 and having fingerprints taken at a Public Applicant Live Scan Site, as certified by the State Department of Justice for an FBI Level of Service. Fees charged by Public Applicant Live Scan Site providers vary and are the responsibility of the proposed adoptive parent or parent. The results of the criminal history check shall be sent directly to the Kern County Superior Court and will be used by the court investigator for the completion of the required reports for the Court.



**Chapter VII. Juvenile Court Matters**

**Preamble** Both dependency and juvenile justice cases are heard at the Juvenile Justice Center (“JJC”). These rules do not include juvenile traffic hearings or traffic hearing appeals. (Effective 1/1/20)

**Section One – General Provisions**

**Rule 7.0 Jurisdiction** (Effective 1/1/20)

- (a) Welfare and Institutions Code section 304 gives the juvenile court jurisdiction during the pendency of a juvenile dependency matter over all issues in proceedings under the family law and probate codes that affect the custody of children. Therefore, there should be a determination at the earliest possible time whether a related family law or probate case is pending in another court.
- (b) Consistent with Welfare and Institutions Code section 204, and the California Rules of Court, rules 5.440 and 5.445, it is the policy of the court to identify related cases that involve the same minor children, as such is in the best interest of children and victims appearing before the juvenile, family, criminal and probate courts and the public interest, to eliminate barriers to the exchange of essential information and data about the children and families they serve, and to avoid substantial duplication of resources by the family, courts as well as by the investigative and supervisory agencies serving the juvenile, family, criminal and probate courts.

**Rule 7.0.1 Ex Parte Orders** (Effective 1/1/20)

- (a) Before submitting ex parte orders to the judge or referee for approval, the applicant must give notice of, and a copy of the application for ex parte orders, to all counsel, or explain the reason notice has not been given.
- (b) An opposing party must present any written opposition to a request for ex parte orders to the courtroom clerk within 48 hours of receipt of notice or may have their opposition noted on the ex parte application form. Unless the court is advised there is no objection, the ex parte request will be heard or decided no sooner than 48 hours after its submission. The Court may render its decision on the ex parte application or set the matter for hearing, unless an opposition is filed in which case the matter will be set for a hearing. The applicant shall notify all persons entitled to notice of any hearing date set by the court.
- (c) Notice may be dispensed with, if following a good faith attempt, notice is not possible, or if the opposing parties do not object to the requested ex parte orders.

**Section Two – Parties**

**Rule 7.1 Independent Investigation** (Effective 7/1/03)

**Rule 7.1.1 Access to Children in Dependency Proceedings** (Effective 7/1/03; rev. 1/1/20)

- (a) No party or attorney in a dependency proceeding shall interview the child about the events relating to the allegations in the petition(s) on file without permission of the child’s attorney or court order. This rule does not apply to the assigned DHS social worker or other authorized DHS personnel, nor to an assigned CASA.
- (b) No party or attorney in a dependency proceeding shall cause the child who is in out of home care to undergo a physical, medical or mental health examination or evaluation without court

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approval. This rule does not apply to the assigned Department of Human Services (“DHS”) social worker or other authorized DHS personnel. (Effective 7/1/03; rev. 1/1/20)

Rule 7.1.2 Interviewing Children Who are Alleged Victims of Child Abuse (Effective 7/1/03; rev. 1/1/20)

All investigator in the Probation Department and DHS, and all attorneys representing parties in a dependency case in which child abuse has been alleged and other participants in the case, including a child advocate, shall attempt to minimize the number of interviews of the child relating to the events surrounding the alleged abuse. To this end, anyone wishing to learn facts about the alleged incident shall first review any interviews taken or reports made by the investigating officer(s).

Rule 7.1.3 Attendance at Hearing (California Rules of Court, rule 5.530) (Effective 7/1/03; rev. 1/1/20)

(a) Presence of Child in Dependency Proceedings (Welfare and Institution Code section 349) (Effective 7/1/03; rev. 1/1/20)

1. This rule governs the attendance of children at court hearings unless the child is present by subpoena, desires to be present, or by other order of the court. All children are entitled and encouraged to attend court hearings. The minor, if the minor so desires, may address the court and participate in the hearing. (Effective 7/1/03; rev. 1/1/20)
2. Children under four (4) years of age are excused from attending court. Children four (4) years of age or older must attend if directed to attend by the court, requested to attend by a party or their counsel, if the court finds that attending would not be detrimental to the child. (Effective 1/1/20)
3. Every child 10 years or older shall be told of his/her right to attend court hearings, and shall be given notice by the investigating or supervising social worker. If the minor was not notified or if he/she wishes to be present and was not given an opportunity to be present, the court shall continue the hearing to allow the minor to be present unless the court finds that it is in the best interest of the minor not to continue the hearing. All children over the age of 10 shall attend court hearings unless excused by the court, (Effective 7/1/03; rev. 1/1/20)
  - a) the child’s attorney waives the child’s appearance, (Effective 7/1/03; rev. and renum. 1/1/20)
  - b) the child chooses not to attend, (Effective 7/1/03; rev. and renum. 1/1/20)
  - c) the child is hospitalized, physically unable to attend, or other good cause. (Effective 7/1/03; rev. and renum. 1/1/20)
  - d) No child shall be brought to court solely for the purpose of providing the social worker with the opportunity to make a mandated face-to-face contact with the child in order to satisfy DHS regulations or regulations of the Department of Social Services. (Effective 7/1/03; rev. and renum. 1/1/20)

(b) Minor’s Presence in Juvenile Justice Proceedings (Effective 1/1/20)

1. Minors shall attend all juvenile justice hearings unless specifically excused by the court. A waiver of appearance shall be only for good cause. If a request is made to excuse the minor’s presence on the ground that it shall inconvenience the minor, the court will make every effort to continue the case to a time when the minor can appear without the inconvenience. If a minor is in foster care out of county or out of state, the physical presence of the minor can be excused, only if authorized by the court.

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### Rule 7.1.4 Disclosure of Minor's Name (Effective 1/1/20)

Notwithstanding any other provision of law, the name of a minor may be disclosed to the public if the minor is 14 years of age or older and found by the juvenile court to be a person described in section 602 as a result of a sustained petition for the commission of any of the offenses listed in section 667.5 of the Penal Code, or in subdivision (c) of section 1192.7 of the Penal Code. (Welfare and Institutions Code section 204.5).

### **Rule 7.2 Guardian Ad Litem** (Effective 7/1/03)

#### Rule 7.2.1 Children (California Rules of Court, rule 5.660(b)) (Effective 7/1/03; rev. 1/1/20)

Upon a filing of a petition, the court shall appoint counsel for the child as provided in Welfare and Institutions Code section 317, and California Rules of Court, rule 5.660. For the purposes of the Child Abuse Prevention and Treatment Act (Public Law 93-247), in all cases in which a dependency petition has been filed and counsel has been appointed for the child, the attorney for the child shall function as the guardian ad litem for the child in the dependency proceedings unless the court appoints another adult to serve as the child's guardian ad litem. If at any time the court determines a conflict exists between the role and responsibilities of the child's attorney and that of a guardian ad litem, or if the court determines it is best for the child to appoint a separate guardian ad litem, the court shall appoint another adult as the guardian ad litem for the child. The guardian ad litem for the child may be an attorney, a CASA, or a responsible adult who is not the child's parent or social worker. Appointed counsel and/or CASA must continue to represent the child at all subsequent proceedings unless properly relieved by the court. If a CASA is appointed as guardian ad litem, that person shall seek instructions from the court as to the proper reports to be filed pursuant to Rule 7.4.11.

#### Rule 7.2.2 Adult Parties (Effective 7/1/03; rev. 1/1/20)

The court shall appoint a guardian ad litem to represent any mentally incompetent parent or guardian whose child is before the juvenile court pursuant to a petition under Welfare and Institutions Code section 300 where the court finds by a preponderance of the evidence that the parent or guardian does not understand the nature of the consequences of the proceeding, or that the parent or guardian cannot assist their attorney in the preparation of their case.

No such appointment shall be made until the parent or guardian has notice of the proposed appointment has had the purpose of a guardian ad litem explained and why the attorney believes one should be appointed. Further, the parent or guardian shall have an opportunity to be heard on the issue before appointment. The court retains the right to exclude all other parties to the action from the courtroom during the hearing. The court may provide for a guardian ad litem on its own motion at any time in the proceeding based upon evidence received from any interested party.

#### Rule 7.2.3 Notice to Guardian Ad Litem. Access to Records, Right to Appear (Effective 7/1/03)

In all proceedings, the guardian ad litem shall be given the same notice as any party, and have the same access to all records relating to the case as would any party, and have the right to appear at all hearings.

### **Rule 7.3 Access to Courtroom by Non-Parties (Welfare and Institutions Code sections 345, 346, 676)** (Effective 1/1/20)

Unless specifically provided by statute, proceedings in the Juvenile Justice Center are confidential and shall not be open to the general public.

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The court encourages interested persons including trainees and students to attend juvenile proceedings in order to understand the workings of the Juvenile Justice Center. The court retains the discretion to determine in each case whether any such interested party shall remain in the courtroom. The court or its agent shall remind each such nonparty that the names of parties and identifying information from any case are confidential and shall not be repeated to anyone outside court. Any such person may be required by the court to sign an acknowledgment and agreement relating to his/her observation of court proceedings.

### Rule 7.3.1 Child's Caregiver (Effective 7/1/03; rev. and renum. 1/1/20; rev. 7/1/21)

A child's caregiver shall be allowed to be present at the hearing, and if given permission by the court, may address the court. Participation in the court process is as described in California Rules of Court, rule 5.534(k). The child care provider has a right to be heard in each proceeding noted in rule 5.534(k)(2), but is not prohibited from addressing the court at other hearings. Written information about the child may be submitted by using Judicial Council form JV-290 ("Caregiver Information Form") or in the form of a letter to the court.

### Rule 7.3.2 Relatives/Non-relative Extended Family Members (Effective 1/1/20)

The court may permit relatives and any non-relative extended family members of the child(ren) to be present at the juvenile court hearing and address the court if his or her presence would not disrupt the orderly court process and would be consistent with the best interests of the child. A relative's participation in the court process is as described in California Rules of Court, rule 5.534(b). A relative of the child has the right to submit information about the child to the court at any time. Written statements should be submitted on Judicial Council form JV-285 ("Relative Information Form") or a letter to the court.

DHS and the parties shall make an effort to engage family members as early as possible in each case in an effort to facilitate placement of children removed from their parents with relatives/family members.

### Rule 7.3.3 De Facto Parents (Effective 1/1/20)

A de facto parent is defined in California Rules of Court, rule 5.502(10).

Upon a sufficient showing the Court may recognize the child's present or previous custodians as de facto parents and grant standing to appear and participate as parties in dispositional hearings and any hearings thereafter at which the status of the dependent child is at issue. The person seeking de facto parent status shall file a noticed request / motion before the Court setting out the reasons in support of the motion utilizing Judicial Council Form JV-295-297; JV-510).

At the hearing for a request for de facto parent status, the court will consider the contents of the dependency file, any report filed by the social worker or the CASA for the child, oppositions to such application and any other relevant and admissible evidence presented by the parties. Before granting de facto parent status, the court must find, by a preponderance of the evidence, that the moving party meets the criteria set forth in this rule.

No person shall be granted de facto parent status who has inflicted or allowed to be inflicted serious harm on the child, including but not limited to physical, sexual, or emotional harm.

The de facto parent has standing as a party to the proceedings to the degree that the proceedings directly affect the de facto parent's legally recognizable interest in the child. The de facto parent may be present at the hearing, and present evidence and shall have the rights outlined in California Rules of Court, rule 5.534(a).

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De facto parent status will continue only so long as the psychological bond continues to exist between the de facto parent and child. De facto parent status automatically terminates upon the termination of dependency jurisdiction or when the child reaches 18 years of age.

**Rule 7.4**

**Court Appointed Special Advocate (CASA) (Welfare and Institute Code section 102, 104; California Rules of Court, rule 5.655) (Effective 7/1/03; rev. 1/1/20)**

In an action pursuant to the Welfare and Institutions Code sections 300 and 602 et seq., the court may, in an appropriate case appoint a CASA of Kern County volunteer to represent the best interests of the child. CASAs serve at the pleasure of the court having jurisdiction over the proceeding in which the CASA has been appointed and that appointment may continue after the child attains his or her age of majority, with the consent of the nonminor dependent. (Effective 7/1/03; rev. 1/1/20)

In general, a CASA's functions and duties are as follows: (Effective 7/1/03; rev. and renum. 1/1/20)

- (a) To help define the best interest of children and nonminors involved under the jurisdiction of the juvenile court. (Effective 1/1/20)
- (b) Interview and observe the child. Explain the proceedings to the child. Establish a relationship with the child to better understand the child's needs and desire. Support the child throughout the court proceedings. (Effective 7/1/03; rev. and renum. 1/1/20)
- (c) Conduct an independent investigation for the juvenile court regarding the case by review of available appropriate relevant records regarding the child and the child's family. Such shall include review of records from any agency, hospital, school, organization, division or department of the state, physician and surgeon, nurse, or other health care provider, psychologist, psychiatrist, law enforcement agency, or mental health clinic, etc. CASA's independent investigation shall also include interview of the child(ren), parties, and other persons having significant information. This may include, but is not limited to, parents, caretakers, social workers, and teachers. (Effective 7/1/03; rev. and renum. 1/1/20)
- (d) Determine the interests of the child, taking into account the child's age, maturity, culture, and ethnicity, and maintain the confidences of the child to the fullest extent possible consistent with the law and the best interest of the child. (Effective 1/1/20)
- (e) Identify and explore potential resources that will facilitate family preservation, early family reunification, or alternative permanency planning.
- (f) Explain the CASA volunteer's role, duties, and responsibilities to all parties associated with a case.
- (g) Provide the court with a written report of the results of his or her investigation, providing independent, factual information, and if ordered to do so, provide the court with any other information the court specifically requests. The written report shall include an evaluation and assessment of the issues, a discussion of the child's needs and the child's expressed wishes (if any), as well as recommendations on what placement, permanent plan, and services/treatment are best for the child, as well as whether an evaluation or assessment of the child is recommended. (Effective 7/1/03; rev. and renum. 1/1/20)
- (h) Consider whether appropriate services, including reasonable efforts, are being provided or offered to the child and the child's family.

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- (i) Monitor implementation of court orders and case plans to determine whether the court's orders have been fulfilled and that services are actually provided in a timely manner and are accomplishing the desired goals. (Effective 1/1/20)
- (j) In advance of each hearing, consult with the child's social worker and counsel to review recommendations and participate in negotiations, as requested and appropriate, to seek cooperative resolutions to the child's situation within the scope of the child's interest and welfare. (Effective 1/1/20)
- (k) Attend court hearings and participate as necessary. (Effective 7/1/03; rev. and renum. 1/1/20)
- (l) Investigate the interests of the child in judicial or administrative proceedings outside of juvenile court, report to the juvenile court concerning the same; and, with the approval of the court, offer his/her services on behalf of the child or nonminor to such other courts or tribunals. (Effective 7/1/03; rev. and renum. 1/1/20)

Rule 7.4.1 Sworn Officer of the Court/Under the Supervision of the Kern County CASA Program (Effective 7/1/03; rev. and renum. 1/1/20)

- (a) A CASA is an officer of the court and is bound by all court rules under California Rules of Court, rule 103(e). At the completion of training, and before assignment to any child's or nonminor's case, the CASA volunteer must take a court-administered oath.
- (b) A CASA volunteer shall serve under the guidance, training, and supervision of the Kern County CASA program staff and is expected to comply with operational policies and procedures approved by the program's Board of Directors, sections 100 through 109 of the Welfare and Institutions Code rule 5.655 of the California Rules of Court, and any and all Judicial Council guidelines, Local Rules of Court, and the provisions of any agreement entered into by the Kern County CASA program with the Juvenile Court.

Rule 7.4.2 Prohibited Activities (California Rule of Court, rule 5.655(i)) (Effective 1/1/20)

Prohibited activities of CASA volunteers include, but are not limited to, disclosing the child(ren)'s confidential case information, taking a child or nonminor to the CASA volunteer's home, giving legal advice or therapeutic counseling, giving money or expensive gifts to the child, nonminor, or family of the child or nonminor, being related to any of the parties in the case or employed in a position or by an agency that might result in a conflict of interest, and any other activities prohibited by the juvenile court.

Rule 7.4.3 Appeal and Grievance Procedures (Effective 7/1/03; rev. 1/1/20)

- (a) A CASA volunteer serves at the pleasure of the court; the appointment is a privilege and not a right. The Presiding Juvenile Court Judge or his or her designee has the sole authority and power to appoint and/or remove a CASA to or from a case. There is no appeal process from the court's decision.
- (b) The Kern County CASA Program has established an internal process for the submission and investigation of grievances which process shall be followed.

Rule 7.4.4 Case Referral and Appointment (Effective 7/1/03; rev. 1/1/20)

- (a) A child's case may be referred by the court to the CASA program for appointment at any point in the proceeding. (Effective 7/1/03; rev. 1/1/20)

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- (b) Upon acceptance of the case by the program and acceptance by an available CASA volunteer, an Order for Appointment shall be submitted to the court by the CASA program staff, requesting appointment of the identified volunteer. The court may appoint a CASA volunteer at any time following the jurisdictional hearing and, in extraordinary cases, the court may appoint a CASA volunteer prior to the establishment of jurisdiction. In cases where the appointment is made prior to the establishment of jurisdiction, the court order shall specify that the duties of the child's advocate are limited to supporting the child and advocating for needed services prior to establishment of jurisdiction and shall admonish the child's advocate not to investigate jurisdictional issues.
- (c) Where the referral is not made by the court at an appearance hearing, the CASA staff will notice parties of the CASA program appointment and the name of the specific CASA volunteer assigned to the case.

Rule 7.4.5 Criteria for Referral to CASA Program (Effective 7/1/03; rev. and renum. 1/1/20)

Criteria for referral to the CASA program may include, but is not limited to:

- (a) Severe physical/sexual abuse cases where the child is not released to a parent or relative, and the child is seriously traumatized.
- (b) Special needs cases (e.g., educational, developmental, medical health needs) that involve conflicting opinions as to assessment and/or treatment for the child, or where treatment plans or resources will be difficult to arrange.
- (c) Cases of repeated abuse that involve a number of issues or a number of interested parties.
- (d) Children who have experienced multiple placements and whose parents have consistently failed to show progress toward or interest in fulfilling treatment plans or goals for family reunification. (Effective 7/1/03; rev. 1/1/20)
- (e) Children where a CASA volunteer might expedite the case toward family reunification or adoption, if reunification is not appropriate. (Effective 7/1/03; rev. 1/1/20)
- (f) Short term CASA intervention/involvement is required in case resolution or clarification of issues or by gathering or researching information, e.g., contacting out-of-state relatives or investigating medical concerns to assist the court in reaching a decision.
- (g) Children who have experienced three or more separate placements during any consecutive twelve month period or who have been detained at A. Miriam Jamison Center or some other residential care institution (excluding group homes) for thirty (30) days or more and who have been diagnosed as having or have a history of any of the following: (Effective 7/1/03; rev. 1/1/20)
  - 1. Conduct disorder with aggressive tendencies or antisocial behavior.
  - 2. Attention Deficit Hyperactive Disorder treated by psychotic drugs.
  - 3. Self-destructive or suicidal behavior.
  - 4. Use of psychotropic drugs.
  - 5. Developmental disability.
  - 6. Fire setting.

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7. Manifestation of psychotic symptoms such as delusion, hallucination, or disconnected or incoherent thinking.
  8. Somatizing or psychosomatic problems such as sleeping or eating disorder.
  9. Chronic depression.
  10. Severe sexual acting-out behavior.
  11. Substance abuse.
- (h) Children in prolonged out of home care where there is a need to identify and locate relatives and other important committed adults to care and serve as life-long connections. (Effective 1/1/20)
- (i) Any child or nonminor whose particular circumstances warrant or otherwise support the appointment of a CASA. (Effective 7/1/03; rev. and renum. 1/1/20)

Rule 7.4.6 Release of Information to a CASA/Investigative Authority/Authority to Interview (Welfare and Institutions Code section 103(h)) (Effective 7/1/03; rev. and renum. 1/1/20)

- (a) The extent of a CASA's investigation authority is the same as any other officer of the court appointed to investigate proceedings on behalf of the court. (Effective 1/1/20)
- (b) A CASA shall have the authority to interview parties involved in the case, as well as other persons having significant information relating to the child, to the same extent as any other officer of the court appointed to investigate proceedings on behalf of the court. (Effective 1/1/20)
- (c) A CASA shall have the same legal right to records relating to the child the CASA is appointed to represent as any Kern County Department of Human Services' social worker assigned to manage the child's case with regard to records held by any agency, school, organization, division or department of the state, physician, surgeon, nurse, or other health care provider, psychologist, psychiatrist, mental health provider or law enforcement agency. The CASA shall present his or her identification as a court appointed special advocate to any such record holder in support of his or her request for access to specific records. No consent from the parent or guardian is necessary for the CASA to have access to any records relating to the child. (Effective 7/1/03; renum. 1/1/20)

Rule 7.4.7 Report of Child Abuse (Effective 7/1/03; rev. 1/1/20)

A CASA is a mandated child abuse reporter with respect to the case to which he or she is appointed. As such, a CASA is required to report any reasonable suspicion that the child is a victim of child abuse or serious neglect as described by Penal Code section 273 that has not already been reported.

Rule 7.4.8 Communication and Visitation (Effective 7/1/03; rev. 1/1/20)

The CASA shall have the right to regular unsupervised contact with the child/nonminor. An advocate shall visit the child regularly until the child/nonminor is secure in a permanent placement. Thereafter, the advocate shall monitor the case as appropriate until the juvenile court matter is dismissed. (Effective 1/1/20)

There shall be ongoing, regular communication concerning the child's/nonminor's best interests, current status, and significant case developments maintained among the CASA, the social worker and/or probation officer, the child's attorney, attorneys for parents, relatives (to the extent permitted



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by law), caregivers (to the extent permitted by law), and any therapist for the child (to the extent permitted by law). (Effective 7/1/03; rev. 1/1/20)

Rule 7.4.9 Right to Timely Notice and Right to Appear; Calendar Priority for Advocates (Effective 7/1/03; rev. 1/1/20)

- (a) The CASA shall be properly and timely noticed for all proceedings held in cases to which the CASA has been appointed.
- (b) The CASA has the right to be personally present at all hearings and to be heard at all court hearings. A CASA shall not be subject to exclusion by virtue of the fact that he or she may be called to testify at some point in the proceedings. A CASA shall not be deemed to be a "party" as described in Title 3 of Part 2 of the Code of Civil Procedure. However, the court, in its discretion, shall have the authority to grant the CASA amicus curiae status, which includes the right to appear with counsel.
- (c) The CASA shall have the right to participate in any chambers conferences which are held in the proceedings to which the CASA has been appointed, if deemed appropriate by the court. If the child is allowed to testify in chambers or to otherwise participate in any chambers conference, the CASA shall have the right to accompany the child. (Effective 7/1/03; rev. 1/1/20)
- (d) In light of the fact CASAs are rendering a voluntary service to children, nonminors and the court, matters on which they appear should be granted priority on the court's calendar, whenever possible. (Effective 7/1/03; rev. 1/1/20)

Rule 7.4.10 Disclosure of Case Information by CASA, Confidentiality of Child's Case File, Confidentiality of CASA Volunteer's Personnel File (Effective 7/1/03; rev. 1/1/20)

- (a) All information concerning children, nonminors, and families in the juvenile court process is confidential. A CASA shall not give case information to anyone other than the court, the parties, their attorneys, and CASA staff. Any request for access to these records must be made to the Presiding Juvenile Court Judge through a Petition for Disclosure of Juvenile Court Records pursuant to Welfare and Institutions Code section 827 (Form JV-570). (Effective 7/1/03; rev. 1/1/20)
- (b) The child's case file shall be maintained in the Kern County CASA office by a custodian of records. No one shall have access to that file except upon approval of the executive director of Kern County CASA.
- (c) A CASA volunteer's personnel file is confidential. No one shall have access to the file or any of its contents except the volunteer, the Kern County CASA's executive director (or his or her designee), and the Presiding Judge of the Kern County Juvenile Court. Parties to a proceeding may access the personnel records of a CASA volunteer appointed in that proceeding through use of the court's subpoena power. All subpoenas are to be served on the CASA program's executive director at the Kern County CASA program's office.

Rule 7.4.11 Filing and Distribution of CASA Court Reports (Effective 7/1/03; rev. 1/1/20)

- (a) In any case in which a CASA has been appointed by the court and is now serving on that case, the CASA must file and serve written reports to the court and on the parties and/or their counsel at least five (5) calendar days before each of the following hearings: those dispositional hearings that have been continued pursuant to Welfare and Institutions Code section 358(a)(2) and (3); subdivision (a); six-month review; twelve-month review

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(permanency hearing); eighteen-month review (permanency review hearing); selection and implementation hearing (Welfare and Institution Code section 366.26 hearing); and post-permanency planning reviews. The court may excuse compliance with the above for good cause. (Effective 7/1/03; rev. 1/1/20)

If the CASA is appointed before jurisdiction is established the CASA may submit a written report to the court for consideration by the court at the jurisdictional hearing; any such report must be filed and served on the parties and/or their counsel at least two (2) court days before the jurisdictional hearing. (Effective 7/1/03; rev. 1/1/20)

Further, if the CASA is appointed before disposition, for those dispositional hearings in which the matter is continued pursuant to Welfare and Institutions Code section 358(a)(1), where the child(ren) are detained, and the social worker is not alleging that subdivision (b) of section 361.5 is applicable, the CASA may submit a written report to the court for consideration by the court at the dispositional hearing; any such report must be filed and served on the parties and/or their counsel at least two (2) court days before the dispositional hearing. (Effective 1/1/20)

The CASA may also submit reports for any special hearings for which they have been noticed, and if submitted, those written CASA reports shall be filed and served on the parties and/or their counsel at least two (2) court days before the hearing, unless the court excuses such for good cause. (Effective 7/1/03; rev. 1/1/20)

Special hearings are defined as any hearing not already indicated in this section, as well as any hearing/continued hearing at which the court requests additional information. (Effective 1/1/20)

- (b) Only parties and their counsel are entitled to receive copies of CASA reports prepared in connection with pending hearings. De facto parents are entitled to receive copies of CASA reports only if there is a court order directing distribution of the report to the de facto parents. Relatives, foster parents, and service providers are not entitled to receive copies of CASA reports in the absence of a specific court order.
- (c) CASA court reports shall be copied and distributed by CASA of Kern County staff.

**Section Three – Proceedings**

**Rule 7.5 Pre-Hearing Discovery – Dependency Cases** (California Rules of Court, rule 5.546) (Effective 7/1/03; rev. 1/1/20)

Rule 7.5.1 Pretrial Discovery in Proceedings under Welfare and Institutions Code section 300 – Dependency Cases (California Rules of Court, rule 5.546(a)) (Effective 7/1/03; rev. 1/1/20)

Pretrial discovery shall be reciprocal and shall be conducted on an informal basis. Except as protected by statute, claim of privilege, or other good cause, all relevant material shall be disclosed in a timely fashion to all parties to the litigation and/or made available to the parties upon request.

Rule 7.5.2 Formal Discovery (California Rules of Court, rule 5.546) (Effective 7/1/03; rev. 1/1/20)

- (a) Formal Discovery. Only after all informal means have been exhausted may a party petition the court for discovery. Any noticed motion shall specifically, and clearly designate the items sought, the relevance and materiality of the information, and shall state that a timely informal request has been made for items at least five (5) court days before the motion was filed, that the other party has not provided or refused to provide them, and the reasons why informal

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discovery was not adequate to secure that information. The motion, with supporting declaration(s) and a memorandum of points and authorities, shall be served on all parties at least five (5) court days before the hearing date. The date for the hearing shall be obtained from the Court Clerk, Juvenile Division. A copy shall be served on the court before whom the matter is scheduled to be heard. Any responsive papers shall be filed and served two (2) court days prior to the hearing.

- (b) Civil Discovery. In order to coordinate the logistics of discovery in dependency cases, there shall be no depositions, interrogatories, subpoenas of juvenile records or other similar types of civil discovery without approval of the court upon a noticed motion.

**Rule 7.5.3** Presentation of Evidence (Welfare and Institutions Code sections 280, 281; California Rules of Court, rule 5.690) (Effective 7/1/03; rev. 1/1/20)

- (a) Social Study Reports prepared by the Department of Human Services shall be made available to all counsel and to any CASA volunteer before the hearing in accordance with the following time limitations unless otherwise ordered by the court: (Effective 7/1/03; rev. 1/1/20)
  - 1. The Jurisdictional Report shall be admissible as provided in Welfare and Institutions Code section 355, and is due within a reasonable time before the hearing, but at least three (3) court days before the hearing. (Effective 7/1/03; rev. 1/1/20)
  - 2. The Dispositional report/social study is due at least 48 hours before the disposition hearing is set. (California Rules of Court, rule 5.690) (Effective 1/1/20)
  - 3. Review of Dependency Status and Status Review Reports are due at least 10 calendar days before the hearing. (Effective 7/1/03; rev. 1/1/20)
  - 4. All other reports shall be due a reasonable number of days before the hearing. (Effective 7/1/03; renum. 1/1/20)
- (b) If the court does not find good cause for the failure to file a social study report in a timely fashion, the court may impose appropriate sanctions.
- (c) The names of any experts to be called by any party and copies of their reports, if not part of a Social Study Report prepared by DHS, shall be provided to all counsel at least 10 calendar days before the hearing. (Effective 7/1/03; rev. 1/1/20)
- (d) Offers of Proof. The party presenting evidence may utilize an offer of proof with regard to any witness. Other parties shall have an opportunity to examine the witness after any offer of proof is made. (Effective 1/1/20)

**Rule 7.6** **Juvenile Court Dependency Mediation (Welfare and Institutions Code section 350; Judicial Administration Standards Section 24.6)** (Effective 7/1/03; rev. 1/1/20)

**Rule 7.6.1** Process and Purpose of Juvenile Dependency Mediation (Effective 7/1/03; rev. 1/1/20)

At the discretion of the court, a case may be referred to confidential mediation in an attempt to resolve jurisdictional and/or dispositional issues in dispute or case related problems, and to develop a related plan that is in the best interests of the child. Juvenile dependency mediation is a problem-solving forum in which a neutral person assists the parties in identifying and discussing the issues in an attempt to reach a full or partial agreement. The mediator is not a judge and has no authority to decide the case. The goal of juvenile dependency mediation is to find a negotiated resolution acceptable to all parties. Juvenile dependency mediation provides the parties an opportunity to re-frame their relationship from that of adversaries to cooperative partners.

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The mediator will meet with the parents or guardians, with the Department of Human Services' Social Worker and/or supervisor, and with counsel for all the parties including the child(ren) to discuss their issues and concerns. No agreement will be made without the input of the interested parties and their concurrence. Children may attend juvenile dependency mediation sessions with their attorney's consent. CASA representatives may attend sessions of the children for whom they are appointed. Support persons may also be included in juvenile dependency mediation provided child's counsel waives the child's right to confidentiality, the parents agree to the support person's participation and the support person is a relative, a non-relative extended family member, a counselor or member of the clergy. The mediator may meet with each party separately or may work with everyone together in the same room.

### Rule 7.6.2 Referral to Dependency Mediation (Effective 7/1/03; rev. 1/1/20)

A case may be referred to juvenile dependency mediation at several points during the juvenile court's dependency process: before the jurisdictional hearing, at jurisdiction, at disposition, at any review hearing, or for exit orders. (Effective 7/1/03; rev. 1/1/20)

Cases are referred to juvenile dependency mediation by a court order. Any party may request juvenile dependency mediation during the dependency process. The judge may also order juvenile dependency mediation. The parties involved in juvenile dependency mediation will determine the issues to be mediated through consultation with each other, the mediator, and the court.

### Rule 7.6.3 Mediation Confidentiality (Effective 7/1/03; rev. 1/1/20)

Juvenile dependency mediation is a confidential process. Each party, including any support person, will sign a confidentiality statement which explains that the information learned as a result of juvenile dependency mediation cannot be disclosed in the proceedings by any of the parties with the following exceptions: Reasonable suspicions of child abuse not previously reported, threats of harm to self or others, and the written report outlining the resolved and contested issues. All parties and CASA representatives are relieved of confidentiality restrictions while participating in juvenile dependency mediation.

Juvenile dependency mediators have a duty when confronted with serious threats of violence against reasonably identifiable victims not previously reported, to make reasonable efforts to communicate such threats to the victim or victims and to a law enforcement agency. (*Tarasoff v. Regents of University of California* (1976) 17 Cal.3d 425, 431, 438) (Effective 1/1/20)

### Rule 7.6.4 Reports to the Court (Effective 7/1/03; rev. 1/1/20)

Upon completion of mediation, the juvenile dependency mediator will report to the court what areas of agreement have been reached and what issues remain in dispute. A copy of the juvenile dependency mediator's report will be provided to each of the attorneys involved in the case, to County Counsel, to DHS, and to the Clerk of the Juvenile Court. The juvenile dependency mediator will not discuss the case with any party outside the juvenile dependency mediation session or with the court at any time.

### Rule 7.6.5 Role of the Social Worker (Effective 7/1/03)

The Department of Human Services will have a social worker and/or supervisor present at juvenile dependency mediation who is knowledgeable concerning the particular case and who is empowered to make decisions concerning that case on behalf of the department, subject to consultation with their counsel.

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**Rule 7.6.6** Complaints (Effective 7/1/03)

The Local Policies and Procedures for Dependency Mediation in Kern County complaint forms are available from the Clerk of the Juvenile Court.

**Rule 7.6.7** Noncompliance (Effective 7/1/03; rev. 1/1/20)

Failure of any person, including attorneys, to comply with any court order described in this section, including attendance at a mediation conference and timely submission of social studies reports, may result in the imposition of sanctions pursuant to Code of Civil Procedure section 177.5.

**Rule 7.6.8** Contempt/Breach of Confidentiality (Effective 7/1/03)

A breach of juvenile dependency mediation confidentiality may result in sanctions including contempt and/or the imposition of monetary sanction.

**Rule 7.7** **Requests for Transcripts** (Effective 7/1/03; renum. 1/1/20)

Any party requesting the court to pay for a reporter's transcript shall apply in writing to the judicial officer who heard the matter in question or to the Presiding Judge. Alternatively, a party may orally request at a court hearing that the court order a transcript be prepared.

**Section Four – Motions and Orders**

**Rule 7.8** **Notice to CASA re: Continuance** (Effective 7/1/03; rev. and renum. 1/1/20)

When a Motion for Continuance is made pursuant to written stipulation of the parties, the CASA volunteer need not sign the stipulation to obtain the continuance; however, the CASA office must be notified of any continuance dates.

**Rule 7.9** **Documents Presented for Filing** (Effective 7/1/03; renum. 1/1/20)

For cases involving multiple minors, counsel/parties shall submit one additional copy of the document for each additional minor named on any document submitted to the court for filing. The Superior Court Clerk's Office will place the additional copies in each minor's file.

**Section Five – Juvenile Justice Proceedings**

**Rule 7.10** **Welfare and Institutions Code section 709 Protocol** (Effective 1/1/20)

In all Juvenile Justice proceedings where a doubt as to the competency of the minor has been declared under Welfare and Institutions Code section 709, the protocol adopted by this juvenile court pursuant to Welfare and Institutions Code section 709(h)(5)(A)(i) must be followed by all parties. The protocol is on file with the clerk's office at the Juvenile Justice Center.

**Rule 7.11** **Purpose and Authority** (Effective 7/1/03, rev. 7/1/17)

These rules are established to comply with California Rules of Court, rules 5.660 and 5.664.

**Section Six – Attorney Competency Standards**

**Rule 7.12** **General Competency Requirements** (Effective 7/1/03, rev. 7/1/17; rev. 1/1/20)

- (a) All attorneys appearing in juvenile proceedings must meet minimum standards of competence as set forth in these rules. These rules are applicable to attorneys employed by public agencies

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and attorneys appointed by the court to represent any party, as well as attorneys who are privately retained to represent a party. (Effective 7/1/03; rev. 1/1/20)

- (b) Every party in a juvenile dependency proceeding who is represented by an attorney is entitled to competent counsel (Welfare and Institutions Code section 317.5, California Rules of Court, rule 5.660(d)). “Competent counsel” means an attorney who is a member in good standing of the State Bar of California, who has participated in training in the law of juvenile dependency, and who demonstrates adequate forensic skills, knowledge and comprehension of the statutory scheme, the purposes and goals of dependency proceedings, the specific statutes, rules of court, and cases relevant to such proceedings, and procedures for filing petitions for extraordinary writs. (California Rules of Court, rule 5.660(d)(1)) (Effective 7/1/03; rev. 1/1/20)
- (c) Every party in a juvenile justice proceeding who is represented by an attorney is entitled to competent counsel (Welfare and Institutions Code section 634.3, California Rules of Court, rule 5.664). “Competent counsel” means an attorney who is a member, in good standing, of the State Bar of California, who provides representation in accordance with Welfare and Institutions Code section 634.3(a)(1)-(3), and who has participated in training in the law and practice of juvenile justice as defined in this rule. (California Rules of Court, rule 5.664(a)) (Effective 7/1/17; rev. 1/1/20)

**Rule 7.13 Attorney Screening and Standards of Representation** (Effective 7/1/03; rev. 1/1/20)

**Rule 7.13.1 Certification of Competency** (Effective 7/1/03, rev. 7/1/17; rev. 1/1/20)

All Public Defenders, County Counsel and appointed attorneys who represent parties in Juvenile Court proceedings shall meet the minimum standards of training and/or experience set forth in these rules. Any appointed attorney, Public Defender or County Counsel appearing in a dependency matter for the first time shall complete and submit a Certification of Competency to the court within ten days of his or her first appearance in a dependency matter. Any appointed attorney or Public Defender appearing in a juvenile justice matter for the first time shall complete and submit a Certification of Competency or Declaration of Eligibility for Appointment (Judicial Council form JV-700) to the court within ten days of his or her first appearance in a juvenile justice matter.

**Rule 7.13.2 Attorneys Not Meeting Standards** (Effective 7/1/03; rev. 1/1/07)

Upon submission of a Certification of Competency which demonstrates that the attorney has met the minimum standards for training and/or experience, the court may determine, based on conduct or performance of counsel before the court in a dependency case within the six month period prior to the submission of a certification to the court, that a particular attorney does not meet minimum competency standards. In such cases, the court shall proceed as set forth in Rule 7.15 hereinafter.

**Rule 7.14 Determining Appropriate Caseloads for Appointed Children’s Counsel** (Effective 7/1/03; rev. 1/1/20)

The attorney for the child must have a caseload that allows the attorney to perform the full range of duties required by Welfare and Institutions Code section 317(e), California Rules of Court, rule 5.660, the rules of the California State Bar Standards of Professional Conduct, and these rules, and to otherwise adequately counsel and represent the child. To enhance the quality of representation afforded to children, attorneys appointed under Welfare and Institutions Code section 317(e) must not maintain a maximum full-time caseload that is greater than that which allows them to meet requirements set forth in relevant statutes, California Rules of Court, rules 5.660(d)(3) (Experience and education), (d)(4) (Standards of representation and (d)(5) (Attorney contact information) and

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these local rules of court, particularly those requirements that relate to experience and education and standards of representation.

**Rule 7.15 Minimum Standards of Education and Training** (Effective 7/1/03; rev. 1/1/20)

**Rule 7.15.1 Training and Educational Requirements – Dependency** (Effective 7/1/03, rev. 7/1/17; rev. 1/1/20)

Each attorney appointed to appear in a dependency matter before the Juvenile Court shall not seek certification of competency and shall not be certified by the court as competent until the attorney has completed the following minimum training and educational requirements. To obtain a Certification of Competency, counsel shall have:

- (a) Completed a minimum of eight (8) hours of training or education in juvenile dependency. Training or education shall include an overview of dependency law and related case law and statutes, rules of court, Judicial Council forms, motions, trial techniques and skills, writs and appeals, and topics including parentage, child development, child abuse and neglect, substance abuse, domestic violence, family reunification and preservation and reasonable efforts. (Effective 7/1/03; rev. 1/1/20)
- (b) At least six (6) months experience in dependency proceedings in which the attorney has demonstrated competence in the attorney’s representation of his or her clients in said proceedings. To qualify for certification under this paragraph, the attorney must have made a substantial number of appearances and handled a variety of dependency hearings, including contested hearings. In determining whether the attorney has demonstrated competence, the court shall consider whether the attorney has demonstrated knowledge and understanding of the topics listed in paragraph (a) of this subdivision. (Effective 7/1/03; rev. 1/1/20)
- (c) For any attorney appointed to represent a child, instruction on cultural competency and sensitivity relating to, and best practices for, providing adequate care to lesbian, gay, bisexual, transgender and questioning youth in out-of-home placement. (Effective 1/1/20)

**Rule 7.15.2 Renewal of Certification of Competency – Dependency** (Effective 7/1/03, rev. 7/1/17)

- (a) In order to retain his or her certification to practice before the Juvenile Court, each attorney who has been previously certified by the court shall submit a new Certificate of Competency to the court every three (3) years after initial certification. The attorney shall attach the renewal Certification of Competency as evidence that he or she has completed at least eight (8) hours of continuing training or education directly related to dependency proceedings since the attorney was last certified. Evidence of completion of the required number of hours of training or education may include a copy of a certification 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 of such program; or such other documentation as may reasonably be considered to demonstrate the attorney’s attendance at such program. Attendance at a court sponsored or approved program will also fulfill this requirement.
- (b) The attorney’s continuing training or education shall be in the areas set forth in Rule 5.660(d)(3), or in other areas related to juvenile dependency practice including, but not limited to, special education, mental health, health care, immigration issues, the Rules of Evidence, adoption, practice and parentage issues, the Uniform Child Custody Jurisdiction Enforcement Act, the Parental Kidnapping Prevention Act, state and federal public assistance programs, the Indian Child Welfare Act, client interviewing and counseling techniques, case investigation

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and settlement negotiations, mediation, basic motion practice and Rules of Civil Procedure. (Effective 7/1/03, rev. 7/1/17)

Rule 7.15.3 Obligations for Attorneys Representing Dependent Children (Effective 7/1/03; rev. 1/1/06; rev. and renum. 1/1/20)

Counsel for the child or the counsel's agents are expected to: (Effective 7/1/03; rev. and renum. 1/1/20)

- (a) Advocate for the protection, safety, and physical and emotional well-being of the child or nonminor dependent. (Effective 1/1/20)
- (b) Meet regularly with the child, and to have sufficient personal contact with the child to establish and maintain an adequate and professional attorney-client relationship. The child's attorney or attorney's agent must have personal contact with the child prior to the jurisdictional hearing and, thereafter, as often as competent representation requires. In no event shall such subsequent personal contact occur less than once every six (6) months after assumption of jurisdiction. The attorney or attorney's agent shall interview all children four (4) years or older in person. Whenever possible, the child shall be interviewed at the child's placement. (Effective 7/1/03; rev. and renum. 1/1/20)
- (c) Explain fully, consistent with the child's ability to understand, the nature and consequences of the court proceedings.
- (d) Contact social workers and other professionals associated with the child's case; to work with other counsel and the court to resolve disputed aspects of a case without contested hearing, if possible; and to adhere to the mandated timelines. (Effective 1/1/20)
- (e) Have sufficient contact with the child's care-giver, CASA, if any, and/or therapist, if any, to assess accurately the child's well-being and needs.
- (f) Monitor the child's development throughout the course of the proceedings and advocate for services that will provide a safe, healthy, and nurturing environment for the child.
- (g) Maintain a caseload that allows the attorney to perform the duties required by Welfare and Institution Code section 317(e) and California Rules of Court, rule 5.660, and to otherwise adequately counsel and represent the child/nonminors dependent. (Effective 7/1/03; rev. 1/1/06; rev. 1/1/20)
- (h) Immediately inform the court of any interest or right of the child which may need to be protected or pursued in other judicial or administrative forums and seek instructions from the court as to the appropriate procedure to follow.

Rule 7.15.4 Conflict of Interest Guidelines for Attorneys Representing Siblings (California Rules of Court, rule 5.660(c)) (Effective 1/1/20)

- (a) The court may appoint a single attorney to represent a group of siblings involved in the same dependency proceeding. An attorney must decline to represent one or more siblings in a dependency proceeding, and the court must appoint a separate attorney to represent the sibling or siblings, if, at the outset of the proceedings an actual conflict of interest exists among those siblings or circumstances specific to the case present a reasonable likelihood that an actual conflict of interest will arise among those siblings.
- (b) The following circumstances, standing alone, do not necessarily demonstrate an actual conflict of interest or a reasonable likelihood that an actual conflict of interest will arise: There is a



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purely theoretical or abstract conflict of interest among the siblings, some of the siblings appear more likely than others to be adoptable; the siblings may have different permanent plans, the siblings express conflicting desires, but the issues involved are not material to the case, or the siblings give different or contradictory accounts of the events, but the issues involved are not material to the case. Conflicting reports regarding abuse from siblings, however may represent an actual conflict of interest.

- (c) An attorney representing children has an ongoing duty to evaluate the interests of each child and assess whether there is an actual conflict of interest. If an attorney believes that an actual conflict has developed during representation, he or she must take any action necessary to ensure that the siblings' interests are not prejudiced, including notifying the court of the conflict and requesting to withdraw from representation of some or all of the siblings.

Rule 7.15.5 Training and Educational Requirements – Juvenile Justice (Effective 7/1/17; rev. and renum. 1/1/20)

Only those attorneys who, during each of the most recent three calendar years, have dedicated at least 50 percent of their practice to juvenile justice and demonstrated competence or who have completed a minimum of 12 hours of training or education during the most recent 12-month period in the area of juvenile justice, may be appointed to represent youth. To obtain a Certification of Competency, counsel shall have completed training in the following areas: (Effective 7/1/17; rev. and renum. 1/1/20)

- (a) An overview of juvenile justice laws and related statutes and cases; (Effective 7/1/17; rev. and renum. 1/1/20)
- (b) Trial skills, including drafting and filing pretrial motions, introducing evidence at trial, preserving the record for appeal, filing writs, notices of appeal, and post-trial motions;
- (c) Advocacy at the detention and dispositional phases;
- (d) Child and adolescent development, including training on interviewing and working with adolescent clients;
- (e) Competence and mental health issues, including capacity to commit a crime and the effects of trauma, child abuse, and family violence, as well as crossover issues presented by youth involved in the dependency system;
- (f) Police interrogation methods, suggestibility of juveniles, and false confessions;
- (g) Counsel's ethical duties, including racial, ethnic, and cultural understanding and addressing bias;
- (h) Cultural competency and sensitivity relating to, and best practices for, providing adequate care to lesbian, gay, bisexual, transgender youth, and questioning youth; (Effective 7/1/17; rev. and renum. 1/1/20)
- (i) Understanding of the effects of and how to work with victims of human trafficking and commercial sexual exploitation of children and youth;
- (j) Immigration consequences and the requirements of Special Immigrant Juvenile Status;
- (k) General and special education, including information on school discipline;
- (l) Extended foster care;

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- (m) Substance abuse;
- (n) How to secure effective rehabilitative resources, including information on available community-based resources;
- (o) Direct and collateral consequences of court involvement;
- (p) Transfer of jurisdiction to criminal courts hearings and advocacy in adult court; (Effective 7/1/17; rev. and renum. 1/1/20)
- (q) Appellate advocacy
- (r) Advocacy in the post dispositional phase.

**Rule 7.15.6** Renewal of Certificate of Competency – Juvenile Justice (California Rules of Court, rule 5.663(c)) (Effective 7/1/17; rev. and renum. 1/1/20)

- (a) In order to retain his or her certification to practice before the juvenile court in juvenile justice matters, each attorney who has been previously certified by the court shall complete at least eight (8) hours per calendar year of continuing education, for a total of 24 hours, during each MCLE compliance period.
- (b) Counsel shall submit a new Certificate of Competency to the court every three (3) years after initial certification. The attorney shall attach the renewal Certification of Competency as evidence that he or she has completed at least eight (8) hours of continuing training or education directly related to delinquency proceedings since the attorney was last certified. Evidence of completion of the required number of hours of training or education may include a copy of a certification 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 of such program; or such other documentation as may reasonably be considered to demonstrate the attorney's attendance at such program. Attendance at a court sponsored or approved program will also fulfill this requirement.
- (c) The attorney's continuing annual training or education shall be in the areas set forth in California Rules of Court, rule 5.664(b)(2).
- (d) An attorney who is eligible to represent youth in juvenile justice matters for only a portion of the corresponding MCLE compliance period must complete training hours in proportion to the amount of time the attorney was eligible. An attorney who is eligible to represent youth in juvenile justice proceedings for only a portion of a calendar year must complete two (2) hours of training for every three (3) months of eligibility. The 12 hours total initial training may be applied toward the continuing training requirements for the first compliance period.

**Rule 7.16** **Procedures for Reviewing and Resolving Complaints and Requests for Appointment of New Counsel** (Effective 7/1/03; rev. and renum. 1/1/20)

**Rule 7.16.1** Notice of Complaint Procedures (Effective 7/1/03; renum. 1/1/20)

Each appointed attorney shall give written notice to his or her adult client of the procedure for lodging complaints with the court concerning the performance of an appointed attorney. The notice shall be given to the client within ten (10) days of the attorney's appointment to represent the client. Evidence that a copy of said notice was given or mailed to the client shall be provided to the court within ten (10) days of a request from the court. In the case of a minor client, the notice shall be

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mailed or given to the current caretaker of the child. If the minor is twelve (12) years of age or older, a copy of the notice shall also be sent to the minor

Rule 7.16.2 Written Complaint (Effective 7/1/03; renum. 1/1/20)

Any party to a juvenile court proceeding, may lodge a written complaint with the court concerning the performance of his or her appointed attorney in a juvenile court proceeding. In the case of a complaint concerning the performance of an attorney appointed to represent a minor, the complaint may be lodged on the child's behalf by the social worker, a relative caretaker or a foster parent.

Rule 7.16.3 Court Response to Complaint (Effective 7/1/03; rev. 1/1/20)

- (a) Upon a receipt of a written complaint, a copy of the complaint shall be provided to the attorney in question and his or her supervisor, if any, within 10 days of receipt by the court. The Attorney shall have 20 days from the date of the notice to respond to the complaint in writing. The attorney should attempt to obtain an informal resolution of the matter before responding to the complaint. (Effective 7/1/03; rev. and renum. 1/1/20)
- (b) The court shall review the complaint to determine if the complaint presents reasonable cause to believe that the attorney may have failed to act competently or has violated local rules. The court may ask the complainant or the attorney for additional information before making a determination on the complaint. (Effective 7/1/03; rev. and renum. 1/1/20)
- (c) If the court finds that the attorney acted contrary to the rules or policies of the court, the court may: reprove the attorney, either privately or publicly, order that the attorney practice under the supervision of a mentor attorney for a period of at least six (6) months, or order that the attorney complete a specified number of hours of training or education in the area in which the attorney was found to have acted incompetently. In egregious cases, the court may refer the matter to the State Bar for further action. (Effective 1/1/20)
- (d) The court may also schedule a hearing on the complaint, in which case the party and the attorney shall be notified of their right to be present. Any hearing shall occur within 30 days of the date the complaint is received by the court. (Effective 7/1/03; rev. and renum. 1/1/20)
- (e) The court may rule on the complaint in writing. The court will notify the attorney at the attorney's address of record and the complaining party in writing of its determination of the complaint. (Effective 7/1/03; rev. and renum. 1/1/20)

Rule 7.16.4 Court Action upon Complaint (Effective 7/1/03; rev. 1/1/20)

If, after a hearing on the issue or the court's review of the written materials provided, the court finds that the attorney acted contrary to the law, the rules of professional responsibility, or the rules of the court, the court may relieve the attorney and appoint other counsel to represent the party.

Rule 7.16.5 Notification to Attorney and Complaining Party (Effective 7/1/03; rev. and renum. 1/1/20)

In the event of a hearing, the court may take the matter under submission, or the court may render an oral ruling at the conclusion of the hearing. Absent such an oral ruling, the court shall send its written ruling on the complaint to the attorney and the complaining party within 24 hours of issuing the written ruling.

If no hearing was held, the attorney shall have 10 days after the date of the written ruling to request a hearing before the court concerning the court's proposed action. If the attorney does not request a hearing within that period of time, the court's determination shall become final.

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Rule 7.16.6 Attorney Request for Hearing (Effective 7/1/03; rev. 1/1/07; rev. and renum. 1/1/20)

If the attorney requests a hearing, the attorney shall serve a copy of the request on the complaining party. The hearing shall be held as soon as practicable after the attorney's request therefor, but in no case shall it be held more than 30 days after it has been requested, except by stipulation of the parties, or other good cause. The complainant and the attorney shall each be given at least 10 days' notice of the hearing. The hearing shall not be open to the public.

Rule 7.16.7 Conduct of Hearing (Effective 7/1/03; rev. and renum. 1/1/20)

At the hearing, the complainant and the attorney shall have the right to present arguments with respect to the court's determination. Such arguments shall be based on the evidence before the court at the time the determination was made. No new evidence may be presented unless the party offering such evidence can show that it was not reasonably available to the party at the time that the court made its initial determination with respect to the complaint. Within ten (10) days after the hearing, the court shall issue a written determination upholding, reversing or amending the court's original determination. This decision shall be the final determination of the court with respect to the matter. A copy of the hearing decision shall be provided to both the complainant and the attorney, as well as the Indigent Defense Program administrator if the attorney has been appointed to the case as a member of the IDP, the County Counsel if the attorney is a Deputy County Counsel, or to the Public Defender if the attorney is a Deputy Public Defender.

Rule 7.16.8 Nothing in these rules precludes any person or public agency from pursuing rights afforded them by any other statute or rule of law. (Effective 1/1/20)

Rule 7.16.9 Oral Request for a New Attorney (Effective 7/1/03; rev. and renum. 1/1/20)

During any hearing in a juvenile proceeding, a party may make an oral request for his or her attorney to be relieved and for new counsel to be appointed. When such a request is made, the court shall suspend the proceedings and conduct a closed hearing where only the court, necessary courtroom personnel, the party requesting that his/her attorney be relieved, and that attorney, will be present. After hearing the basis for the request to substitute appointed counsel, and hearing from the defense attorney, if the court determines there is good cause to relieve the attorney, the attorney shall be relieved and a new attorney appointed. The juvenile proceeding shall then be continued to permit the new attorney to become familiar with the case. If the court determines there is not good cause to relieve the attorney, the hearing shall resume with the attorney continuing to represent the party. The transcript of the proceeding will be sealed.

**Rule 7.17 Procedures for Informing the Court of the Interests of a Dependent Child** (Effective 7/1/03; rev. and renum. 1/1/20)

- (a) At any time during the pendency of a dependency proceeding, any interested person may notify the court that the minor who is the subject of the proceeding may have an interest or right which needs to be protected or pursued in another judicial or administrative forum. If counsel for the minor becomes aware that the minor may have a right or interest which needs to be protected or pursued in another judicial or administrative forum, counsel for the minor shall notify the court of such right or interest as soon as it is reasonably possible for counsel to do so.
- (b) Notice to the court may be given by the filing of Judicial Council Form JV-180 (Request to Change Court Order) or by the filing of a declaration, or, in the case of an individual who is not a party to the action, by sending a signed letter addressed to the court. In either case, the person giving notice shall set forth the nature of the interest or right which needs to be protected or pursued, the name and address, if known, of the administrative agency or judicial

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forum in which the right or interest may be affected and the nature of the proceedings being contemplated or conducted there, and any case number or other identifying information regarding the proceeding. (Effective 7/1/03; rev. and renum. 1/1/20)

- (c) A copy of the notice must be served on the child's social worker and on the child's attorney and/or CASA before the notice is filed with the court. Such service may be effected by personal service, first-class mail, or the equivalent, and must be indicated on a proof of service filed with the notice. In the case of an individual who is not a party to the action who files a letter with the court, the clerk of the court will serve a copy of the letter on the child's social worker and on the child's attorney and/or CASA. (Effective 1/1/20)
- (d) The court may set a hearing on the notice if the court deems it necessary in order to determine the nature of the child's right or interest or whether said interest should be protected or pursued.
- (e) If the court determines that further action is required, the court may do one or more of the following: (Effective 1/1/20)
  - 1. Authorize an attorney to pursue the matter on the child's behalf in the other forum on a pro bono or contingency basis.
  - 2. Appoint a guardian ad litem for the child to make decisions on the child's behalf related to the potential civil proceedings. Upon the filing of an action in another forum, the court may reappoint the guardian ad litem appointed by the juvenile court or appoint a different person as guardian ad litem for the child pursuant to Code of Civil Procedure section 372.
  - 3. Notice a joinder hearing pursuant to Welfare and Institutions Code section 362, subdivision (b), compelling a responsible agency to report to the court as to whether it has fulfilled its legal obligation to provide services to the child.
  - 4. Take such other action the court may deem necessary or appropriate to protect the welfare, interests, and rights of the child.
- (f) The child's attorney shall inform the court in writing at least every six (6) months of the status of any non-dependency-related litigation or potential litigation involving a child/nondependent minor. (Effective 7/1/03; rev. and renum. 1/1/20)

**Chapter VIII. Probate Matters**

**Rule 8.1 Pleadings** (Effective 7/1/18)

Rule 8.1.1 Forms of Documents Presented for Filing (Effective 1/1/06; rev. 7/1/09; rev. 1/1/10; rev. 7/1/15; rev. 1/1/17; rev. and renum. 7/1/18; rev. 1/1/23)

- (a) All pleadings shall comply with Rules 2.100-2.119, 2.256(b) and 3.1110 of the California Rules of Court. All documents and/or pleadings submitted in which a matter is set for hearing must specify the department number, hearing date, and time underneath the title of the document and/or pleading.
- (b) Unless they are submitted by a self-represented party, exhibits must comply with Rule 3.1110(f), which requires electronic bookmarks with links. Where there is a single attachment or exhibit, the index requirement is inapplicable. Each page shall have page numbers to facilitate review by the Court. All documents must contain a titled cover sheet between attachments, schedules, and/or exhibits. (Effective 1/1/06; rev. 1/1/10; rev. 1/1/23)
- (c) Parties shall be required to provide an original and one (1) copy of all paper documents submitted for filing. (Effective 1/1/06; rev. 1/1/10; rev. 7/1/15; rev. 7/1/18)
- (d) Each person filing as a self-represented litigant shall file with the court a separate verified declaration regarding his or her residence address, if the residence is not the address of record in the proceeding. (Effective 7/1/18)
- (e) When a petition or other request for relief is presented to the court, the Probate Code section that allows the requested relief must appear below the title of the pleading. (Effective 7/1/18)

**Rule 8.2 Appearance Requirements** (Effective 7/1/18)

Rule 8.2.1 Court Appearances (Effective 7/1/18)

Court appearances are required at all hearings unless the matter has been recommended for approval (see Rule 8.2.2). When an appearance is required, attorneys or unrepresented parties are expected to appear in person or by telephone, pursuant to California Rules of Court, rule 3.670 and Local Rule 1.1.1.

Rule 8.2.2 Remote Court Appearances (Effective 3/7/22)

- (a) Remote proceedings other than an evidentiary hearing or trial.

A party wishing to appear remotely in the Probate Department in any proceedings other than an evidentiary hearing or trial, including case management conferences and motion hearings, is permitted to appear via Zoom without advance notice to the court or other parties. By appearing remotely those persons will be deemed to have requested a remote appearance. Instructions for accessing the court's Zoom account can be found on the court's website. The probate judicial officer retains the discretion to require a party to appear in person at a conference, hearing, or proceedings, as authorized by Code of Civil Procedure section 367.75.

- (b) Remote proceedings for an evidentiary hearing or trial.

Remote proceedings for evidentiary hearings or trials in the Probate Department shall be noticed and conducted as authorized by Code of Civil Procedure section 367.75 and California Rules of Court, rule 3.672.

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(c) This rule shall be in effect until **January 1, 2026**.

Rule 8.2.3 Matters which are Proper to be Submitted on the Pleadings (PSP) (Effective 1/1/12; rev. 7/1/15; rev. 7/1/16; rev. and renum. 7/1/18; renum. 3/7/22)

(a) Appearances are required on all petitions for appointment of conservators and guardians, confirmation of sale of real or personal property, approval of extraordinary fees, spousal property petitions, ex parte applications/petitions, and any petition to which an objection has been filed. For all other matters, if the matter is submitted properly, if all procedural requirements have been satisfied, and if the matter does not require discretionary consideration by the Probate Judicial Officer, the matter will be noted by the Probate Examiner's Office as "proper to be submitted on the pleadings" (PSP), and a court appearance will not be necessary. (Effective 1/1/12; renum. 7/1/18)

(b) Special Procedural Requirements for PSP matters: A proposed Order shall be submitted concurrently with the petition. The Notice of Hearing (JC Form DE-120) or Notice to Administer Estate (JC Form DE-121) for all matters submitted as PSP shall include the following legend in at least 10 point capitalized bold, highlighted, or different-colored font: (Effective 1/1/12; renum. 7/1/18)

**1. THIS MATTER IS SUBMITTED AS "PROPER TO BE SUBMITTED ON THE PLEADINGS (PSP)." ALL MATTERS APPROVED AS PSP WILL BE GRANTED UNLESS YOU APPEAR AT THE HEARING AND OBJECT WHEN THE PSP CALENDAR IS CALLED.**

(c) Matters proper to be submitted on the pleadings are called by the court as a group at the time set for hearing. If there are no objections and no objectors present, and if the Probate Judicial Officer approves the petition without any additional requirement, the Order will be signed. If someone appears at the hearing to object, or if the Probate Judicial Officer does not approve the petition, a new hearing date will be set and a copy of the minute order will be mailed by the clerk to petitioner's counsel or petitioner in pro per. (Effective 1/1/12; rev. 7/1/15; renum. 7/1/18)

(d) In the event an objection or attempted objection is made on the hearing date, but after the Order is signed, the Judicial Officer has the discretion to set aside such Order. (Effective 1/1/12; renum. 7/1/18)

**Rule 8.3 Settings, Assignments, and Continuances** (Effective 7/1/03; renum. 7/1/18; rev. 7/1/21; **rev. 1/1/24**)

Rule 8.3.1 Obtaining a Hearing Date (Effective 1/1/06; rev. 1/1/10; rev. 7/1/15; rev. and renum. 7/1/18; rev. 7/1/21)

Hearing dates are obtained once the petition or other document requiring a hearing has been reviewed by the Court.

**Rule 8.3.1.1 Reserving a Motion Date** (Effective 1/1/24)

All law and motion matters will be heard pursuant to applicable courtroom schedules. Hearing dates for regularly noticed law and motion proceedings in the Probate Department that are filed by attorneys shall be pre-cleared and reserved by calling the Probate Department at (661) 610-6901. All motions that are pre-cleared and reserved must be filed, and the motion filing fees paid within three (3) days of the date that the reservation is made. Failure to pay the filing fee and file the moving papers timely will result in the expiration of the reserved hearing date.

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Rule 8.3.2 Continuances (Effective 7/1/03; renum. 1/1/13; renum. 7/1/18)

Rule 8.3.2.1 Matters Not Ready for Hearing (Effective 7/1/03; rev. 7/1/09; rev. 1/1/10; rev. 1/1/13; rev. 7/1/16; rev. and renum. 7/1/18)

(a) All matters set for hearing are reviewed in advance by the probate examiner's office. Examiner's notes (also known as "Probate Notes") are posted on the Kern County Superior Court website as a "Comment" on each hearing. Any documents submitted to resolve examiner's notes shall be filed by 9:00 a.m. two court days prior to the hearing date, or they may not be considered by the court and the matter may be continued. (Effective 1/1/13; rev. 7/1/16)

(b) On the call of the calendar, matters not ready for hearing normally may be dropped from calendar. A matter is considered not ready for hearing if notices, supplements, proofs of service, or other documentation curing all discrepancies other than strictly court determined matters are not filed prior to 9:00 a.m. at least two (2) court days before the hearing. (Effective 7/1/03; rev. 1/1/10; rev. 1/1/13, rev. 7/1/18)

Rule 8.3.2.2 Continuances by Stipulation of Counsel (Effective 7/1/03; rev. 1/1/10; renum. 1/1/13; renum. 7/1/18)

All Continuances stipulated by Counsel shall be approved by the Court and are subject to appropriate filing fees and/or conditions set forth by the Court. Counsel cannot stipulate to a continuance of less than seven (7) calendar days.

Rule 8.3.3 Mandatory Settlement Policy (Effective 7/1/03; renum. 1/1/13; renum. 7/1/18)

A Mandatory Settlement Conference is required in any contested probate matter in which the estimated time of hearing is more than one (1) day. All Mandatory Settlement Conferences shall be conducted pursuant to California Rules of Court, rule 3.1380.

**Rule 8.4 Orders** (Effective 7/1/03; renum. 7/1/18)

Rule 8.4.1 Order to Produce Will (Effective 7/1/03; renum. 7/1/18)

A petition for an order to produce a will, together with the proposed order, must be submitted to the Probate Department for processing.

Rule 8.4.2 Material to be Included in Probate Orders (Effective 7/1/03; rev. and renum. 7/1/18)

(a) Orders shall contain the name of the judge presiding, the date of hearing and the department. All orders or decrees in probate matters must be complete in themselves, in that they shall set forth all matters actually passed on by the court, the relief granted, names of persons and descriptions of property involved with the same particularity required of judgments in civil matters. Probate orders should be so drawn that their general effect may be determined without reference to the petition on which they are based. (Effective 7/1/03; rev. and renum. 7/1/18)

(b) All Proposed Orders and Orders must include identifying information on the last page of the order with a line for the Court's signature. If the order contains riders or exhibits, the signature line provided for the judicial officer shall appear after all such exhibits, at the end of the complete document. Some portion of the contents of the order must appear on the page upon which the judge's signature is affixed. (Effective 7/1/18)



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- (c) While in orders setting accounts it is proper to use general language approving the account, the report and the acts reflected therein, it is not sufficient in any order to recite merely that the petition as presented is granted. (Effective 7/1/03; renum. 7/1/18)

Rule 8.4.3 All Orders for Continuing Payments Must Have a Maximum Time Limit (Effective 7/1/03; rev. 1/1/10, renum. 7/1/18)

The court will not make orders for continuing family allowance payments to run until the further order of the court, but all such orders shall provide that payments shall commence as of a certain date and continue for a period not to exceed a specified number of months.

Rule 8.4.4 Ex Parte Proceedings (Effective 7/1/03; rev. 1/1/10; rev. 7/1/15; rev. and renum. 7/1/18; **rev. 1/1/24**)

- (a) All Ex-Parte Petitions requesting that notice be dispensed with must be filed with the Court. The Court may grant or deny an Ex-Parte request, or may set the matter for hearing and require notice to appropriate parties. (Effective 7/1/18)

- 1. Notice on Ex-Parte Hearings: Notice shall be given to all counsel, interested parties, and/or all opposing parties, if not represented by counsel, by 10:00 a.m. the court day before the scheduled hearing.

- a) If notice cannot be given because the address of the person is unknown, the Ex-Parte Compliance Declaration shall set forth the efforts taken to obtain the address and efforts to give notice to each person whose address is unknown.

- 2. Compliance: Compliance of the notice requirements shall be stated and filed on an Ex-Parte Compliance Declaration. (Effective 7/1/03; rev. 1/1/10; renum. 7/1/18)

- 3. Submission: All required paperwork for the Ex-Parte hearing shall be returned to the court clerk by 12:00 noon the court day before the scheduled hearing. (Effective 7/1/03; rev. 1/1/10; renum. 7/1/18)

- (b) All Ex-Parte Applications and Stipulations shall be accompanied by a separate order. It is not sufficient for such an order to state that the application has been granted. (Effective 7/1/18)

- (c) Contents for Filing Ex-Parte on Temporary Petitions: The moving party shall file the Ex-Parte Application, and Temporary Petition, along with the General Petition, if not previously filed, and all accompanying attachments as applicable, with proper case title captioned; the relief requested; a declaration in support of application; compliance declaration; a proposed order; and, the applicable fees. (Effective 7/1/03; rev. 1/1/10; rev. 7/1/15; rev. and renum. 7/1/18)

- (d) **Stipulation to Temporary Judge: Ex parte applications and petitions assigned to the Probate Department may be heard and decided by (1) a Commissioner of the Superior Court, acting as a temporary judge pursuant to California Constitution, Article VI, §§ 21 and 22 and Code of Civil Procedure Code § 259, for All Purposes; or (2) a temporary judge, who is a probate research attorney who meets all the requirements set forth in California Rules of Court Rule 2.812 to serve as a temporary judge. Except as provided in Code of Civil Procedure § 259, subdivisions (a), (b), (c), (e), (f), and (g), parties are required to stipulate to a commissioner hearing a matter acting as a temporary judge pursuant to California Constitution, Article VI §§ 21 and 22 and Code of Civil Procedure § 259(d), and to an attorney acting as a temporary judge. If the parties subject to the ex parte application or petition have not appeared in the case before, the moving party's filing of the ex parte application or petition will constitute their**

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stipulation to the case being heard and decided by a temporary judge unless the moving party makes clear they object.

The moving party must provide notice to the responding party or parties that a temporary judge may hear and rule on the application or petition. Such notice must be submitted with the ex parte application or petition on the form available on the court's website. If the responding party or parties do not object, their failure to object will also constitute such a stipulation.

If all parties are consenting to an order requested in an expedited court proceeding, such consent will be deemed to include an agreement to a temporary judge ruling on the requested order. (Effective 1/1/24)

**Rule 8.5 Appointment of Executors and Administrators** (Effective 7/1/03; renum. 7/1/18)

**Rule 8.5.1 Special Administration** (Effective 7/1/03; rev. 1/1/06; renum. 7/1/18)

- (a) A petition for Special Administration of an Estate will not be accepted for filing without concurrent presentation of a Petition for General Administration of the Estate, except upon good cause shown. (Effective 7/1/03; rev. 1/1/06)
- (b) A petition for special letters of administration ordinarily will not be granted without notice to the surviving spouse, the person nominated as executor, and any other person the court determines to be entitled to notice. (Effective 1/1/06)

**Rule 8.5.2 Allegations in Petitions Re Heirs or Beneficiaries** (Effective 7/1/03; renum. 7/1/18)

- (a) The nominated trustee of a trust should be listed as a devisee or legatee and the individual beneficiaries of the trust need not be listed or noticed unless the sole trustee is also the estate representative.
- (b) If an heir, devisee or legatee dies after the decedent, and a personal representative has been appointed for said person, the deceased heir, devisee or legatee should be listed in care of the name and address of the personal representative. If no personal representative has been appointed, the deceased heir, devisee or legatee should be listed as deceased, the fact that no personal representative has been appointed should be alleged, and the known heirs, devisees and legatees of said deceased person should be listed, or if none are known, the last known address of the deceased person should be listed.

**Rule 8.5.3 Wills and Codicils as Exhibits to Petition** (Effective 7/1/03; rev. 7/1/09; renum. 7/1/18)

When a Petition for Probate of Will or Codicil, or both, is filed, it shall have attached, where applicable, marked as an exhibit, a copy of the document(s) being offered for probate. If the will or codicil is handwritten, a typewritten copy of the document must also accompany the petition. The original will must be lodged with the court. Exemplified copies of any foreign will lodged elsewhere will be required as an exhibit to the petition.

**Rule 8.5.4 Proof of Wills by Affidavit or Declaration** (Effective 7/1/03; rev. 1/1/10; renum. 7/1/18)

(a) **When Court Appearance Required**

Written proof as to the admissibility of each testamentary document must be submitted or an appearance is required.

(b) **Multiple Testamentary Instruments**

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Each proffered instrument shall be proved by a separate affidavit or declaration.

**Rule 8.5.5** Declinations and Consents to Serve (Effective 7/1/03; renum. 7/1/18)

- (a) It is insufficient to allege merely that the person named in the decedent's will as executor thereof declines to act as such. In addition, a written declination to act, signed by such person, must be filed with the court.
- (b) It is insufficient to allege merely that a non-California bank or trust company named as executor is not qualified to act as such in California since it has the right to qualify to do business in California. Instead, its declination to act should be alleged and an executed declination should be obtained and filed.
- (c) If a Petition for Letters to be issued to two or more executors is filed in which one or more of the named executors for whom letters are sought is not petitioner, a consent to act, signed by each non-petitioning executor for whom letters are sought, must be filed with the court.

**Rule 8.5.6** Multiple Representatives (Effective 7/1/03; renum. 7/1/18)

When multiple representatives are appointed by an order which directs that letters (testamentary or administration) shall be issued to them, the clerk will not allow less than all to qualify and have letters issued separately. If qualification of less than all is desired, it must be so provided in the order of appointment. All qualified representatives must execute the same original letters.

**Rule 8.6** Sales (Effective 7/1/03; renum. 7/1/18)

**Rule 8.6.1** Published Notice for Sale of Real Estate (Effective 7/1/03; renum. 7/1/18)

If Notice of Sale is published, any sale must be in accordance with its terms. If a Petition for Confirmation of Sale is filed alleging the sale took place prior to the date stated in the published notice, the sale cannot be confirmed and new Notice of Sale must be published unless the court, in its discretion permits a supplement to the petition changing the sale date to a date after the date stated in the published notice, correcting the clerical error. The Court requires that the specific date of sale be alleged in the return of sale and petition for its confirmation.

**Rule 8.6.2** Sale of Real Property When Buyer Assumes Encumbrance (Effective 7/1/03; renum. 7/1/18)

Except under extraordinary circumstances alleged in the report of sale, sales of real estate will not ordinarily be confirmed where the buyer assumes or takes subject to an existing encumbrance if the estate is subject to a continuing liability on the encumbrance.

**Rule 8.6.3** Appearance of Attorney for the Estate Required (Effective 7/1/03; renum. 7/1/18)

In Petitions for Confirmation of Sale of Real or Personal Property where bidding is authorized, the Court will not proceed with the confirmation of the sale in the absence of the attorney of record except in those cases where the administrator, executor, guardian or conservator is in propria persona.

**Rule 8.6.4** Conditional Sales of Real Property (Effective 7/1/03; renum. 7/1/18)

The Court will not approve a sale of real property which is conditioned upon the occurrence of a subsequent event (such as change in zoning or obtaining approval from an environmental control board) unless unusual and extraordinary circumstances exist and the necessity and advantage to the estate are shown to the Court.

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**Rule 8.7 Inventory, Accounts, Reports, and Petitions for Distribution** (Effective 7/1/03; renum. 7/1/18)

Rule 8.7.1 Fees Must Be Stated Even Though Account Waived (Effective 7/1/03; renum. 7/1/18)

In accounts or in Petitions for Distribution accompanied by a Waiver of Accounting, the report must state the amount of the administrator's or executor's commissions, and attorney's fees. It must also set forth the estate accounted for and the basis for the calculation.

Rule 8.7.2 Description of Distributee (Effective 7/1/03; renum. 7/1/18)

- (a) The names, ages, relationships and shares of all persons who are affected by the petition must appear in the Petition for Final Distribution. Adult persons may be designated as "adult" or "legal" and for minors, the birth date shall be stated.
- (b) If a trust is established in which property will be distributed to a beneficiary upon reaching a given age, the petition must allege the date of birth of the distributee.

Rule 8.7.3 Notice to Prior Representative or Attorney (Effective 7/1/03; renum. 7/1/18)

If there has been a change of personal representative or fiduciary or a substitution of counsel, notice of hearing must be given to such prior representative, fiduciary or counsel of any probate petition in which fees or commissions are requested by the present personal representative, fiduciary or counsel unless:

- (a) A waiver of notice executed by the prior personal representative, fiduciary or counsel is on file;
- (b) An agreement on the allocation of fees and/or commissions is on file or included in the petition; or
- (c) The file and the petition demonstrate that the fees and/or commissions of the prior personal representative, fiduciary or counsel have been previously provided for and allowed by the court.

Rule 8.7.4 Documents to be on file before Order for Distribution of Minor's Request (Effective 7/1/03; rev. 7/1/09; renum. 7/1/18)

When distribution is to be made to a minor, the petition must allege whether distribution is to be made to the court appointed guardian or to other persons under Probate Code section 3401 or under the Uniform Transfers to Minors Act. All appropriate certified copies of court orders and Letters of Appointment or the original written assurance under Probate Code section 3401 must be filed with the Petition for Distribution. A Probate Code section 3909(b) instrument will be required to complete the transfer.

Rule 8.7.5 Decrees of Distribution Establishing Testamentary Trusts (Effective 7/1/03; renum. 7/1/18)

Upon Petition for Distribution, the court must determine whether a valid trust has been created by a Will, determine the scope and terms of the trust, and order distribution of the trust property to the trustee. The terms of the trust shall be set forth in the petition and decree in such a manner as to give effect to the conditions existing at the time distribution is ordered. The pertinent provisions shall be set forth in the present tense and in the third person rather than quoting the Will verbatim.

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Rule 8.7.6 Receipts on Distribution (Effective 7/1/03; renum. 7/1/18)

Receipts for any property received by a distributee shall be signed by him or her personally. The Court will not accept receipts signed by an attorney-in-fact, except where there is a power of attorney.

**Rule 8.8 Attorney Fees and Personal Representative Commissions in Decedent's Estate** (Effective 7/1/03; renum. 7/1/18)

Rule 8.8.1 Amount of Fees to be Specific (Effective 7/1/03; renum. 7/1/18)

In all petitions requesting fees, both ordinary and extraordinary, a specific sum shall be requested, not merely "a reasonable amount".

Rule 8.8.2 Basis for Statutory Fees Must Be Stated Even Though Account Waived (Effective 7/1/03; renum. 7/1/18)

In accounts or in Petitions for Distribution accompanied by a Waiver of Accounting, the report must state the amount of statutory fees payable and set forth the basis for the calculation.

Rule 8.8.3 Format for Requesting Extraordinary Fees (Effective 7/1/03; renum. 7/1/18)

Application for compensation for extraordinary services will not be considered unless the caption and the prayer of the petition and the notice to affected parties contain a reference to such application for extraordinary fees. All requests for compensation for services for extraordinary fees must be itemized.

Rule 8.8.4 Additional Supporting Documents (Effective 7/1/09; renum. 7/1/18)

The court may require production of additional documentation in support of an account by the personal representative in accordance with Probate Code section 10901.

**Rule 8.9 Accounts and Reports/Guardianships and Conservatorships** (Effective 7/1/03; renum. 7/1/18)

Rule 8.9.1 Personal Property Bond (Effective 7/1/03; rev. 7/1/09; rev. 1/1/13; renum. 7/1/18)

Reports of conservators and guardians should reference the amount of the current bond and state whether additional bond is necessary to cover unblocked personal property plus one year's estimated income, and the existence of any facts that justify an additional bond. The report should also show any blocked bank accounts. The report must contain the current address and whereabouts of the conservatee and conservator and describe the conservatee's status and condition.

Rule 8.9.2 Additional Supporting Documents (Effective 7/1/09; renum. 7/1/18)

The Court may require production of additional documentation in support of an account by the personal representative in accordance with Probate Code section 10901.

**Rule 8.10 Guardianships** (Effective 7/1/03, rev. and renum. 7/1/18; rev. 1/1/19; rev. 1/1/20)

Rule 8.10.1 Appointment of General Guardians (Effective 7/1/03; renum. 7/1/18; rev. 1/1/19)

Upon filing the Petition for Appointment of a (general) Guardian, the petitioner shall submit to the Probate Department a proposed order prescribing the notice to be given as required by Probate Code section 1511. At least 15 days' notice by personal service must be given to the parents, if not petitioning; to the minor, if 12 years or older; and to the person(s) having custody, if not the parents. 15 days' notice by mail must be given to all relatives within the second degree. If petitioner is not

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a relative within the second degree, the court may require additional notice to all relatives within the degree to which the petitioner is related to the minor.

### Rule 8.10.2 Appointment of Temporary Guardians (Effective 7/1/18; rev. 1/1/19)

The Petition for Appointment of Temporary Guardian must be filed concurrently with or after the filing of a Petition for Appointment of Guardian. The petition must state facts establishing the urgency requiring the appointment of a temporary guardian.

The court shall treat the Petition for Appointment of Temporary Guardian as an ex parte application. No separate ex parte application is required. The court shall review the pleadings and may:

- (a) Set a hearing on the petition to be noticed pursuant to Probate Code section 2250(e);
- (b) Deny the petition without hearing; or
- (c) Grant the petition without hearing upon showing of good cause for exception to the notice requirement, pursuant to California Rules of Court, rule 7.1012.

### Rule 8.10.3 Guardianship Questionnaires and Investigations (Effective 1/1/20; rev. 1/1/22)

- (a) A Guardianship Questionnaire (Form 8524) shall be completed, signed under penalty of perjury, and submitted with all petitions for probate guardianship. Each proposed guardian shall complete, sign, and file a separate Guardianship Questionnaire, even if they are married and/or living in the same household. The form contains a Release of Information, which must be signed to enable court investigators to access the information required under Probate Code section 1513.
- (b) All other adults who live in the proposed guardian's home, must complete and sign the background information page of the Guardianship Questionnaire (Form 8524). This page must be completed under penalty of perjury and include the individual's consent to a background check to enable court investigators to access the information required under Probate Code section 1513. In cases with multiple proposed guardians, only one background information page is required for each other adult.
- (c) A Guardianship Objection/Termination Questionnaire (Form 8525) shall be completed, signed under penalty of perjury, and submitted with:
  - 1. All petitions to terminate probate guardianship; and
  - 2. All objections to probate guardianship.

Each person opposing the probate guardianship shall complete a separate Guardianship Objection/Termination Questionnaire (Form 8525), even if they are married and/or living in the same household. The questionnaire contains a Release of Information, which must be signed to enable court investigators to access the information required under Probate Code section 1513.

- (d) All other adults who live in the home of the person opposing the probate guardianship, must complete and sign the background information page of the Guardianship Objection/Termination Questionnaire (Form 8525). This page must be completed under penalty of perjury and include the individual's consent to a background check to enable court investigators to access the information required under Probate Code section 1513. In cases with multiple parties opposing the guardianship, only one background information page is required for each other adult.

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- (e) Although pertinent information provided on the Guardianship Questionnaire (Form 8524) and the Guardianship Objection/Termination Questionnaire (Form 8525) may be shared with other parties during the investigation, the forms themselves contain personal identifiers and are confidential. The forms will not become part of the public record. The forms shall not be released to any party or their attorney without a court order. Family Court Services must maintain these forms in a manner that will protect and preserve their confidentiality.
- (f) Each proposed guardian must cooperate with the Family Court Services investigator in the preparation of an investigation report and must use all reasonable efforts to provide requested information in a timely fashion. The investigation may require an interview of the proposed ward, who must be made available for that purpose. (Effective 1/1/22)
- (g) Nothing in this rule shall prevent an investigator from reporting to the court the existence of another case involving the children at issue or their parents, stepparents, legal guardians, or proposed guardians, for the purposes of coordinating court hearings and delivery of services. (Effective 1/1/22)
- (h) The involvement of a minor in any other past or current court proceeding must be reported to the court and/or the investigator. The case name, the court, and the case number must be provided. (Effective 1/1/22)
- (i) Nothing in this rule restricts an investigator from reporting suspected abuse or neglect of protected persons and the fact that such a report was made. However, the identity of the reporting party shall not be reported or disclosed. (Effective 1/1/22)
- (j) Nothing in this rule restricts an investigator from reporting or serving as a witness when a crime has been committed, or is alleged to have been committed. (Effective 1/1/22)
- (k) A proposed guardian's history of allegations of abuse or neglect reported by official agencies and any criminal history shall be submitted to the court in a confidential supplemental report and will be released to the parties and/or counsel only if ordered by the court. (Effective 1/1/22)

Rule 8.10.4 Confidential Information from the California Law Enforcement Telecommunications System (Effective 1/1/20; rev. 7/1/23)

- (a) Confidential information from the California Law Enforcement Telecommunications System (CLETS) is obtained by the Court in the form of a CLETS report. The CLETS report shall be used by Family Court Services to complete the investigation pursuant to Probate Code section 1513, and an individual's CLETS results will be included in the investigative report. However, the CLETS report itself is available only to the person who is the subject of the report, or his/her attorney, upon request to the Manager of Family Court Services.
- (b) Should a proposed guardian believe that their criminal history is incorrectly reported, or is unclear, they shall have the option of submitting to another criminal history check by completing the California Department of Justice's Form BCIA 8016 and having fingerprints taken at a Public Applicant Live Scan Site, as certified by the State Department of Justice for an FBI Level of Service. Fees charged by Public Applicant Live Scan Site providers vary and are the responsibility of the proposed guardian. The results of the criminal history check shall be sent directly to the Kern County Superior Court and will be used by the court investigator for the completion of the required reports for the Court. (Effective 7/1/23)

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Rule 8.10.5 Notice of Change of Address (Effective 7/1/18; rev. 1/1/19; renum. 1/1/20)

All parties and their attorneys shall inform the Court of any change of their address, or the address of their wards within thirty (30) days. Failure to comply may result in suspension or removal of a guardian.

Rule 8.10.6 Assessments (Effective 7/1/18; renum. 1/1/20)

The Court will order the payment of the total assessments levied for the Family Court Services (FCS) or Department of Human Services (DHS) investigators in any guardianship matter where there are sufficient funds available.

Rule 8.10.7 Resignation of Guardian (Effective 7/1/18; renum. 1/1/20)

- (a) A Petition for Resignation may not be combined with a Petition for Appointment of a successor guardian. Separate petitions must be filed.
- (b) The guardian may resign at any time; however, the resignation is not effective until the Appointment of a Successor Guardian (termination or removal do not require resignation).

Rule 8.10.8 Duties of Guardian - Liability of Parents to Support Child; Educational Purposes. Probate Code sections 2420-2422 (Effective 7/1/03; renum. 7/1/18; rev. 1/1/19; renum. 1/1/20)

Parents are legally required to support their children. The Court will not permit guardianship funds to be used for the minor's maintenance, support, or education where one or both parents are living, except upon a showing of the parent's financial inability or other circumstances which would justify departing from this rule in the best interests of the minor.

**Rule 8.11 Conservatorships** (Effective 7/1/03; renum. 7/1/18; rev. 1/1/22)

Rule 8.11.1 Appointment of Conservator and Investigation (Effective 7/1/03; rev. and renum. 7/1/18; rev. 1/1/22; rev. 7/1/23)

- (a) The clerk will issue the initial citation. If the citee has not been served with the citation or such service is defective, a new citation must issue. If the matter is continued because the citation has not been served or service is defective, the court will order a new citation to issue and fix a new hearing date. (Renum. 1/1/22)
- (b) All proposed conservators filing initial petitions, except the Public Guardian and previously qualified private professional conservators, must provide the required information in order for a CLETS record check to be performed on the proposed conservator and other adults in the household. (Effective 1/1/22)
- (c) Should a proposed conservator believe that their criminal history is incorrectly reported, or is unclear, they shall have the option of obtaining another criminal history check by completing the California Department of Justice's Form BCIA 8016 and having fingerprints taken at a Public Applicant Live Scan Site, as certified by the State Department of Justice for an FBI Level of Service. Fees charged by Public Applicant Live Scan Site providers vary and are the responsibility of the proposed conservator. The results of the criminal history check shall be sent directly to the Kern County Superior Court and will be used by the court investigator for the completion of the required reports for the Court. (Effective 7/1/23)
- (d) Proposed conservator(s) must cooperate with the Family Court Services investigator in the course of the investigation and must use all reasonable efforts to provide information in a



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timely fashion. The investigation shall require an interview of the proposed conservatee, who must be made available for that purpose. (Effective 1/1/22; renum. 7/1/23)

- (e) Nothing in this rule shall prevent an investigator from reporting to the court the existence of another case involving the proposed conservatee or conservatee or their proposed conservator for the purposes of coordinating court hearings and delivery of service. (Effective 1/1/22; renum. 7/1/23)
- (f) Nothing in this rule restricts an investigator from reporting suspected abuse or neglect of protected persons and the fact that such a report was made. However, the identity of the reporting party shall not be reported or disclosed. (Effective 1/1/22; renum. 7/1/23)
- (g) Nothing in this rule restricts an investigator from reporting or serving as a witness when a crime has been committed, or is alleged to have been committed. (Effective 1/1/22; renum. 7/1/23)
- (h) A proposed conservator's history of allegations of abuse or neglect reported by official agencies and any criminal history shall be submitted to the court in a confidential supplemental report and will be released to the parties and/or counsel only if ordered by the court. (Effective 1/1/22; renum. 7/1/23)

**Rule 8.11.2** Appointment of Attorneys for Conservatee (Effective 7/1/03; renum. 7/1/18)

Representation by an attorney appointed by the court in any of the above cases ceases upon an order of the court relieving said attorney as counsel.

**Rule 8.11.3** Notice of Change of Address (Effective 7/1/03; renum. 7/1/18; rev. 1/1/19)

All parties and their attorneys shall inform the Court of any change of their address, or the address of their conservatees, within thirty (30) days. Failure to comply may result in suspension or removal of a conservator.

**Rule 8.11.4** Assessments (Effective 7/1/03; renum. 7/1/18)

The Court will order the payment of the total assessments levied for the probate investigator in any estate having sufficient funds to pay such assessments when the conservatorship is terminated by court order and in all cases where the conservatorship is terminated by death. Each account current must include payment of the assessment levied in the accounting period. No final discharge will be granted until proof of payment is filed with the court.

**Rule 8.11.5** Resignation of Conservator (Effective 7/1/03; renum. 7/1/18)

- (a) The conservator may resign at any time, but the resignation is not effective until the appointment of a successor conservator (termination does not require resignation).
- (b) A Petition for Resignation may not be combined with a Petition for Appointment of a Successor conservator.

**Rule 8.12** Law and Motion and Discovery Matters (Effective 7/1/03; renum. 7/1/18)

**Rule 8.12.1** Applicability of Kern County Uniform Rules of Court Relating to Law and Motion and Discovery in Probate Proceedings (Effective 7/1/03; renum. 7/1/18)

Except where, for good cause, the court dispenses with or modifies notice:

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- (a) Counsel shall comply with the pertinent sections of the Law and Motion and discovery rules of the Superior Court of California, County of Kern, as amended from time to time with respect to demurrers, motions to strike, judicial notice, motions for summary judgment and any other pretrial motions. Service and filing of all motions and responsive papers shall be in accord with said rules.
- (b) All preference motions under Section 36(a) of the Code of Civil Procedure must be heard and determined in the Presiding Department. When a motion for preference is granted, the attorneys shall be ordered to a Mandatory Settlement Conference, unless directed otherwise by the Presiding Department.

**Rule 8.13      Withdrawal of Attorneys of Record** (Effective 7/1/03; renum. 7/1/18)

If an attorney wishes to withdraw from a proceeding as attorney of record for the estate representative or any other fiduciary he/she must file a motion seeking such relief.

**Rule 8.14      Consolidation with the Lowest Number** (Effective 1/1/06)

Whenever it appears that two or more petitions with different numbers have been filed with reference to the same decedent, conservatee, or minor, the court will, on its own motion, consolidate all of the matters with the matter bearing the lowest number.

**Rule 8.15      Petition for Confirmation of Trust Assets Pursuant to Estate of Heggstad** (Effective 1/1/06; rev. 7/1/09)

- (a) Copies of all testamentary instruments shall be attached to the petition.
- (b) Copies of pertinent and current documents of title to the assets in question shall be attached to the petition. Petitioner shall redact confidential information such as social security and account numbers before attaching the documents to the petition.
- (c) If the assets to be confirmed are not clearly declared as trust assets in the instrument, or if title was transferred to the trustee and later transferred from the trustee, all persons named in any testamentary instrument as heirs at law must be listed in the petition and given notice, in addition to the notice required by Probate Code section 17203.

**Rule 8.16      Trustee Compensation** (Effective 1/1/06)

Compensation for the trustee will ordinarily be allowed as provided in the governing instrument, unless the court fixes a greater or lesser amount pursuant to Probate Code section 15680(b). If the instrument is not specific, the court will establish reasonable compensation. A fee of 1% of the fair market value of the ending balance on hand will ordinarily constitute reasonable compensation, prorated if services have been rendered for less than a full year. If compensation higher than 1% of the ending market value is requested, the request must be supported by a detailed description of the services rendered, their necessity, benefit to the estate, expertise required, time expended, and hourly rate.

**Rule 8.17      Lodging a Copy of the Original Trust Instrument with the Court** (Effective 7/1/18)

- (a) In all matters regarding trusts, a copy of the trust instrument must be filed or the original trust instrument must be lodged at the time of filing of the petition, or as soon as practicable thereafter.

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- (b) An ex-parte petition and order must be signed prior to lodging an original trust instrument. If the original trust is to be maintained as confidential, the petition and proposed order must specify the length of time the trust document must be retained and to whom it is to be returned.

**Rule 8.18** **Witness Fee** (Effective 1/1/24)

The witness fee required for a Family Court Services investigator is set under Government Code section 68097.2 and must be paid in the Probate Department before serving the subpoena. Witness fees will not be required from requesting parties with a valid fee waiver or from court-appointed counsel compensated by the County of Kern.

**Rule 8.19** **Attorney Fees** (Effective 1/1/06; renum. 7/1/18; renum. 1/1/24)

Compensation for attorney for the trust will ordinarily be allowed as provided in the governing instrument. If the instrument is not specific, the Court will establish reasonable compensation, based on a detailed description of the services rendered, their necessity, benefit to the estate, expertise required, time expended, and hourly rate.

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**Chapter IX. Court Communication Protocol for Domestic Violence and Child Custody Orders** (Effective 1/1/06; rev. 1/1/20; rev. 7/1/20)

This rule provides for a protocol that is adopted in conformity with California Rules of Court, rule 5.445 and Penal Code section 136.2. For the purposes of this rule, the following definitions apply:

- (a) “Criminal court protective order” (hereafter CPO) means any court order issued under California Penal Code section 136.2 arising from a complaint, an information, or an indictment in which the victim or witness and the defendant have a relationship as defined in California Family Code section 6211. (Effective 1/1/06; rev. 1/1/20)
- (b) “Court” means all divisions of the Superior Court of the County of Kern.
- (c) “Civil court” means any court that issues custody and visitation orders, specifically including but not limited to Juvenile, Family Law, and Probate.
- (d) “Cases involving child custody and visitation” include Family Law (dissolutions, legal separations, nullities, Domestic Violence Prevention Act, parentage, petitions for custody and support, domestic partnership actions, child support matters where custody or visitation is an issue, and any other Family Law matters related to custody or visitation), Juvenile, and Probate guardianship proceedings.
- (e) This rule is intended to protect the rights of all parties and enhance the ability of law enforcement to enforce orders. (Effective 1/1/20; rev. 7/1/20)

The purpose of this rule is to set forth a protocol to accomplish the following: (Effective 1/1/06; renum. 7/1/20)

1. For the courts to share information about the existence and terms of CPOs and other orders regarding child custody and visitation that involve the defendant and the victim or witness named in the CPO. (Effective 1/1/06; renum. 7/1/20)
2. For courts hearing cases involving child custody and visitation to take every action practicable to ensure that they are aware of the existence of any CPO involving the parties to the action currently before them. (Effective 1/1/06; renum. 7/1/20)
3. For criminal courts to take every action practicable to ensure that they are aware of the existence of any child custody or visitation court orders involving the defendant in the action currently before them. (Effective 1/1/06; renum. 7/1/20)
4. For the courts to permit appropriate visitation between a criminal defendant and his or her children pursuant to civil court orders, but at the same time provide for the safety of the protected person by ensuring that a CPO is not violated. (Effective 1/1/06; renum. 7/1/20)

This rule is not intended to change the procedures set forth in Family Code section 6380 for the electronic entry of domestic violence restraining orders into the Domestic Violence Restraining Order System. (Effective 1/1/20; renum. 7/1/20)

**Rule 9.1 Court Communication - Notification of Overlapping Cases** (Effective 1/1/06)

The courts shall make reasonable efforts, subject to available resources, to determine the existence of any other cases involving a CPO or custody and/or visitation orders regarding a child or party who is involved in an action before the court. If the court becomes aware of the existence of any other case involving the same child or party before the court, subject to available resources, the

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court clerk in the case before the court shall inform the court in the other overlapping case of the existence of the case before the court.

**Rule 9.2 Requirements of Civil Courts Issuing Custody and Visitation Orders** (Effective 1/1/06)

**Rule 9.2.1 Inquiry by the Court** (Effective 1/1/06)

Prior to issuing custody or visitation orders, the Civil Courts should inquire whether there are any CPOs in any court that involve the parties or the children of the parties.

**Rule 9.2.2 Data Base Review** (Effective 1/1/06)

The Civil Courts, prior to issuing any order involving custody or visitation, shall make reasonable efforts, subject to available resources, through use of national, state, or local databases or by any other means legally available, to determine if a civil restraining order or CPO exists for any party to the action. If such orders exist, the court should make reasonable efforts, subject to available resources, to obtain those orders prior to making any custody and visitation orders in the case before the Kern County Court.

**Rule 9.2.3 Family Court Services** (Effective 1/1/06)

Family Court Services shall make reasonable efforts, subject to available resources, to determine if a CPO exists involving any of the parties in cases where the Civil Court has ordered that a child custody or guardianship investigation be performed by Family Court Services. The result of such searches shall be conveyed to the Court in the Family Court Services' report. Although the Court may exclude criminal background checks from investigation orders, Family Court Services will report to the Court any CPO it discovers through the process of the investigation.

**Rule 9.2.4 Custody and Visitation Orders Issued Subject to a CPO** (Effective 1/1/06)

If a Criminal Court that has issued a CPO authorizes the Civil Court to issue an order that permits contact between an restrained person subject to a CPO and a protected person, for the purpose of permitting custody and visitation between the restrained person and his or her children, such Civil Court order shall be specific. It shall contain language setting forth the specific schedule for the contact and the safe exchange of the children, including the time, day, place, and manner of the transfer of the child. Such an order shall not contain language that conflicts with a CPO that provides for no contact with, or limits access to, the other parent.

**Rule 9.2.5 Civil Courts Transmitting Temporary and Permanent Restraining Orders and Modifications** (Effective 1/1/06)

Subject to available resources, when a Civil Court issues custody and visitation orders for a minor child of the parties, and the Civil Court is aware that one of the parties has a criminal case involving a CPO, the court's clerk shall inform the Criminal Court of the custody and visitation order issued.

**Rule 9.3 Requirements of Criminal Courts Issuing CPOs** (Effective 1/1/06)

**Rule 9.3.1 Inquiry by the Court** (Effective 1/1/06)

When the Criminal Court intends to issue a CPO protecting the victim(s), the Criminal Court may inquire, for the purpose stated in this rule, whether there are any children of the relationship between the defendant and the protected person.

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Rule 9.3.2 Data Base Review (Effective 1/1/06)

If there are any minor children of the parties, the Criminal Court may make reasonable efforts, subject to available resources, to determine if a CPO exists for any party to the action, or whether there exists any custody and/or visitation orders for the children of the parties. A data base review to determine this information may be conducted through use of national, state, or local databases, or by any other means legally available.

Rule 9.3.3 Custody and Visitation Orders Issued Subject to a CPO (Effective 1/1/06; rev. 7/1/20)

A Criminal Court that issues a CPO may permit appropriate contact between a criminal defendant subject to a CPO and the protected person in order to allow Family or Juvenile Court-ordered visitation between a criminal defendant and his or her children. If the Criminal Court permits such contact between the restrained and protected persons, the order for contact shall be indicated on the Judicial Council form entitled Protective Order in Criminal Proceeding (CLETS) and shall comply with the requirements of Penal Code section 136.2(f)(1) and (2). A CPO takes precedence over any civil, family, or juvenile order that has been issued at any time.

Rule 9.3.4 Criminal Courts Transmitting CPOs and Modifications (Effective 1/1/06)

When the Criminal Court issues or modifies a CPO in cases where there are minor children of the parties, the issuing court's clerk shall inform any other court that has issued orders for custody and visitation of the existence of the CPO or modification.

**Rule 9.4 Modification of Criminal Protective Orders** (Effective 1/1/06)

Rule 9.4.1 Intended Use of This Rule (Effective 1/1/06)

This rule is intended to apply to situations in which a custody or visitation order has been issued in the Civil Court which creates a conflict with an existing CPO or where a party wishes to seek from a Civil Court an order for custody and/or visitation which would create a conflict with an existing CPO.

Rule 9.4.2 Restrained Person's Procedure to Request Modification of the CPO (Effective 1/1/06)

If a person restrained by a CPO has obtained or intends to obtain an order from the Civil Court for custody of or visitation with a minor child of the parties, in conflict with the CPO, the restrained person must first seek a modification of the CPO from the Criminal Court. The Criminal and Civil Courts may consult regarding any modification. After the hearing, if any modifications of the CPO are made by the Criminal Court, the issuing Criminal Court's clerk shall inform any other court that has issued orders for custody and visitation or that has jurisdiction over custody and visitation of the children.

**Rule 9.5 Requirements of Penal Code Section 136.2(f)(1) and (2)** (Effective 1/1/06; rev. 1/1/20)

A Civil Court order may coexist with a CPO subject to the following conditions:

- (a) Any order that permits contact between the restrained person and his or her children shall provide for the safe exchange of the children and shall not contain language either printed or handwritten that violates a "no contact order" issued by the Criminal Court.
- (b) Safety of all parties shall be the court's paramount concern. The Civil Court shall specify the time, date, place, and manner of transfer of the child as provided in Family Code section 3100.

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**Rule 9.6 Protective Orders; Transmittal/Entry in CLETS; Modifications; Terminations** (Effective 7/1/12; rev. 7/1/20)

- (a) Notwithstanding other statutory requirements, any motion or request submitted for filing for the purpose of modifying or terminating a protective order issued pursuant to Sections 6221 or 6401 of the Family Code; sections 527.6, 527.8, 527.85 of the Code of Civil Procedure; or sections 213.5, 304, 362.4 , or 15657.03 of the Welfare and Institutions Code, or Penal Code section 136.2 must include the at time of submission, the appropriate completed “proposed” Restraining Order After Hearing form adopted by the Judicial Council of California and approved by the Department of Justice.
- (b) The Court shall, upon granting a motion to modify or terminate the protective order, expedite the filing and entry of Restraining Order After Hearing form for transmittal and/or entering into CLETS in accordance with statutory authority and timelines.

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