Superior Court of California, County of Stanislaus

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Jared Beeson, Commissioner
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Janine L. Highiet, Commissioner

Hugh K. Swift, Executive Officer/Jury Commissioner

SUMMARY OF CHANGES
Revisions effective January 1, 2026

IMPORTANT INSTRUCTIONS FOR USING THESE RULES

1. **State Rules and Corresponding Local Rules**

   The California Rules of Court are not printed as part of the Stanislaus County Local Rules, but are considered incorporated within them. Proceedings in the Superior Court of Stanislaus County ("Court") are governed by the California Rules of Court as supplemented by these Local Rules (also referred to as "Rules"). **EACH LOCAL RULE MUST BE READ IN CONJUNCTION WITH THE CALIFORNIA RULES OF COURT (CRC).**

2. **Purchasing Local Rules and Local Forms**

   Copies of the Local Rules and Local Forms may be obtained online at https://www.stanislaus.courts.ca.gov/.

INTERNET ADDRESS

https://www.stanislaus.courts.ca.gov/

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STANISLAUS SERVES THE CITIES OF:

Ceres
Hughson
Modesto
Newman
Oakdale
Patterson
Riverbank
Turlock
Waterford

as well as the following communities:

Crows Landing
Denair
Empire
Grayson
Hickman
Keyes
Knights Ferry
La Grange
Salida
Valley Home
Vernalis
Westley

RULE 1 GENERAL

1.00 Scope of Rules

These Local Rules apply to the Superior Court of California, the County of Stanislaus. (7/1/99)

1.01 RESERVED FOR FUTURE USE (1/1/25)

1.02 RESERVED FOR FUTURE USE (1/1/22)

1.03 Construction and Application of Rules

These Rules shall be construed and applied so as not to conflict with the California Rules of Court. These Rules shall be liberally construed to promote the efficient administration of the business of the Court and the interests of justice.

The Court may, after notice and an opportunity to be heard, impose sanctions on any attorney, party represented by an attorney, or self-represented litigant, who fails to comply with any of the requirements set forth in these Rules or the California Rules of Court. (Code Civ. Proc. § 575.2; Cal. Rules of Court, rules 2.30 and 5.14.)

(Rule 1.03 [1/1/19] amended January 1, 2025)

1.04 RESERVED FOR FUTURE USE (1/1/22)

1.05 Sexual Harassment

A. It is the policy of the Court to ensure that all persons are free from sexual harassment as that term is defined by law.

B. Any person who perceives they are the victim of sexual harassment in the courthouse or any person who witnesses sexual harassment of another person in the courthouse should immediately notify the Court Executive Officer who may conduct an investigation. (7/1/99, 7/1/23, 7/1/24)

1.06 Court Attire

No person is to appear in the courtroom or by videoconference wearing unacceptable attire. While no specific dress code is adopted, persons entering the courtroom or appearing by videoconference should be attired in such fashion so as not to offend the dignity of the Court. (7/1/99, 1/1/21, 7/1/23)

1.07 Court Security

The security of the Stanislaus County Superior Court is the function of the Stanislaus County Sheriff's Department. Procedures for the security of the Court and for furnishing bailiffs for each courtroom when in session are set forth in the written Policies and Procedures Manual adopted by the Security Committee of the Stanislaus Court in consultation with the Sheriff. (7/1/99, 7/1/23)

1.08 Toxic and Hazardous Materials; and Firearms (Applies to All Civil and Criminal Cases)

A. No exhibit shall be received by the Court if the exhibit poses a security, storage, safety, or health risk, except as allowed by the judge in the interests of justice and as authorized by law. (Pen. Code, §§ 1417, 1417.3.) For purposes of this rule, firearms are deemed to be hazardous and pose a security, storage, safety or health risk.

B. Prior to bringing any exhibit posing a security, storage, safety or health risk, including firearms and toxic or hazardous materials, into the courthouse or courtroom, the party intending to offer such exhibit shall give written notice to the clerk and the judge, and shall obtain the express advance permission of the judge to do so. (Id.)

C. The clerk may recommend, and the judge may order, the return of exhibits to the offering party that pose a security, storage, safety or health risk, including firearms, prior to the final determination of the action or proceeding, and provided that the exhibits are retained and remain available to the Court as required by law. (Pen. Code, § 1417.3(a); Cal. Rules of Ct., rule 2.400.)

D. If the judge grants a party permission to bring a firearm intended as an exhibit into the courthouse or courtroom, such permission shall be conditioned on the party intending to offer the exhibit providing a trigger and/or gun lock currently approved by the California Department of Justice. Any such trigger and/or gun lock shall not be removed from the firearm prior to the final determination of the action or proceeding. (Ibid.) No firearm shall be marked as an exhibit, introduced into evidence, or otherwise handled in the courtroom, unless it has been checked by the bailiff for safety and a trigger and/or gun lock has been securely attached.

E. By court order, the clerk shall substitute a full and complete photographic record of any exhibit or part of any exhibit returned to the offering party pursuant to subpart C

of this rule. The party to whom the exhibit is being returned shall provide the photographic record. (Id.)

F. Prior to bringing any toxic, hazardous or potentially hazardous materials into the courtroom, counsel shall alert the Clerk of the Court of the following:

1. A list of the technical and street names of the materials.

2. The types and sizes of the containers to be utilized for the materials.

3. The name of the person who will transport the materials into the courtroom.

4. Where the materials will be stored and the conditions under which the materials will be stored, viewed or handled.

5. The name of the person who will remove the materials.

6. An explanation as to why the materials are hazardous or potentially hazardous and the remedies to be followed in the event of a spill, leak or other accident.

7. 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.

G. Controlled or toxic substances in any form must be securely sealed in containers so that odors cannot be emitted.

H. Blood or urine samples, hypodermic needles or other objects containing blood, urine or other bodily fluids shall be permitted in the courtroom only when enclosed in a container sufficient to protect Court personnel and other persons in the court.

I. Toxic, physiological, hazardous or potentially hazardous materials shall include, but not be limited to, all controlled substances commonly seized by narcotics officers and agents, including, to wit, cocaine, etc., and all chemicals, pesticides, and explosives, other than ammunition. A comprehensive list of these materials can be found in the California Administrative Code Title 22, Division 4, Chapter 30, Article 9, entitled "Hazardous Waste and Hazardous Materials". Further information concerning the list of materials provided in the aforementioned Administrative Code as well as

additional information concerning other hazardous materials may be obtained by contacting the Stanislaus County Department of Environmental Resources. (1/1/22)

J. All evidence of this nature will remain the responsibility of the person bringing it into the courtroom. When such evidence is introduced, the person previously in possession of the evidence shall take responsibility for it and store it pending "final determination of the action." (Penal Code §1417.1.)

K. Such exhibits **must** be retained by the submitting party/agency until notice of final determination of the action, as defined by law.

L. This rule is not intended to interfere with or be contrary to any existing statute or case law governing the introduction or viewing of evidence.

M. This rule is adopted for the protection of the public and all persons involved in the processes of the justice system in Stanislaus County.

(Rule 1.08 [7/1/03, 1/1/22] amended January 1, 2024)

1.09 General Authority-Superior Court Commissioners

A. The Superior Court Commissioners shall perform the duties and shall have the powers prescribed by Code of Civil Procedure section 259, the duties and powers of a juvenile court referee as specified in Welfare & Institutions Code section 247, and the duties and powers of a probate commissioner appointed pursuant to Government Code Section 69897.

B. The Presiding Judge shall assign to the commissioners, sitting either as a commissioner or as a referee or as a judge pro tempore or as a juvenile court referee, such matters as the needs of the Court may require.

C. If directed to do so by the presiding judge, a superior court commissioner may:

(1) conduct arraignment proceedings, including the issuance and signing of bench warrants (Govt. Code § 72190.1), and

(2) issue and sign bench warrants for the arrest of defendants who fail either to make required court appearances or to perform any act required by court order (Govt. Code § 72190.2)

(Rule 1.09 [1/1/19] amended January 1, 2025)

1.10 Photographing, Recording and Broadcasting in Court Facilities

A. Definitions

As used in this rule:

1. "Courtrooms" means the actual courtroom of any individual judicial officer including any attached foyers, offices, conference rooms, chambers and non-public/secured hallways.

2. "Photography" or "Photographing" means recording a still or moving likeness, regardless of the method used, including digital or photographic methods.

3. "Recording" means the use of any analog or digital device to aurally or visually preserve a still or moving likeness.

4. "Broadcasting" means a visual or aural transmission of Photography or Recording, by any method, including any electronic transmission or transmission by sound waves.

B. Courtrooms. Photographing, Recording, and Broadcasting proceedings in courtrooms are subject to CRC 1.150.

C. Non-courtroom areas. Photographing, Recording, and Broadcasting in areas outside of courtrooms are subject to the following:

1. In order to protect the safety and privacy of minors, all forms of photography and recording are prohibited at the following location:

    a) The Juvenile Court located at 2215 Blue Gum Avenue, Modesto, CA.

2. In order to protect the safety and privacy of jurors, all forms of photography and recording are prohibited in the following locations:

    a) The jury assembly room and all jury deliberation rooms in each Stanislaus Superior Court building.

3. In order to protect the safety and privacy of court personnel, all forms of photography or recording are prohibited in the following locations:

    a) All clerk offices, all clerk windows, and all employee work areas in each Stanislaus Superior Court building; and

    b) The Self-help Center at the Modesto Main Downtown Courthouse.

4. Television cameras, video cameras and/or camera operators, still photographers, media reporters or any combination thereof shall not block corridors, block access to any court or hearing room, block the ingress or egress to and from the courthouse, block stairwells or block handicap ramps.

5. Any and all video, cell phone and other photography through courtroom windows or into the courtroom from the hallway is subject to the same restrictions that apply to the use of cameras in the courtroom and shall require prior approval by the judge of the affected courtroom.

D. Sanctions. Any violation of this rule or an order made under this rule is subject to CRC Rule 1.150(f). (7/1/17)

(Rule 1.10 [7/1/17] amended January 1, 2024)

1.11 Availability of Official Court Reporting Services

A. Pursuant to California Rules of Court rule 2.956 and Government Code section 68086, the Court hereby adopts the following policy as a local rule. (1/1/22, 7/1/23, 7/1/24)

The Court provides services of official court reporters in all criminal and juvenile matters as required by law during regular court hours.

The chart below reflects hearing types where the court provides an official court reporter.

Hearing Types	Official Reporter Provided By Court	Party May Provide Their Own Reporter	Electronic Reporting Available
Civil settlement conference	No. (If available, the Court may provide a reporter to put a settlement agreement on the record.)	No.	No.
Civil harassment	No.	Yes.	No.
Civil law & motion, ex parte hearings - D21/D23	Yes (on Wednesday and Friday only).	Yes.	No.
Civil law & motion, ex parte hearings - D22/D24	Yes (on Tuesday and Thursday only).	Yes.	No.
Civil court trials	No.	Yes.	No.
Civil collection matters – Rule of Court 3.740	No.	Yes.	No.
Civil unlawful detainers	No.	Yes (Unlimited Jurisdiction only).	Yes (Limited Jurisdiction only).
Labor Commissioner Appeals	No.	Yes.	No.
Family law – law and motion.	Sometimes.	Yes.	No.
Family law settlement conference	No.	No.	No.
Child support hearings – D15	No.	Yes.	No.
Probate compromise of minor's claim	No.	Yes.	No.
Small claims motions	No.	No.	No.
Small claims court trials	No.	No.	No.
Small claims appeals	No.	No.	No.

B. Procurement of Private Court Reporter. For matters where the court does not provide an official court reporter, any party who desires a verbatim record of a court proceeding may arrange for or hire a private certified court reporter pro tempore to report any scheduled hearing or trial pursuant to Government Code section 68086(d)(1-3). Before arranging for a private court reporter, please contact the Supervising Court Reporter at ctreport@stanct.org or (209)530-3105 to confirm that an official court reporter is not available. (1/1/22)

C. Exception for Parties Granted a Fee Waiver. Parties granted a fee waiver may request an official court reporter to record a verbatim record of the proceedings, except as noted above. Parties shall make their request as soon as possible by contacting the Supervising Court Reporter via email at ctreport@stanct.org or (209)530-3105. A fee waiver does not cover the cost of preparing a reporter's transcript. (1/1/22)

1.12 Bail Bonds Agents

The various courthouses within the Stanislaus County Superior Court are public buildings that must be accessible to persons with court related business. Because the courthouse buildings have smaller lobby and hallway areas, it is particularly important to ensure that individuals without legitimate court business do not loiter in the public areas or act in such a way as to congest or clog the lobby or hallway areas, making it difficult for people with court related business to access the court.

Title 10 Section 2074 of the California Code of Regulation limits solicitation by bail agents in courthouses and provides that courts may prohibit such solicitation altogether by local rule. Pursuant to this authority as well as its inherent and statutory authority, the Court prohibits all solicitation by bail agents within courthouse buildings. Solicitation by bail agents shall also be prohibited on that portion of courthouse property surrounding public entrances and exits to the courthouses.

Bail agents shall not loiter on courthouse property in a manner that clogs or congests the lobby or hallway areas of the courthouse or otherwise restricts the public's ability to access the courthouse for court-related business. This rule is not intended to prohibit bail agents from meeting with existing clients on courthouse property when said meetings concern court related business. (7/1/08)

1.13 Comfort and Services Animals

A. The Americans with Disabilities Act (hereafter "ADA") and the Unruh Act prohibit the exclusion of service animals from public accommodations, including courthouses. It is the Court's policy to comply with all applicable federal and State law concerning service animals and to ensure that Court staff and security personnel are advised of the Court's obligations concerning "service animals."

1. A "service animal" is any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability.

2. Miniature horses that have been individually trained to do work or perform tasks for people with disabilities may also be considered "service animals".

3. Emotional support, therapy, comfort, or companion animals ("comfort animals") are not considered "service animals".

4. No person may bring a "comfort animal" into a court building without first obtaining permission to do so as set forth in this rule.

B. A party may request the presence of a comfort animal to support a witness at a trial or other court proceeding by filing a written motion.

1. The motion shall be supported by a declaration(s) setting forth:

    a) Facts sufficient to establish the presence of a comfort animal would assist or enable the witness to testify without undue harassment or embarrassment and provide complete and truthful testimony;

    b) A description of the comfort animal, i.e., species, breed, size, etc.;

    c) A description of the training the comfort animal received, including information regarding the ability of the comfort animal to remain quiet and in one position during extended court proceedings.

2. When ruling on a motion to allow the presence of a comfort animal, the Court will exercise its discretionary authority to control the mode and manner in which evidence is presented (Evid. Code § 765) and consider, among other

things, the potential for prejudice to the opposing party(ies), if the motion were granted.

3. The court may issue an order granting a motion to allow the presence of a comfort animal on any conditions it deems appropriate.

C. If the motion to allow the presence of a comfort animal is granted, the moving party shall:

1. Designate a qualified handler for the comfort animal. The handler shall maintain control of the comfort animal at all times it is in a court building or on court property and shall immediately clean up after the comfort animal.

2. Provide the handler with a court-endorsed "Filed" copy of the order granting the motion. The handler shall present the order to Court Security Personnel upon entering a court building and at other times upon request.

3. Reimburse the court for any damages caused by the comfort animal to court property.

4. Indemnify, defend and hold harmless the court, its judicial officers and its employees from any claims for damages arising from the use or presence of a comfort animal in a court building or on court property.

5. Name the "Superior Court of California, County of Stanislaus" as an additional insured on any policy of comprehensive general liability insurance issued to the moving party. However, this provision only applies if such insurance is available to the moving party.

D. Nothing in this rule shall be construed to limit the access of any person in violation of the Americans with Disabilities Act or the Unruh Civil Rights Act (Civil Code § 51 et seq.).

E. The court may revoke an order granting a motion to allow the presence of a comfort animal. Grounds for revocation include, but are not limited to, the comfort animal and/or handler disrupting court proceedings, or undue prejudice to the opposing party(ies), if the comfort animal were allowed to remain in the court building.

(Rule 1.13 [7/1/19] amended January 1, 2024)

1.14 Mandatory Electronic Filing

The following rules shall apply to electronic filing of documents with the Court.

A. Mandatory Electronic Filing

1. All parties filing documents electronically are referred to and shall also comply with all requirements and conditions for electronic filing (e-filing) and service as set forth in Code of Civil Procedure section 1010.6 and California Rules of Court, rules 2.250-2.261, unless this Local Rule provides otherwise.

2. Except as provided in subsections (G) and (H), all documents presented for filing in the following case types must be electronically filed (e-filed) with the Court as provided in Code of Civil Procedure section 1010.6 and California Rules of Court, rules 2.250 through 2.261:

   a. Civil – including limited, unlimited, and complex;
   b. Family;
   c. Juvenile - including juvenile justice and juvenile dependency
   d. Probate; and
   e. Mental Health, but only as to LPS Conservatorships and CARE Act Proceedings.

3. Self-represented parties are not required to file documents electronically. However, self-represented parties are encouraged to utilize e-filing.

4. A party required to file documents electronically may request an exemption from the requirement by showing undue hardship or significant prejudice by filing a Request for Exemption from Mandatory Electronic Filing and Service (Judicial Council Form EFS-007) with a Proposed Order (Judicial Council Form EFS-008).

5. During trial, a party may submit to the Courtroom Clerk and serve by hand any pleadings, as long as the pleadings are also filed electronically before the close of business no later than the following court day.

6. The Court may order a party to provide courtesy copies of e-filed documents. The clerk's office will reject unsolicited courtesy copies.

B. E-Filing Procedures

Documents must be e-filed with the Court using one of the Court's approved e-filing service providers. Information concerning the Court's approved e-filing service

providers, including the procedure for e-filing documents with the Court, is available on the Court's website at https://www.stanislaus.courts.ca.gov/.

C. Electronic Service; Obligation to Update Electronic Address

1. Code of Civil Procedure section 1010.6 and California Rules of Court rules 2.251 and 2.253 control electronic service, unless otherwise ordered by the Court.

2. Code of Civil Procedure section 1010.6, subdivision (d), requires the Court to electronically serve any document that the Court is required to transmit, deliver or serve, in any action in which a party or other person is subject to mandatory e-filing and electronic service or has consented to electronic service.

3. Any party who is subject to mandatory electronic service or who consents to electronic service must provide the Court with one (1) electronic address for service on the first occasion that party files any paper electronically.

4. A party may consent to accept electronic service from the Court through their electronic filing service provider, or by filing a Consent to Electronic Service form (EFS-005). Except as provided by law, this consent authorizes the Court to electronically serve the party with any document, including but not limited to notices and orders, in the case in which consent was given.

5. A party whose electronic service address changes while their case is pending must promptly notify the Court and all parties by filing a Notice of Change of Electronic Service Address form (EFS-010).

6. If a party is not required to accept electronic service but has provided consent, the party's consent to receive electronic service may be revoked by filing a Withdrawal of Consent to Electronic Service form (EFS-006).

D. E-Filing Fees

E-filing service providers may charge reasonable fees in addition to any filing fees required by the Court. Any party who has received a fee waiver from the Court is exempt from the fees and costs associated with electronic filing. A party may request a fee waiver by filing an application for waiver of court fees and costs (Judicial Council Forms FW-001 and FW-002).

E. Confidential Documents

Except as provided by the California Rules of Court, rules 2.500-2.507, an e-filed document is a public document at the time it is filed unless it is ordered sealed or filed as a confidential document pursuant to law.

The responsibility for redacting personal identifiers and privileged or confidential information rests solely with counsel and the parties. The clerk will not review pleadings or other documents for compliance with the law. The Court may impose sanctions for violation of these requirements.

F. Where required, a motion to file documents under seal shall be e-filed.
Confidential documents shall be lodged or filed with the Court by electronic submission in the manner described in Rule of Court 2.551(d). Such records must not be submitted in paper form, unless an exception to the mandatory electronic filing rules applies or has been granted. A cover sheet that identifies the lodged or sealed documents shall be electronically filed. Redacted versions of any lodged or sealed documents shall be filed electronically at the same time.

G. Documents Not Eligible for E-Filing
For a complete list of documents which cannot be electronically filed, please consult the Court's website at https://www.stanislaus.courts.ca.gov/.

H. Format of Electronically Filed Documents
All electronically filed documents must be in text searchable format and must comply with the formatting and content requirements of the California Rules of Court for electronic documents, including particularly Rules 2.256(b) and 3.1110(f)(4) requiring electronic bookmarks. Parties shall bookmark each heading, subheading and component (including the table of contents, table of authorities, petition, verification, points and authorities, declaration, and proof of service, if included within the document) in the document, as well as any exhibits and/or attachments to the document. For specific formatting requirements, please consult the Court's website at https://www.stanislaus.courts.ca.gov/.

Compliance with all of the formatting requirements for electronic documents is extremely important for the Court's timely consideration of the documents. In cases of non-compliance with the Court's formatting requirements, the Court may, in its discretion, order any, or all, of the following in addition to any other sanction(s) permitted by law:

1. The non-compliant document may be stricken as improperly filed;

2. The hearing to which the non-compliant document pertains may be continued, or;

3. Monetary sanctions may be imposed for violation of the California Rules of Court or these Local Rules related to formatting of electronically filed documents, following adequate notice and an opportunity to be heard.

I. Effective Filing Date

No document transmitted to the Clerk of the Court electronically is deemed filed unless it is accepted for filing by the Clerk. Any document that is received electronically by the Court between 12:00 a.m. and 11:59:59 p.m. (Pacific Standard Time) on a court day shall be deemed filed on that same court day. Any document that is received electronically on a non-court day shall be deemed filed on the next court day. For the purposes of this rule, a document is "received electronically" on the date and time it is received by the Court and a confirmation of receipt is created. California Rules of Court, rule 2.259(a)(1).

Nothing in this Local Rule shall limit the Clerk of the Court's ability to reject electronically filed documents.

This rule does not affect the timing requirements for any document(s) that, pursuant to an order of the Court, must be filed by a set time on the due date.

(Rule 1.14 [1/1/19, 1/1/20, 1/1/22, 7/1/23, 1/1/24, 7/1/24] amended January 1, 2026)

1.14.1 Submission of Electronic Exhibits or Evidence

The purpose of this rule is to provide guidance and requirements for the submission of exhibits or evidence in an electronic or digital format, including photographs, videos, audio recordings, documents, or any other type of electronic data.

This rule applies to all parties and attorneys who intend to submit electronic exhibits or evidence in any civil, criminal, family, probate, juvenile, or other proceeding. Any exhibit or evidence that is submitted in an electronic or digital format must comply with the following requirements:

1. The exhibit or evidence must be on a CD-ROM, DVD-ROM, or Blu-Ray.

2. The CD-ROM, DVD-ROM, or Blu-Ray must be virus-free and not contain any malicious or harmful code.

3. Electronic exhibits or evidence may not be submitted on a writable storage device such as a flash or thumb drive. (7/1/24)

1.15 Contacting Court's Legal Research Staff

No party, or attorney for a party, in any action or proceeding pending in this court shall contact or attempt to contact any member of the court's legal research staff concerning

such pending matter, without the prior approval of the judge to whom the matter has been assigned, or if the matter has not been assigned, the Presiding Judge. (1/1/19)

RULE 2 COURT ORGANIZATION

2.00 RESERVED FOR FUTURE USE (7/1/24)

2.01 RESERVED FOR FUTURE USE (7/1/24)

2.02 RESERVED FOR FUTURE USE (7/1/24)

2.03 RESERVED FOR FUTURE USE (7/1/24)

2.04 RESERVED FOR FUTURE USE (7/1/24)

2.05 RESERVED FOR FUTURE USE (7/1/21)

2.06 Day of Judicial Vacation Defined

In accordance with California Rules of Court, Rule 10.603(c)(2)(H), a day of judicial vacation is defined as time off for more than one-half day. Absence from Court to attend an authorized education program, conference, or workshop or to participate in Judicial Council or other authorized committees or community outreach activities, shall not be considered vacation time if attendance has the prior approval of the Presiding Judge or their designee. (7/1/17, 7/1/24)

RULE 3 CIVIL CASES

3.00 Application of Rules

These rules apply to all civil cases, limited and unlimited. The term "civil case" includes the compromise of personal injury claims of minors and incompetent persons. The term "civil case" does **not** include criminal, traffic, family law, small claims, or probate matters (including mental health and adoption). (7/1/20)

The Civil Clerk's Office is located at the City Towers Building, 801 10th Street, Fourth Floor, in Modesto, California. The official mailing address is:

Stanislaus County Superior Court – Civil Division
City Towers Building
801 10th Street, 4th Floor
Modesto, CA 95354

The telephone number is (209) 530-3100.

Unless otherwise required by law, the Clerk's Office will conform a maximum of two (2) copies. (1/1/19)

3.00.1 Direct Calendaring of Most Civil Cases

A. Except as otherwise ordered, when a civil case is filed or received and filed as a transfer from another county, the Court shall randomly assign the case to a judicial officer for all purposes including trial, except as otherwise provided or required by law. (1/1/19, 7/1/23)

B. At the time of initial filing or initial receipt of the file, the Clerk's Office shall affix to the face of the complaint or petition and to the notice of case management conference, the following notice:

"THIS CASE HAS BEEN ASSIGNED TO JUDGE ----------,
DEPARTMENT ----------FOR ALL PURPOSES INCLUDING TRIAL".

In the event of unavailability, another judge or an assigned or temporary judge may handle cases directly assigned to the unavailable judge, but the case shall remain directly assigned to the unavailable judge who shall handle all matters related to the case upon their return. (1/1/19, 7/1/23)

C. Plaintiffs, including cross complainants, shall notify all parties of the direct assignment when so notified by the Court and said parties shall notify all parties who later enter the case of the direct assignment. Plaintiffs and cross complainants shall file a proof of service of their notification of the direct assignment within **five (5)** days after the notice is served.

D. In all civil cases assigned to a judge for all purposes, the face page of each filed document, under the case number, shall state the name and department of the judge assigned for all purposes.

E. Time limits for peremptory challenges for plaintiffs shall be within **fifteen (15)** days after the filing of the complaint and receiving notice of the assignment and, for defendants, within **fifteen (15)** days after filing the first pleading or appearance. See CCP §170.6(a)(2). (1/1/19)

3.01 Law and Motion/Ex Parte Hearings

A. Law and motion is heard Tuesday through Friday at 8:30 a.m. If Monday is a Court holiday, then Wednesday through Friday. If you would like to reserve a date for a law and motion matter to be heard, call (209) 530-3162, 11:00 a.m. – 4:00 p.m.

B. All moving documents shall be filed not later than **five (5) court days** after you reserve your law and motion hearing date. Law and motion reservations will be cancelled **without further notice to the reserving party** if the moving documents are not filed within **five (5) c**ourt days after the reservation is made.

C. Tentative rulings will be issued on law and motion matters the court day prior to the hearing date. Tentative rulings can be accessed on the Internet at https://www.stanislaus.courts.ca.gov/ after 1:30 p.m.

D. You may request a hearing on a law and motion matter by calling the calendar line at (209) 530-3162 prior to 4:00 p.m. or by e-mailing at civil.tentatives@stanct.org. E-mail requests must be made prior to 4:00 p.m. AND confirmed by return e-mail. If you do not receive a confirmation e-mail from the clerk, you MUST call (209) 530-3162 to request your hearing. If you request a hearing on a law and motion matter, you must also notify the opposing party or their counsel of your request.

E. You may request a staff court reporter to cover a law and motion hearing by calling the Supervising Court Reporter at (209) 530-3105 or by emailing civilreporters@stanct.org. Requests must be made by 4:00 p.m. the day before the law and motion hearing and confirmed by return email or phone call. Priority coverage

for a staff court reporter is given to Departments 21 and 23 on Wednesday and Friday; and to Departments 22 and 24 on Tuesday and Thursday.

1. If a Superior Court staff reporter is **not** available to report the law and motion hearing, then the party, at their own expense, may arrange for the presence of a certified shorthand reporter to serve as an official pro tempore reporter pursuant to California Rules of Court, rule 2.956.

2. Only one court reporter will be allowed per hearing; therefore, parties must check with the Supervising Court Reporter regarding the availability of a staff court reporter prior to engaging a pro tempore reporter. The Supervising Court Reporter can be contacted via e-mail to civilreporters@stanct.org or by phone at (209) 530-3105.

3. A party with an approved fee waiver may request an official court reporter to cover a law and motion hearing within the time limits set forth in this rule at no expense to the party. An approved fee waiver does not cover the cost of a reporter's transcript.

4. Any law and motion hearing lasting more than an hour will be billed at the ½ day rate of $350. If the hearing continues after the noon hour, then the full day rate of $700 applies.

F. Parties requesting an ex parte hearing shall contact the assigned department. The bailiff/courtroom clerk of the department will schedule the hearing. The moving party shall then e-file its ex parte hearing request and supporting papers with the Clerk's Office no later than 10:00 a.m. on the court day prior to the scheduled ex- parte hearing. (Parties not required to utilize e-filing may hand file their ex parte hearing request and supporting documents with the Clerk's Office no later than 10:00 a.m. on the court day prior to the scheduled ex parte hearing.) If the ex parte hearing request and supporting paperwork is not filed with the Clerk's Office by 10:00 a.m. on the court day prior to the scheduled hearing (whether by e-filing or by hand) the ex parte hearing will be dropped. Notice of the ex parte hearing shall be given as prescribed in California Rules of Court rule 3.1203.

G. You may request a staff court reporter to cover an ex parte hearing by calling the Supervising Court Reporter at (209) 530-3105 or emailing civilreporters@stanct.org at the same time you request an ex parte hearing.

1. If a staff reporter is not available to report the ex parte hearing, then the party, at their own expense, may arrange for the presence of a certified shorthand reporter to serve as an official pro tempore reporter pursuant to California

Rules of Court, rule 2.956. If a staff court reporter is available to report an ex parte hearing, the party requesting the reporter shall pay a $30 reporter fee for any hearing under an hour.

2. Only one court reporter will be allowed per hearing; therefore, parties must check with the Supervising Court Reporter as set forth in 3.01(G) regarding the availability of a staff court reporter prior to engaging a pro tempore reporter.

3. A party with an approved fee waiver may request an official court reporter to cover an ex parte hearing at no expense to the party. The request must be made in a timely fashion as set forth in this rule. An approved fee waiver does not cover the cost of a reporter's transcript.

4. Any ex parte hearing lasting more than an hour will be billed at the ½ day rate of $350. If the hearing continues after the noon hour, then the full day rate of $700 applies.

(Rule 3.01 [1/1/22, 9/1/22, 7/1/23] amended January 1, 2024)

3.01.1 Appointment of Elisors:

Where one of the parties will not or cannot execute a document/documents necessary to carry out a court order, the clerk of the court, or their authorized representative or designee may be appointed as an elisor to sign the document(s).

An application for appointment of an elisor may be made ex parte. The declaration supporting the application must include specific facts establishing the necessity for the appointment of the elisor. When applying for appointment of an elisor, the application and proposed order must designate "The Clerk of the Court or Clerk's Designee" as the elisor and indicate for whom the elisor is being appointed and in what capacity they are to sign the document(s). The application must not set forth a specific court employee by name. The proposed order must expressly identify the document(s) the elisor must sign and a copy of the document(s) must be attached to the proposed order. The original document(s), presented for signature by the elisor, must match the copy of the document(s) attached to the proposed order. If the elisor is signing a document/documents requiring notarization, the applicant must arrange for a notary public to be present when the elisor signs the document(s).

(Rule 3.01.1 [1/1/18] amended July 1, 2024)

3.02 Civil - Case Management

A. Case-disposition Time Goals

The goal of this Court is to manage general civil cases from filing to disposition as provided under Section 2.1 and 2.2 of the Standards of Judicial Administration.

B. Case Management Conference

At the time of filing a new case, Plaintiff shall file CV-003 "Notice of Case Management Conference". The Court will set the case for a case management conference approximately **one hundred twenty (120)** to **one hundred fifty (150)** days after the date of filing. Plaintiff and any cross-complainant shall give notice of the case management conference to the defendant(s) or cross-defendant(s) at the time of service.

The case management conference shall be conducted pursuant to CRC 3.720-3.751.

C. Limited Jurisdiction Collection Cases

Limited jurisdiction civil collection cases will not be scheduled for a case management conference unless one is specifically ordered by the Court. At the time of filing, the Plaintiff shall file the local Case Management Conference Waiver form and the Clerk's Office will assign a trial date for each such case. The plaintiff shall thereafter give notice of the trial date to each defendant at the time of service.

D. Telephone Appearances

Unless specifically ordered to appear in person, parties may appear telephonically. For instructions on making a telephonic appearance please see the Court's website at https://www.stanislaus.courts.ca.gov/.

Notice to appear telephonically for a Case Management Conference must be given to the telephonic appearance service provider (as listed on the Court's website) and all counsel or unrepresented litigants no later than two (2) court days prior to the Case Management conference date.

Notice to appear telephonically for Court's Motion to Dismiss, OSC to counsel, or Law and Motion hearings must be given to the telephonic appearance service provider (as listed on the Court's website) and all counsel or unrepresented litigants by no later than 4:00 p.m. the Court day before the hearing.

E. Sanctions

Pursuant to Local Rule 1.03 and Code of Civil Procedure section 177.5, the court may impose monetary sanctions for the following:

1. Failure to appear at Case Management Conference (per party and attorney or party without an attorney);

2. Appearance without a Case Management Conference Statement on file;

3. Case Management Conference Statement not timely filed; and

4. Failure to meet and confer.

(Rule 3.02 [1/1/19, 1/1/20, 1/1/21, 7/1/23, 1/1/24] amended January 1, 2025)

3.03 Unlawful Detainer Cases

A. At the time of filing an Unlawful Detainer Complaint, the plaintiff shall file local form entitled Notice of Review re: Court's Motion to Dismiss (CV011).

B. In unlawful detainer cases, the parties may file a copy of the proof of service of 3, 30, or 60-day notice to quit/vacate, but must retain the original proof of service pursuant to California Rules of Court rule 2.257(b). (1/1/20)

C. Trial Setting -Unlawful Detainer
Unlawful Detainers may be set for trial by the filing of Judicial Council Form No. UD-150 entitled Request/Counter-Request to Set Case for Trial-Unlawful Detainer. Short cause cases will be scheduled on the 8:30 a.m. Unlawful Detainer Calendar. Long cause cases will be scheduled on the 8:30 a.m. trial calendar. Long cause is considered to be any case lasting longer than thirty (30) minutes. A Counter-Request to Set Case for Trial-Unlawful Detainer (Judicial Council Form No. UD-150) must be filed within **five (5)** Court days. Non-jury trials will be set no more than **twenty (20)** days after the filing of the original Request to Set Case for Trial-Unlawful Detainer (Judicial Council Form No. UD-150).

D. Ex Parte Hearings – Unlawful Detainer
Parties requesting an ex parte hearing (other than for a stay of eviction or motion to set aside default) shall contact the assigned department. The bailiff/courtroom clerk of the department will schedule the hearing. The moving party shall file its moving papers no later than 2:00 p.m. on the court date prior to the scheduled hearing. Notice of the ex parte hearing shall be given as prescribed in California Rules of Court rule 3.1203.

Ex parte hearing requests for a stay of eviction and/or a motion to set aside default are not scheduled with the bailiff/courtroom clerk, but rather are set by the clerk of the court, either at the counter or via e-filing. These ex parte hearing requests shall be

filed with the Clerk's Office no later than 2:00 p.m. on the court day prior to the requested hearing date. Notice of these ex parte hearings must also be given to the opposing party as prescribed in California Rules of Court rule 3.1203. (1/1/12, 1/1/20)

3.04 Orders to Show Cause

When the Court issues an Order to Show Cause, responsive papers to the Order to Show Cause must be filed and served no less than **five (5)** court days before the hearing. The Court may issue monetary or evidentiary sanctions and/or dismiss the complaint/ cross-complaint, answer, or other pleading. (1/1/19)

3.05 Mandatory Settlement Conferences

A. All "general civil cases" are required to have a mandatory settlement conference approximately **fifteen (15)** days prior to trial. Short cause matters (one day or less) will not ordinarily be set for a settlement conference.

The procedures for mandatory settlement conferences set forth in California Rules of Court, rule 3.1380, apply.

Pursuant to Local Rule 1.03 and Code of Civil Procedure section 177.5, the court may impose monetary sanctions for the following:

1. Failure to appear at Settlement Conference (per party and attorney or party in pro per);

2. Appearance without a Settlement Conference Statement on file;

3. Appearance with unfiled Settlement Conference Statement or Settlement Conference Statement filed day of the Settlement Conference; and

4. Settlement Conference Statement not timely filed.

B. Conditional Settlement

If a case is conditionally settled, the case shall be dismissed without prejudice pursuant to Code of Civil Procedure section 664.6 only if there is a writing signed by the parties and filed with the Court or an oral agreement made in open Court. If a default occurs in the settlement, the non-defaulting party may have the matter

returned to the case management conference calendar by filing a declaration setting forth the default.

(Rule 3.05 [1/1/19, 7/1/20] amended January 1, 2025)

3.06 Alternative Dispute Resolution (ADR) Programs

The Court offers several methods of alternative dispute resolution (ADR) - including the Civil Action Mediation Program, the Temporary Assigned Judges Civil Mediation Program and Judicial Arbitration.

The parties are to assess and consider their ADR options prior to and at the initial Case Management Conference (CMC). The Court will assist the parties in selecting the most effective and appropriate ADR method at the CMC. All eligible cases will be referred to an ADR option at the CMC, if the parties have not agreed upon an ADR option prior to the CMC.

(Rule 3.06 [1/1/19, 1/1/24, 7/1/24, 1/1/25] amended July 1, 2025)

3.06.01 – Civil Action Mediation Program

A. Adoption of Civil Action Mediation Program.

Effective January 1, 2024, and per the authority in Code of Civil Procedure section 1775.2, subdivision (b), the Court adopts the Civil Action Mediation Program set forth in Title 11.6 of the Code of Civil Procedure. Mediations conducted per the Civil Action Mediation Program ("the Mediation Program") in Stanislaus County shall be subject to all applicable statutes and California Rules of Court concerning the Civil Action Mediation Program (e.g. Cal. Rules of Court, rule 3.870 et seq.).

B. Matters to Which Mediation Program Applies.

The following matters are subject to mediation:

1. All nonexempt unlimited civil actions filed on or after January 1, 2024, in which the amount in controversy does not exceed $50,000.
2. All nonexempt limited civil cases filed on or after January 1, 2024, except for small claims actions.
3. Any matter, regardless of filing date or the amount in controversy, in which the parties stipulate to mediation, provided the stipulation is filed at least ninety (90) days prior to trial, unless the Court permits a later time.

C. Order to Mediation.

Cases shall be referred to mediation whenever the Court determines from the facts as set forth in a Case Management Statement or as stated by counsel at any Case Management Conference, Trial Management Conference, or Mandatory Settlement

Conference that the matter is subject to mediation per these rules and has not already been referred to mediation or any form of arbitration, unless good cause is found not to refer the matter.

D. Panel of Mediators.

The Court shall maintain a panel of mediators participating in the program. The ADR Committee (see California Rules of Court, Rule 10.783) shall review applications from potential mediators, evaluations of panel members, and make recommendations to the Supervising Civil Judge on the designation of panel mediators. The Supervising Civil Judge shall designate the panel members and may add or remove mediators from the panel at any time.

E. Qualifications of Mediators.

The panel shall consist of trained attorneys and specially trained and experienced non-attorney mediators. To be on the panel a mediator must meet all the following requirements:

1. Be of good character; and
2. Be an attorney in good standing with at least five (5) years of civil litigation experience, or, if not an attorney, have served professionally as the mediator in at least ten cases in the two (2) years immediately preceding submission of the panel application; and
3. Have completed a training program approved of by the Court's ADR committee, or have equivalent experience and be approved by the Supervising Civil Judge;
4. Comply with all applicable ethics requirements and Rules of Court.

F. Selection of Mediator.

1. If the parties have a preference for a mediator, counsel shall provide the name, address, and telephone number of the preferred mediator to the Court's ADR Administrator within twenty (20) days of the referral to mediation. The statement of preference is not binding on the Court but may be considered in selecting the mediator.
2. The Court shall select the mediator from the Court's panel of mediators. The Court shall notify the parties of the name, address, and telephone number of the mediator selected by the Court within thirty (30) days of the referral to mediation.

G. Fees and Filing Forms.

The Civil Action Mediation Program is self-funded. Parties selecting a mediator from the Court panel shall pay $200 per side to the Court within ten (10) days of the mediation order. Each side shall pay the $200 fee, which shall be paid to the Court to cover the first two (2) hours of mediation. For purposes of paying the mediation fee,

all plaintiffs are considered one side, and all defendants are considered one side. There will only be two (2) sides for the purpose of mediation fees. If the Court does not receive the entire fee within ten (10) days of the mediation order, the case may be ordered to judicial arbitration. Parties using private mediators, and parties requesting additional time from panel mediators, shall pay the mediators' hourly fees for such services directly to the mediator.

Parties shall forfeit mediator fees if they fail to complete the scheduled mediation or fail to notify the mediator of a settlement within five (5) days before the scheduled mediation.

H. Appearance at Mediation Sessions.

1. For purposes of California Rules of Court 3.894, subsection (a), when a party is other than a natural person, it shall appear at the mediation sessions through a representative, other than the party's attorney, with full authority to resolve the dispute or, in the case of a governmental entity that requires an agreement to be approved by an elected official or legislative body, by a representative with authority to recommend such agreement. Failure of the representative to appear at the mediation session may be cause for sanctions.
2. "Full authority" to resolve the dispute means the person is empowered to make settlement decisions without telephone consultation with others.

I. Related, Coordinated, and Consolidated Cases.

Counsel in cases that have been related, coordinated, or consolidated shall inform the Court of all pending mediation proceedings in the related, coordinated, or consolidated cases.

J. Interpreters.

Any party desiring to use an interpreter during mediation must notify the ADR Administrator, all other parties, and the mediator at least ten (10) days prior to the first mediation session at which the interpreter will be used.

Unless otherwise ordered by the Court, the party seeking the use of the interpreter shall make all arrangements directly with the interpreter and shall assume the costs of the service.

K. Ex Parte Communications.

Ex parte communications refers to communications with the mediator outside the presence of the opposing counsel or self-represented party. Ex parte communications with the mediator are not prohibited.

L. Confidentiality.

1. Mediations are confidential and subject to the confidentiality privilege set forth in Evidence Code sections 703.5 and 1115 through 1128. No communications or writings made in connection with the mediation may be disclosed to the assigned judge or to any other person not involved in the mediation, unless disclosure is agreed to by all parties or permitted by subsection (2), infra. The mediator shall require the parties and all persons attending the mediation to sign a confidentiality agreement at the first mediation session.
2. The following disclosures are permitted:
   (a) A disclosure stipulated to in writing by all parties and the mediator, or orally in compliance with Evidence Code section 1118;
   (b) A report to or inquiry by the ADR Administrator concerning a complaint against a mediator;
   (c) A disclosure made by any participant or the mediator in responding to an appropriate request for information made by persons authorized by the ADR Administrator to monitor or evaluate the Court's mediation program;
   (d) A disclosure required by law;
   (e) A settlement agreement signed by all parties waiving the confidentiality provision of Evidence Code section 1122 et seq., and containing a provision explicitly rendering the agreement enforceable per Code of Civil Procedure section 664.6; or,
   (f) A disclosure made in connection with a request for sanctions for a party's noncompliance with mediation. This disclosure shall be limited to the minimum facts needed to support the request.

M. Completion of Mediation.

The mediation must be completed no later than sixty (60) days before the trial date, unless the Court designates a different time frame. Mediation shall not affect the time periods of the trial. Within ten (10) days of completion of the mediation, the mediator will file a Mediator's Report with the Court, which will indicate whether the case settled. Counsel shall complete and submit evaluation forms to the ADR Administrator.

N. Mediation Complaint Procedure.

Per California Rules of Court, rule 3.868, the Court adopts the following mediator complaint procedure:

1. Complaints are only accepted from a party to the action or the party's attorney.
2. The complainant must register their complaint in writing with the ADR Administrator. The written complaint must include the following information:
   (a) The names of the parties in the case and their attorneys;
   (b) The case number;

(c) The most recent court date;
(d) The name(s) of any mediation personnel (i.e. mediators or mediation clerks) with whom the complainant had contact; and,
(e) A statement explaining the reasons for the complaint.

3. Upon receiving the complaint, the ADR Administrator will notify the complainant in writing that the Court has received the complaint.
4. The ADR Administrator shall review the complaint and determine whether the complaint can be informally resolved or closed, or whether the complaint warrants investigation. If the complaint warrants an investigation, the ADR Administrator shall take the following steps:
   (a) The ADR Administrator shall give notice of the complaint to the mediator and provide a reasonable opportunity to respond.
   (b) The complaint shall be investigated and a recommendation made concerning court action. The investigation shall be conducted by an investigator designated by the ADR Administrator or the Presiding Judge. The investigator shall provide their recommendation to the Presiding Judge or their designee.
   (c) The final decision shall be made by the Presiding Judge or their designee. Notice of the final action taken shall be sent by the Court to the complainant and, if the complaint was not resolved during the preliminary review by the ADR Administrator, to the mediator.

O. Sanctions.

Upon noticed motion and an opportunity to be heard, the Court may impose sanctions for failure to meaningfully participate in the mediation process. Sanctions may include, but are not limited to, mediator's fees and attorney fees and costs.

Willful failure to meaningfully participate includes, but is not limited to, the following:

1. Non-appearance at the time set for the mediation of any person necessary to proceed to a meaningful conclusion. The parties may appear by telephone/remotely, however, for good cause shown the mediator may require in person attendance.
2. Requests to continue the mediation session less than ten (10) days before the scheduled mediation session, unless good cause is shown.
3. Failure to complete mediation within the time fixed, unless good cause is shown.

(Rule 3.06.01 new and effective July 1, 2025)

3.06.02 – Temporary Assigned Judges Civil Mediation Program.

Effective August 12, 2024, the Court began offering the Temporary Assigned Judges Civil Mediation Program (TAJCMP). TAJCMP offers free mediation services to help parties settle disputes without a trial. TAJCMP mediation is provided by retired judges who are trained as mediators.

A. Matters to Which TAJCMP Applies.

The following matters are eligible for mediation under TAJCMP:

1. Unlimited civil actions involving disputes in which the amount in controversy does not exceed $50,000.
2. Limited civil cases (excluding small claims).

B. Voluntary Nature of TAJCMP.

Mediation via TAJCMP is voluntary.

If all parties agree to mediation at the Case Management Conference, the judge may refer the case to the TAJCMP mediation program.

Parties can also request TAJCMP mediation by filing a "Stipulation to Temporary Assigned Judges Civil Mediation Program" (Form CV-018) before or within 14 days after the initial Case Management Conference.

There is no fee charged to the parties for mediation pursuant to TAJCMP.

Once the case is referred to TAJCMP, the Court will assign the mediator.

C. TAJCMP Scheduling and Attendance.

Mediation sessions will be held in-person, Monday through Friday, from 8:30 a.m. to 12:00 p.m. and 1:30 p.m. to 4:00 p.m. Remote appearances may be allowed under certain circumstances – at the assigned mediator's discretion.

Once a mediator is assigned, sessions will be scheduled at a convenient time for all parties. Mediation must be completed at least thirty (30) days before any settlement conference.

The mediator, parties, and attorneys must attend, along with anyone the mediator requires. Each side must have someone with settlement authority present at the mediation.

D. TAJCMP Forms.

The following forms are specific to the TAJCMP program and are available on the Court's website: www.stanislaus.courts.ca.gov.

1. Stipulation to Temporary Assigned Judges Civil Mediation Program (CV-018).
2. Notice of Assignment of Mediator (CV-019).
3. Notice of Date, Time, and Place of Mediation (CV-020).
4. Mediator's Report (CV-021).
5. Post Temporary Assigned Judges Civil Mediation Program Questionnaire (Litigants) (CV-022).
6. Post Temporary Assigned Judges Civil Mediation Program Questionnaire (Attorneys) (CV-023).

(Rule 3.06.02 new and effective July 1, 2025)

3.07 Judicial Arbitration

Pursuant to California Rules of Court, rule 3.811, all unlimited civil cases where the amount in controversy does not exceed $50,000 as to any plaintiff must be arbitrated, if they are not mediated pursuant to one of the Court's mediation programs.

1. The parties will not be required to post fees to participate in judicial arbitration. Arbitrators will continue to be reimbursed at $150 per case. The funding source will be the Trial Court funding allocation for arbitration.

2. Parties shall notify the Arbitration Hearing Officer and the Arbitration Clerk immediately in writing of the case settling with sufficient notice to allow the Arbitrator to schedule other matters.

(Rule 3.07 [1/1/23, 1/1/25] amended July 1, 2025)

3.08 Trial

1. Trial days for civil cases are generally Tuesday through Friday. If Monday is a Court holiday, then Wednesday through Friday. No later than 12:00 noon on the Friday (Monday if Friday is a court holiday) prior to trial, the parties shall notify the assigned civil department as to whether the case has settled or will be going to trial. If you cannot reach the assigned civil department, contact the court calendar manager at 209-530-3162. Failure to comply with this rule may result in the trial date being vacated.

2. If the parties wish to stipulate to new settlement conference and/or trial dates, the specific dates must be cleared in advance with the clerk of the department. Clearance of said dates does not mean that the stipulation will be approved by the Court. (1/1/13)

3.09 E-filing of Trial Exhibits/ Jury Instructions

Unless the case is settled or dismissed, the following items must be e-filed no later than noon on the Friday before the date set for trial. The following items shall be served on all other parties no later than noon on the Friday before the date set for trial (if that Friday is a court holiday, then the documents must be e-filed no later than the court day preceding the Friday holiday):

a. in limine motions;
b. exhibit lists, except impeachment exhibits;
c. witness lists, except impeachment witnesses;
d. jury instructions except for instructions that cannot reasonably be anticipated;
e. proposed forms of verdict;
f. stipulations on factual or legal issues;
g. concise, non-argumentative statement of the case to be read to the jury if jury trial;
h. trial briefs, and
i. proposed jury voir dire.

(Rule 3.09 [1/1/12] amended January 1, 2024)

3.10 Interpreters

If an interpreter is needed by any party or witness intended to be called by a party, it shall be the responsibility of the attorney/party to give notice to the Court and the opposing party/attorney of this need and to make arrangements for the presence of and payment to the interpreter. (1/1/12)

3.11 Punctuality and Multiple Appearances

Counsel and litigants are expected to be on time. Failure to appear in Court in a timely manner may subject the offending person to contempt and/or sanctions.

In an attempt to accommodate counsel, where counsel have multiple Court appearances scheduled for the same time, the bailiff in the waiting Court should be notified where counsel will be, how long counsel will be absent from the Court and the nature of the conflicting Court appearance. Counsel are encouraged to obtain coverage to avoid conflicts in their appearances. (1/1/17)

3.11.1 Remote and In Person Appearances in Civil Matters

For evidentiary hearings, settlement conferences, bench or court trials, and jury trials, parties must appear in person, unless the party or their attorney requests and receives express written authorization to appear remotely from the judicial officer assigned to their case.

This Court waives notice of parties appearing remotely for Case Management Conferences, Law and Motion hearings and Ex Parte hearings. Therefore, a Notice of Remote Appearance (Form RA-010) should **not** be filed for these appearances.

1. A party may request to appear remotely by filing and serving a Notice of Remote Appearance (Form RA-010) and submitting a proposed Order Regarding Remote Appearance (Form RA-020) to the Court no later than ten (10) court days before the evidentiary hearing, settlement conference, bench or court trial, or jury trial.
2. In response to the Notice of Remote Appearance, any party may file and serve an Opposition to Remote Proceedings (Form RA-015) no later than five (5) court days before the hearing in question.
3. Upon review of the request and any opposition, the judicial officer assigned to the matter will indicate on the Order if a personal appearance is required or if a remote appearance is allowed.
4. Even when a remote appearance is authorized and commences, for good cause the judicial officer may terminate a remote appearance and continue the matter for an in-person appearance. Good cause includes, but is not limited to, technological issues which interfere with the judicial officer's ability to make the determination necessary in the proceeding.

(Rule 3.11.1 [7/1/24] amended July 1, 2025)

3.12 Court Reporters –Staff and Pro Tempore

A. Staff Court Reporters

Court reporter fees will be assessed in all civil trials and proceedings where a Superior Court staff court reporter reports the proceedings.

1. Counsel or parties without counsel will be billed for this service. The billing statements will include the date, case number, time charged and amount due.

2. Unless otherwise ordered by the Court, all parties without approved fee waivers, regardless of who requested the reporter, shall pay their

proportionate share of reporter fees per the fee schedule in subsection (6) below.

When there is more than one party per side, each side will be billed 50%. That is, one party from each side will pay or be billed. The billed party will be responsible to collect from the other parties.

3. Non-payment of any court reporter fees shall result in the denial of future court reporter services to the non-paying party or attorney and the assessment of collection charges.

4. Staff court reporters may be provided for unlimited civil matters as staffing allows. Parties requesting a court reporter must independently notify the Supervising Court Reporter at the time of the request for hearing that they are requesting reporting services. For law and motion matters held at 8:30 a.m., the reporter's office will be able to confirm the availability of a reporter after they receive the "Request for Hearing" e-mail at 4:00 p.m. the day before the scheduled hearing. Availability of staff reporters will be pursuant to subsection (9) below. (1/1/22)

5. Parties may choose to waive a court reporter but may not use recording systems for unlimited civil matters. The Court reserves the right to order proceedings reported if both sides waive reporting services and reporting services are deemed necessary by the Court. In that event, all parties will be ordered to share the cost. Billing will be pursuant to subsection (2).

6. The fee schedule for official court reporting services is:
   1 day - $700.00
   1/2 day - $350.00 (A ½ day is defined as any hearing or matter lasting longer than one (1) hour.) (1/1/22, 7/1/22)

7. **Daily Transcripts**
   Request for daily transcripts in civil cases must be made at least one week in advance of trial. Parties requesting a daily transcript are required to pay daily transcript rates and the per diem rate for an official court reporter (unless the parties agree to split the costs). The cost of daily transcripts is not covered when the Court provides a court reporter pursuant to an approved fee waiver.

   Additionally, pursuant to Government Code section 69953.5, if a request for daily transcripts requires the services of more than one court reporter, the party requesting the daily transcripts shall pay the per diem rate for the services of each additional court reporter required to fulfill the request. (1/1/22)

8. **Transcripts of Trial or Proceedings**
   Whenever a party requests a court reporter to furnish a transcript of all or part of a trial or proceedings, the court reporter shall forthwith inform all other parties of such request and inquire whether any of such parties' desires, at their own expense, a copy of such transcript. (7/1/24)

9. **Availability of Staff Reporters - Civil Matters**
   If there are insufficient staff court reporters to report civil trials, or civil law and motion matters, a party may arrange for the presence of a certified shorthand reporter at their own expense pursuant to California Rules of Court 2.956. A party with an approved fee waiver may request an official court reporter within the time limits set forth in Local Rule 3.12(A)(4) at no expense to the party. An approved fee waiver does not cover the cost of preparing a reporter's transcript. Parties should check with the Supervising Court Reporter regarding the availability of a staff court reporter. Contact can be made via e-mail: civilreporters@stanct.org or by phone at (209) 530-3105. In the event a party arranges for the presence of a certified court reporter at their own expense without checking to determine whether an official court reporter is available, and an official court reporter is available, the official court reporter will report the proceedings.

10. **Court Requested Civil Transcript**
    Pursuant to Government Code section 69953, in any case where a verbatim record is not made at public expense pursuant to Government Code section 69952, the cost of making any verbatim record shall be paid by the parties in equal proportion. Either party, at their own option, may pay the whole cost. Civil proceedings do not fall under the parameters of Government Code section 69952.

    When the judge requests the reporter provide a transcript of proceedings not covered in Section 69952, the parties are responsible for sharing the cost of that transcript. The reporter will begin working on the judge's requested transcript when they receive payment in full from the party or parties. If either party chooses to purchase a transcript of their own, the cost of their copy will be added to their portion of the invoice. (1/1/22, 7/1/24)

B. Pro Tempore Reporters

If staff court reporters are unavailable to report a civil hearing or civil trial, then pursuant to California Rules of Court rule 2.956, a party may request the presence of a certified shorthand reporter to serve as an official pro tempore reporter. The party will compensate the pro tempore reporter and the stenographic notes of such reporter will be handled pursuant to Government Code section 69955. In addition, a pro tempore reporter

reporting a jury trial will remain within ten (10) minutes of the courthouse during jury deliberations and up to the time the verdict is received by the Court. (1/1/19, 1/1/20, 7/1/20, 1/1/22)

Pro Tempore Reporters must follow local standard format requirements:

- 28 lines per page;
- 60 characters per line;
- Line numbered at left of transcripts box;
- True type font no greater than 13;
- Q. and A. indented no more than five spaces;
- Text following Q. and A. no more than two spaces;
- Colloquy and continuing paragraph indented five spaces;
- Text following speaker identification no more than two spaces;
- Page numbers at bottom, right-hand column;
- Parentheticals indented ten spaces or centered;
- No blank lines before or after parentheticals; and
- Footer with reporter's name and CSR number. (1/1/22)

3.13 Attorney Fees

Defaults and Contract Provisions
When an attorney's fee is allowed on a recovery on a promissory note or other contract providing for payment of a reasonable attorney's fee, and no foreclosure of a mortgage or trust deed is involved, a reasonable attorney's fee shall normally be deemed to be in the amount computed by applying to the recovery by judgment, exclusive of costs, the appropriate schedule hereinafter set forth.

1. Default action on note or contract or where Plaintiff is entitled to recover attorney's fees by statute <not including costs>:

   25% of first $1,000 with minimum fee of $100
   10% of next $9,000
   5% of next $40,000
   2% of any amount over $50,000
   In an action upon contract providing for an attorney's fee, the Court Clerk shall include in the judgment an attorney's fee in accordance with this schedule, not to exceed the amount in the prayer.

2. In a contested case, the trial Court shall establish attorney's fees based upon the length of the trial, the difficulty of the issues, the experience of the attorney and any other factors which the Court deems relevant to establish reasonable attorney's fees.

3. Unlawful Detainer Defaults: without Appearance - $250.00; with Appearance $300. (1/1/12)

3.14 Complaints Procedure – ADR

Complaints against mediators or arbitrators on the court's panels shall be handled as follows:

A. All complaints regarding the conduct of a mediator, neutral evaluator or arbitrator on the court's panels should be directed to the ADR administrator. When the complaint is not in writing, a memorandum that includes the pertinent information should be made.

B. A file shall be maintained showing each complaint and its disposition.

C. The ADR Administrator shall review each complaint within thirty (30) days. A complaint that is frivolous or unfounded on its face may be disposed of without further action, but the complainant shall be informed of the disposition and a memorandum shall be placed in the file.

D. A preliminary inquiry shall be made on any complaint that has possible validity. A copy of the complaint should be supplied to the mediator, neutral evaluator or arbitrator who shall be allowed an opportunity to respond. The preliminary inquiry may be terminated if the complaint is found to be lacking in merit or an acceptable explanation is offered.

E. When the preliminary inquiry indicates that a complaint, not minor in nature, appears to have validity or there is other good cause including other complaints, the ADR Administrator shall refer the complaint to the presiding civil judge who will appoint a committee of judges to conduct further investigation. The mediator, neutral evaluator or arbitrator should be presented a written statement of the allegations and provided an opportunity to respond either orally or in writing.

F. At the conclusion of the investigation, the committee should make a written report and recommendation(s) for action to be taken by the court. The recommendations may include, but are not limited to: No further action be taken on the complaint; that a reprimand be given to the mediator, neutral evaluator or arbitrator; that the mediator, neutral evaluator or arbitrator be suspended or removed from the court's panels; or that the mediator, neutral evaluator or arbitrator be referred for additional training. The court in determining the disposition of the complaint should give due consideration to the committee's recommendation(s).

G. Each complainant shall be notified promptly in writing of the receipt and of the disposition of the complaint.

H. The complaint at all stages shall be handled as promptly as due process allows.

I. Except as provided in paragraphs (C) and (G), all papers filed and proceedings conducted on a complaint against a mediator, arbitrator or neutral evaluator should be confidential until disciplinary action is ordered by the court. (1/1/12)

3.15 Prerogative Writs

A. Alternative Writ or Noticed Motion for a Peremptory Writ.

A prerogative writ, also known as an extraordinary writ, begins with filing a verified petition. (Code Civ. Proc., § 1096.) Mandamus is the customary prerogative writ sought in the trial court. There are two means by which a party may set a mandamus petition for trial: noticed motion for a peremptory writ and alternative writ. The noticed motion procedure is strongly preferred by the Court.

B. Noticed Motion for a Peremptory Writ.

A petitioner filing a noticed motion for peremptory writ may file a verified petition for the writ and then serve it on the respondent and any real party-in-interest in the manner of serving summons and complaint. (Code Civ. Proc., § 1088.5.)

1. Trial Setting Conference. The Court will hold a trial setting conference at which it will set the dates for record preparation, briefing of the motion, and a hearing date. The hearing on the motion is the trial of the case.
2. Timing of the Hearing. The Court generally will not set the matter for hearing until it is assured that any required administrative record has been prepared or that there is adequate time for gathering and organizing the evidence in a traditional mandamus case. Setting trial before these assurances have been made would only unnecessarily clog the Court's calendar and require continuance of trial.

C. Alternative Writ.

A petitioner seeking issuance of an alternative writ must apply first for the alternative writ directing the agency to take action or, in the alternative, show cause why it has not done so. (Code Civ. Proc., § 1087.) The application must be accompanied by a memorandum of points and authorities. The Court may grant the alternative writ and set an order to show cause, or it may deny the writ outright.

An alternative writ issued by a trial court is not a determination of the petition's final merit. It serves the function of a summons and, when properly served, provides the trial court with jurisdiction over the opposing party.

If an alternative writ is granted, the subsequent order to show cause hearing is the hearing on the merits of the petition.

1. Prior Service of Application. An alternative writ may not issue on an ex parte basis without proper notification. Absent a showing of good cause or waiver by the responding party, the petition, application for alternative writ, memorandum, and proposed alternative writ must be served on the respondent and any real party-in-interest pursuant to Code of Civil Procedure section 1010 et seq. at least five days before the alternative writ hearing. Although service by mail is permitted, personal service is preferred. Proof of service is required with the application. (Code Civ. Proc., § 1107.)
2. Briefing Schedule and Hearing Date. Issuance of the alternative writ places the matter on the Court's calendar for an order to show cause hearing. It does not by itself result in a stay or afford any affirmative relief. A briefing schedule will be set by the Court as part of the alternative writ.
3. Service of Alternative Writ. The alternative writ and the order for its issuance (as well as the petition and other supporting papers if not previously served in this manner) must be served on the respondent and any real party-in-interest in the manner of serving summons and complaint, unless the Court orders otherwise. (Code Civ. Proc., § 1096.)

D. Service of a Board or Commission.

Where service is required under either the noticed motion or alternative writ procedure, if the respondent or real party-in-interest is a board or commission, service must be made upon the presiding officer, or upon the secretary, or upon a majority of the members of such board or commission.

E. Request for Stay.

Upon filing the petition, and whether proceeding by noticed motion for a peremptory writ or alternative writ, a petitioner may make an ex parte application to stay the agency's decision in an administrative mandamus case under Code of Civil Procedure section 1094.5(h)(1), (if the agency is a licensed hospital or any state agency and a hearing was required by a statute to be conducted in accordance with the Administrative Procedures Act (Gov. Code, §§ 11340-11529)), or under Code of Civil Procedure section 1094.5(g). A stay of an agency decision in a traditional mandamus case is governed by principles for injunctive relief.

(Rule 3.15 adopted January 1, 2024)

SMALL CLAIMS

3.16 Notice of Claims

A. Plaintiff's Claim
When serving Judicial Council form SC-100, Plaintiff's Claim and Order to Go to Small Claims Court, the plaintiff must also attach and serve local form SC-001, *Notice to Small Claims Litigants*.

B. Service by Certified Mail
Parties may request the Court Clerk to serve their claim on the opposing party upon payment of fees. Parties may view the file to determine if service was completed no later than three (3) days prior to the scheduled hearing. The judicial officer will determine whether service was legal and proper.

C. Inability to Serve Defendant in Time
If the plaintiff is unable to serve the defendant timely, the plaintiff may request a later hearing date by filing Judicial Council form SC-150, *Request to Postpone Trial* with the Court Clerk at least two (2) days prior to the date set for hearing.

(Rule 3.16 [1/1/11, 7/1/16, 7/1/21] amended January 1, 2024)

3.17 Proof of Service

The original Proof of Service in a Small Claims case shall be filed with the Court Clerk at least five (5) days prior to the date of the hearing. Failure to comply with this rule may result in the matter being dropped from calendar. (7/1/16)

3.18 Settlement before Hearing

A party who settles their claim prior to the date set for hearing must notify the Court in writing at least one (1) court day before the date of the hearing, by submitting Judicial Council Form CIV 100, *Request for Dismissal*. (7/1/16, 7/1/21, 7/1/23)

3.19 Dismissal for Failure to Appear At Hearing

If a party does not appear at the hearing, their claim may be dismissed, and/or the trial may proceed in the party's absence. (1/1/19, 7/1/24)

3.20 Return of Exhibits

The Court does not return exhibits entered into evidence to the parties. Any exhibits

received into evidence will be destroyed after judgment is issued. Parties should not submit original documents as evidence. (7/1/16, 7/1/21)

3.21 Small Claims Advisor

Litigants in Small Claims matters may obtain individual personal advisory services from the Small Claims Advisor, established pursuant to Code of Civil Procedure Section 116.940. Information can be obtained by calling (209) 530-3178 or by sending an e-mail to SmallClaims.Advisor@Stanct.org. Small Claims forms assistance is available at the Self Help Center https://www.stanislaus.courts.ca.gov//self-help-center (7/1/16, 7/1/21)

3.22 Continuances

Small claims cases are to be heard at the earliest possible date; therefore, continuances may be granted for good legal cause, and then only for a reasonable period of time. (7/1/16, 1/1/20, 7/1/21)

3.23 RESERVED FOR FUTURE USE (7/1/23)

RULE 4 CRIMINAL

4.00 Direct Calendaring of Criminal Cases

The criminal departments shall consist of Judges as may be assigned by the Court's Presiding Judge. All felony and misdemeanor criminal cases shall be directly assigned to a criminal department judge for all purposes at the time of the arraignment on the complaint. Judges so assigned will preside at the trial of the matter and process the case in its totality following the arraignment. For felonies initiated by grand jury proceedings, the case shall be directly assigned to a criminal department judge at the time of the arraignment on the indictment.

The Executive Committee shall adopt assignment criteria to ensure an equitable distribution of the criminal cases. The Calendar Clerk shall be responsible for notifying the arraignment judicial officer of the judge assigned on each case according to the assignment criteria. By this rule, the Presiding Judge delegates to the judicial officer conducting arraignments the authority to make the all-purpose assignment as determined by the assignment criteria or the direction of the Presiding Judge. The judicial officer conducting arraignments shall ensure that the assigned judge is named in the appropriate space on the arraignment minute order.

The assigned judge may change in the event that the attorney appointed by the court is relieved due to conflict. In such cases, the assigned judge is delegated authority by the Presiding Judge to reassign the case for all purposes to the criminal judge handling the new appointed attorney's cases, as determined by the assignment criteria. The judge reassigning the case is responsible for ensuring that the newly assigned judge is named on the minute order.

In the event of unavailability, another criminal judge or an assigned or temporary judge may handle cases directly assigned to the unavailable judge, but the case shall remain directly assigned to the unavailable judge who shall handle all matters related to the case upon their return. (1/1/07, 7/1/24)

4.01 Assignment of Cases

Criminal cases which are subject to direct calendaring shall be randomly assigned to a criminal department judge for all purposes at the time of arraignment on the complaint. (1/1/07, 1/1/20)

4.02 Bail Schedules

A. Pursuant to Penal Code section 1269b(d), a uniform countywide bail schedule for felony, misdemeanor and infraction offenses will be prepared, reviewed, revised and

approved annually by the judges assigned to the Criminal Division. The bail schedule will be deemed adopted by the Court upon approval by a majority of the judges assigned to the Criminal Division at the time of review. The schedule will be effective on the date adopted or as specified by the approving judges.

B. Pursuant to Penal Code section 1269b(a), the clerk of the superior court does not approve and accept bail. (1/1/22)

4.03 Discovery in Criminal Cases

A. Discovery in criminal cases is governed by Penal Code Section 1054, et. seq. and all parties are ordered to comply. This order shall be in effect in all criminal proceedings and there shall be no need to seek a further order of Court prior to seeking an enforcement of this order as long as the party seeking enforcement has made an informal request described in Penal Code section 1054.5(b).

B. Any party asserting a work product or other privilege, pursuant to Penal Code Section 1054.6 or a good cause exception, must assert that privilege or exception by noticed motion, which shall be heard prior to the date of the trial readiness conference. The factual showing establishing a claim of work product, privilege, or good cause need not be set forth in the motion or accompanying points and authorities. The factual showing may be made to the court in-camera upon the moving party's request. The request to make an in-camera showing shall be made in the motion. If the Court hears the matter in-camera, the Court shall follow the procedure for establishing and sealing the record of the in-camera hearing set forth in Penal Code section 1054.7.

C. In the event of a failure to comply with the obligations set forth in Penal Code Section 1054, et. seq., the Court may impose sanctions including, but not limited to:

1. immediate disclosure;
2. contempt;
3. delaying or precluding the testimony or evidence;
4. continuance;
5. jury instruction commenting on the party's failure to comply with their discovery obligations;
6. dismissal where required by the United States Constitution;
7. imposition of monetary sanctions on counsel and/or;
8. other sanctions deemed appropriate by the Court. (1/1/05)

4.04 Criminal Law and Motion

Motion dates must be reserved with the courtroom clerk of the assigned department prior to filing.

Misdemeanor PC 1203.4 motions will be heard with the misdemeanor probation violation calendar.

A. All motions and responses thereto shall be filed in writing unless good cause is shown. Said motions and responses shall include the department, date and time of hearing, the theories relied upon for the granting or denying of the motion, points and authorities and any required declarations. At the time any pleading is filed, the party filing the pleading shall either 1) deliver a courtesy copy of the pleading to the courtroom where the case is assigned or 2) if the judge assigned to the case has indicated that email delivery is acceptable, email a copy to the judge. This courtesy copy shall be in addition to the original plus two (2) copies already required. Orders presented for signature in court shall be presented with an original and two (2) copies. The signature line must always be at the end of the order and not followed by any attachment. It should never be on a page by itself.

Unless otherwise allowed or required by statute or Rule of Court, all motions made following the filing of a felony complaint shall be made so that they can be timely served and heard prior to the date the preliminary examination is scheduled to be heard. Unless otherwise allowed or required by statute or Rule of Court, all motions made following the filing of an Information or Indictment must be made so that they can be timely served and be heard at least **fourteen** (14) days before trial. Said motions must include the date of jury trial and shall state the number of pages in the transcript of the preliminary hearing, grand jury proceedings, or other hearing being reviewed on the face sheet of the motion. Unless otherwise allowed or required by statute or Rule of Court, all motions made following the filing of a misdemeanor complaint must be made so that they can be timely served and filed to be heard at least **three** (3) Court days before trial.

Motions pursuant to Penal Code section 995 shall be heard by a judge other than the assigned trial judge. The Calendar Management Department shall assign the judge who will hear the motion. Hearing dates will be set by Calendar Management in conjunction with the courtroom clerk of the judge assigned to hear the motion. Counsel shall provide at least three alternate dates for the hearing.

A motion shall be deemed to have been made within the meaning of Penal Code section 1510 on the date the motion is submitted to the clerk.

B. Failure to File Memorandum of Points and Authorities/Failure to Address Issues
Absence of a memorandum of points and authorities shall be deemed by the Court to be a concession that the motion lacks merit. No issues other than those set forth in the memorandum of points and authorities will be considered unless the new issues were not reasonably discoverable before the motion was filed or there is other good cause shown.

Failure to deliver or email a courtesy copy of pleadings to the courtroom in which the case is assigned as required by Rule 4.04A shall not constitute grounds to deny a motion or disregard a responsive pleading, but it may serve as grounds to continue the hearing.

A memorandum of points and authorities shall not exceed **fifteen** (15) pages, excluding exhibits, declarations or attachments. Any party may request by written notice to the court scheduled to hear the motion, a request to exceed the **fifteen** (15) page limitation **two (2)** days before the motion is to be filed or response due. Such written request set forth good cause why the **fifteen (15)** page limit needs to be exceeded. (7/1/16)

4.05 Motions Under Section 1538.5 of the Penal Code

Failure to comply with any portion of this rule may constitute cause for denial of the motion.

In all cases, the motion must be written and must comply with Rule 4.04 and 1538.5 PC. The following requirements apply in addition to those specified in the aforementioned rules:

A. List of Items to be Suppressed or Returned:
The moving party shall include a complete itemized list of the specific items of property or other matters sought to be suppressed or returned. A general request to suppress or return "all evidence seized," without greater specificity, is not sufficient and shall be deemed an abandonment of the motion. Only the items listed in the motion will be considered by the court for suppression or return unless it is established the newly identified item could not reasonably be identified before the motion was filed.

B. Specification of Factual and Legal Basis for Motion:
The moving party's memorandum of points and authorities shall identify the specific legal and factual basis and cite the specific authority which will be offered to support the claim the search or seizure was defective. Failure to identify the specific legal and factual basis for the claim will be deemed a concession the search and/or seizure was lawful and will result in summary denial of the motion.

C. Specification of Intended Witnesses:
Moving and responding parties shall specify, on the first page of the notice of motion or response, the name of the witnesses, if any, they intend to call at the hearing.

D. Copy of Search Warrant, Affidavit, and Inventory:
If relevant to the motion, legible copies of the search warrant, affidavit in support of the warrant, and return and inventory shall be appended to the moving papers.

E. Stipulation to Transcript of Preliminary Examination Superior Court:
When any party is unwilling to stipulate to the transcript of the preliminary examination or grand jury hearing being received into evidence (supplemented by other testimony and argument of counsel, as needed), that fact shall be stated on the first page of the notice of motion or response. Failure to so indicate shall be deemed a stipulation of the transcript into evidence. (1/1/05)

4.06 Motions at Trial

A. **Felony and Misdemeanor Cases**
In felony and misdemeanor cases, **all motions in limine**, any extraordinary or complex trial motions, and any motions requiring **live testimony** shall be made in writing with a supporting memorandum of points and authorities. These motions must be served on opposing counsel and filed with the court no later than **three** (3) court days before the first trial assignment date. (7/1/16)

All evidentiary in limine motions necessitating testimony must be clearly labeled: LIVE TESTIMONY NECESSARY. All in limine motions seeking to exclude or admit evidence or testimony shall include the following:

1. an itemized list of the evidence the party is seeking to exclude or admit;
2. a summary of the expected testimony the party is seeking to exclude or admit and a list of the witnesses the party expects will give that testimony and;
3. points and authorities.

All motions made by the People seeking the admission of evidence pursuant to Evidence Code §1101(b), or 1108 or 1109, shall include, in addition to the items set forth in paragraph D, relevant portions of the police reports, transcribed witness statements, and preliminary hearing and trial transcripts, relating to the uncharged offense when such documents are available. (7/1/13)

4.07 Sanctions

The court may impose sanctions for failure to comply with rules pertaining to criminal law and motion which may include, but not limited to: monetary sanctions, refusal to hear the motion, continuance, exclusion of evidence, issue preclusion, or any other relief or sanction the Court deems appropriate. (1/1/05)

4.08 Jury Instruction

Counsel or defendant shall file jury instructions with the Court by 1:30 p.m. on the first day of trial in completed form with supporting authorities. Upon good cause, defendant or prosecution may file additional instructions following the conclusion of all the evidence. Good cause includes the defendant not wishing to disclose their theory of defense to the prosecution prior to the conclusion of the evidence. (7/1/07, 7/1/24)

4.09 Extraordinary Writs

All petitions for writ of mandate and/or prohibition involving a misdemeanor or infraction charge shall be filed with the clerk's office of the Superior Court Appellate Division, to be reviewed and determined by the assigned appellate panel. (Pursuant to Cal. Const. art. VI, section 10; C.C.P. 1068(b), 1085(b) and 1103(b)). All petitions for writ of habeas corpus shall be filed with the Superior Court Criminal Clerk's office, to be received and assigned by the presiding judge of the criminal department or their designee to a Superior Court judge for review and determination. Any and all other extraordinary writ petitions shall be handled by the presiding judge of the criminal department or their designee. (1/1/08, 7/1/24)

4.10 Transcripts

Pleas of guilty or nolo contendere to a felony offense will be transcribed only upon the order of the judge presiding. (1/1/05)

4.11 Filing of Complaints in Criminal Cases

A. In Custody Matters – New felony complaints shall be filed not later than 11:00 a.m. on the date set for arraignment, unless otherwise directed by the Supervising Criminal Judge.

New misdemeanor complaints shall be filed not later than 2:00 p.m. the court day prior to the date set for arraignment, unless otherwise directed by the Supervising Criminal Judge. (1/1/22)

B. Out of Custody Matters – New complaints shall be filed at least four (4) working days prior to the date set for arraignment, unless otherwise directed by the Supervising Criminal Judge. (1/1/22, 7/1/22)

4.12 Recordings

No audio or video recording having audio shall be marked for identification, admitted as an exhibit, or played before the Judge or jury unless the proponent thereof first provides the Court with a written transcript of the recording. Transcripts of any audio or video recording shall be exchanged **three** (3) days prior to the hearing and a copy filed with the court **three** (3) days prior to trial. (7/1/16)

4.13 Motion to Determine Source of Bail - Penal Code § 1275.1

When a Source of Bail Order pursuant to Penal Code Section 1275.1 has been signed by a judge in a case, the following procedure shall be followed by the defendant in calendaring the matter for hearing to show that no portion of the consideration, pledge, security, deposit, or indemnification paid, given, made, or promised for its execution was feloniously obtained:

A. The Request for Hearing shall be accompanied by a declaration or offer of proof setting forth the following:
   (1) The identity of the bail agent and surety, or, if there is no surety, the depositor;
   (2) The source of the bond premium, including name and address of person(s) proposing to pay said premium; and
   (3) The source of the security or pledge, including the name and address of the owner, and description of the property.

B. The declaration or offer of proof shall be filed and personally served on the District Attorney not later than forty-eight (48) hours before the hearing, which shall be set no sooner than five (5) court days from the hearing request absent an order shortening time for good cause.

C. At the hearing, the defendant shall produce the bail agent, the person proposing to pay the premium, and the person proposing to provide the security for examination and cross-examination. (1/1/23)

4.14 Timely Appearance of Counsel, Scheduling Conflicts and Required Notification

1. Counsel must make reasonable efforts to avoid scheduling conflicting court appearances.

2. Counsel shall advise the Court of any conflicting, previously set hearings or trials when scheduling any trial or hearing.

3. If counsel has conflicting appearances scheduled, they shall advise the Court as provided by this rule. In cases where counsel does not expect to be delayed more than fifteen (15) minutes they may check in with the clerk of the department expecting them and so advise the clerk.

4. Within two court days of learning that they have a conflict in the scheduling of any court hearing, including a trial, counsel shall notify the calendar clerk of each court involved, in writing, indicating which hearing was set first.

5. In its discretion, the Court may choose to set a trial that conflicts with a previously set trial if it believes that its trial will not be necessary because of a disposition. If the Court chooses to do so, it will note in the record that if the conflicting trial is not resolved by disposition prior to trial, the Court will grant a motion to continue it.

6. If the Court chooses not to double set its trial with a trial previously set, it will choose another date when no conflict exists.

7. If counsel does not advise the Court of a previously set trial and/or double-sets trials, they do so at their own peril. If the first set trial does not reach disposition, the Court may choose to proceed with the first trial as scheduled. In the event counsel is unavailable due to conflicting settings not set as noted in number 5 above, the Court, after notice and an opportunity to be heard, and in its discretion, shall impose sanctions pursuant to Penal Code section 1050.5 including one or both of the following:

    - A fine not exceeding one-thousand ($1,000) dollars;
    - The filing of a report with the appropriate disciplinary committee.

(7/1/22)

4.15 Motion to be Relieved As Counsel -Retained Counsel

A. An attorney retained to represent a defendant in a criminal proceeding shall not withdraw from such representation except by order of the Court upon a timely motion.

B. Except when a defendant fails to appear and a bench warrant is issued, all motions to be relieved shall be in writing and served by counsel on defendant prior to the hearing

and comply with Code of Civil Procedure sections 284 and 285 and California Rules of Court 3.1362. Counsel for defendant shall also serve a copy of the motion on the People.

C. Any motion to be relieved shall include a declaration stating the defendant's last known address along with facts indicating when that address was last confirmed as valid by counsel. If the whereabouts of the defendant are unknown, the declarations shall include facts constituting reasonable diligence in ascertaining the defendant's last known address. (7/1/07)

4.16 Fees

Fees for various services in Criminal Cases shall be paid according to a schedule kept by the Clerk of the Court. The fees may be changed by a majority vote of the Judges of the Court without formal amendment of these Rules. (7/1/19)

4.17 Expert and Investigation Fees Requests

Applications for hiring of and payment to investigators and experts shall be made in compliance with the established written policies and procedures on file with the Clerk of the Court. (1/1/05)

4.18 Requests for Appointment of Keenan Counsel

Requests for appointment of Keenan Counsel in capital cases shall be submitted in accordance with established written policies and procedures on file with the Clerk of the Court. (1/1/05)

4.19 Requests for Search Warrants

All requests for search warrants must be submitted in proper and completed form. All requests made other than during hours of normal Court operation shall be made to the primary on-call judge or secondary on-call judge if the primary on-call judge is not available.

(Rule 4.19 [1/1/05] amended July 1, 2024)

4.20 Continuances

A. As set forth in the Court's Continuance Policy, motions to continue are generally disfavored. Except in very unusual circumstances, a written motion for continuance, as required by Penal Code § 1050, shall be filed and served on all parties to the proceeding at least two (2) court days before the hearing to be continued. Motions

must be submitted on Local Form CR-003, Notice of Motion to Continue Hearing together with (1) a memorandum of points and authorities is support of the motion; and, (2) a declaration(s) detailing specific facts showing that a continuance is necessary. The declaration shall state the following: (1/1/23)

1. Position of opposing counsel or party to the motion to continue;
2. Proposed new date of hearing or trial, and availability of all material witnesses for the proposed new date; and,
3. Number of times the matter has been continued, by which party(ies), and reasons for prior continuance(s).

B. As a guide to practitioners, the following will generally not be considered sufficient cause to grant a continuance:

1. Counsel or the parties agree to a continuance;
2. The case has not previously been continued;
3. The case will likely settle if a continuance is granted;
4. Discovery has not been completed by the party requesting the continuance;
5. New counsel has entered an appearance in the case, or a party wants to retain new counsel;
6. Unavailability of a witness who has not been subpoenaed;
7. A party or counsel is unprepared to try the case for reasons including but not limited to the party's failure to maintain necessary contact with counsel; or
8. Any continuance of trial beyond a second trial date setting.

C. The following will generally be considered sufficient cause to grant a continuance:

1. Sudden medical emergency (not elective medical care) or death of a party, counsel, or material witness who has been subpoenaed;
2. A party did not receive notice of the setting of a hearing or trial date through no fault of that party or that party's counsel;
3. Facts or circumstances arising or becoming apparent too late in the proceedings to be fully corrected and which, in the view of the Court, would likely cause undue hardship or possibly miscarriage of justice if the hearing or trial is required to proceed as scheduled;
4. Unanticipated absence of a material witness for either party;
5. The case was inadvertently set on a religious holiday, if the continuance request is made substantially in advance of the hearing or trial date;
6. A scheduling conflict between cases in another department. Counsel, as soon as possible must notify the judges and parties involved to resolve the conflict. Upon being advised of the conflict, the judges shall confer in an effort to resolve the conflict and in doing so may consider the following factors: the nature of

the cases; whether either defendant waived their right to a speedy trial; the relative impact on the Court's calendar of a particular case proceeding as scheduled; whether either cases involves out-of-town witnesses, parties or counsel; the relative age of the cases; the matter that was first set; any priority granted by rule or statute; and any other pertinent factor;

7. Illness or family emergency of counsel.

D. At the conclusion of the motion for continuance, the court shall make a finding whether good cause has been shown and, if it finds that there is good cause, shall state on the record the facts proved that justify its finding. Whenever possible, the Court shall hold the rescheduled court event no later than 30 days after the date from which it was continued.

4.21 Recorded Proceedings in Misdemeanor Cases

A. All contested matters will be electronically recorded. All other matters will be recorded only upon the request of a party.

B. Recordings shall be preserved by the clerk as follows:

1. In all contested matters (motions and trials), recordings will be preserved until **sixty (60)** days following final judgment. In cases involving multiple defendants, recordings will be preserved until **sixty (60)** days following final judgment of the last co-defendant. Recordings shall also be preserved until the appeals of all defendants are final.

2. In all other cases, the recordings will be preserved for **thirty (30)** days after the recording date, unless a party shall have delivered to the clerk a request, in writing, stating the particular case and date recorded in which case the recording will be preserved for **sixty (60)** days.

3. Unless otherwise ordered by the Court, recordings of proceedings are public records and may be examined under reasonable conditions, to be specified by the clerk.

4. Upon written request, specifying a particular case and recording number, the clerk may duplicate the recording for a fee. In order to ensure that your request is processed timely, you must submit your written request at least two weeks prior to the desired completion date. (7/1/19)

4.22 Specialty Courts

A. Drug Court

The mission of the Stanislaus County Drug Court Program is to hold accountable and treat non-violent substance abuse offenders through an intensive program that embraces the principles of regular judicial intervention, a highly structured treatment program, a system of graduated rewards and sanctions, and emphasizes maintaining family structure.

The intent of the Drug Court Program is to provide a system of treatment and accountability for substance abuse offenders in order to break the cycle of substance abuse and incarceration in state prison.

The Drug Court Team consists of the Drug Court Judge, the Drug Court Deputy District Attorney, the Defense Attorney, the Probation Officer assigned, and the substance abuse counseling staff.

1. Eligibility Criteria

a. The program is open to a defendant who acknowledges current or significant and problem alcohol or drug use that is verified by the facts of the offense and/or past history (e.g. Criminal, Family Court, Treatment and Probation history)

b. The defendant must reside in Stanislaus County while participating in Drug Court.

c. The defendant must currently be abusing alcohol, narcotics or controlled substances.

d. Acceptance into the Drug Court Program requires the unanimous agreement of the Drug Court Team.

e. A defendant is not eligible for Drug Court if currently charged with sales or possession for sales or manufacturing. A defendant with any prior conviction for sales or possession for sales or manufacturing is not eligible, except with the unanimous agreement of the Drug Court Team.

f. A defendant is not eligible if the current charges allege, or if the facts of the offense involve, the use or threat of force against the person of another, or the death or serious bodily injury to any other person or must enroll in and complete a 52-week Batterer's Treatment Program.

g. A defendant with any current commitments to state (Post Release Community Supervision/Mandatory Supervision) or federal prison (Federal Probation) is not eligible.

h. A defendant with in the last **five (5)** years of a prior commitment to state or federal prison is ineligible, except in unusual circumstances where it appears in the discretion of the Drug Court Judge that the defendant will benefit from treatment and is not currently on State Parole.

i. A defendant with outstanding out-of-county warrants or foreign holds is not eligible.

j. A defendant currently charged with any offense listed in PC 1192.7 or PC 667.5 (c) is not eligible.

k. A defendant with any prior conviction for any offense listed in PC 1192.7 or PC 667.5 (c) is not eligible, except with the unanimous agreement of the Drug Court Team.

l. A defendant with either current charges or prior convictions for sex-related offenses, including, but not limited to, those enumerated in PC 290, PC 311, PC 314, PC 647 (a), and PC 647.6, is not eligible. (1/1/17)

2. Policies and Procedures

a. Upon acceptance into Drug Court, the defendant must plead guilty or nolo contendere, waive all pretrial rights, and waive referral to the Probation Department for a pre-sentence report and investigation.

b. Imposition of sentence, or execution of sentence, shall be suspended and the defendant shall be sentenced to formal probation under general terms and conditions and the following recommended specific terms of probation:

   i. Make full restitution (if appropriate).
   ii. Totally abstain from the use or possession of intoxicating beverages or being in or about any place of business where the primary item sold is intoxicating beverages for consumption on the premises.
   iii. Submit your person, vehicle, property to search for controlled substances, alcohol, and any other appropriate search required.
   iv. Participate in random alcohol and controlled substance urine analysis testing.

v. Do not use or possess narcotics, controlled substances, and restricted or prescribed drugs except with a valid prescription.
vi. Participate in and complete the Drug Court Program.
vii. Participate in and complete an in custody or residential treatment program (if appropriate).
viii. Comply with all directives in the Drug Court Contract.
ix. All required fees and fines be imposed but stayed pending successful completion.

c. If participants have pled prior to entry into Drug Court then upon satisfactory completion of the Drug Court Program, the Drug Court Judge will terminate probation and reduce any felony to a misdemeanor (if appropriate).

d. A defendant who pleads guilty or no contest in order to enter Drug Court shall, upon successful completion of Drug Court and payment of restitution, if any, have the charges(s) dismissed.

e. Upon termination from the Drug Court Program, after consideration of factors in mitigation and aggravation, the Drug Court Judge will immediately pronounce judgment.

B. Mental Health Treatment Court

The mission of the Stanislaus County Facilitative Adjudication and Intensive Rehabilitative Services (FAIRS) program is to hold mentally ill offenders accountable while enlisting their participation in flexible and intensive treatment programs tailored to their specific assessed needs. The program provides Facilitative Adjudication through a dedicated Mental Health Treatment Court. As of March 2007, the program embraces the principles of regular judicial intervention, case management, targeted treatment and a system of graduated rewards and sanctions to encourage compliance and continued participation in the mental health and drug dependency treatment regimens. The key objective of FAIRS Mental Health Treatment Court is to prevent the incarceration of mentally ill offenders by securing their release from jail for appropriate community intervention and treatment services. The Mental Health Treatment Court team consists of the Mental Health Treatment Court Judge, Deputy District Attorney, Deputy Public Defender, Behavioral Health Specialist, Psychiatric Nurse and Deputy Probation Officer.

1. Eligibility Criteria

a. The program is open to a defendant who is identified as suffering from a DSM V Axis I disorder; whose primary diagnosis is not a substance abuse disorder; and to those with a non-substance abuse Axis I disorder and a co-occurring

substance abuse disorder whose mental illness may likely contribute to their involvement in the criminal justice system. In determining whether an individual is eligible and amenable for Mental Health Court, the focus should not be on the level of severity of the individual's mental illness, but rather, on whether the services provided through Mental Health Court are likely to improve defendant's mental health in a manner that meaningfully reduces the risk of recidivism.

b. The defendant must reside in Stanislaus County while participating in the program.

c. Acceptance into the FAIRS program requires unanimous agreement of the Mental Health Treatment Court team.

d. A defendant is not eligible if:

   i. The current charges allege, or the facts of the offense involve use of a firearm or other deadly or dangerous weapon; great bodily injury to another person or the death of a person.
   ii. The current charge is murder, voluntary manslaughter or attempted murder.
   iii. The current charges or prior convictions are felony sex-related offenses, including, but not limited to PC 290, PC 311, and PC 647.6.
   iv. A defendant has outstanding out of county warrants, foreign holds or is currently on state or federal parole.

e. However, in a misdemeanor case, following successful competency restoration, a defendant excluded under section 1(d) may be accepted into the FAIRS program.

   The eligibility of a defendant currently charged with or conviction for an offense listed in PC 1192.7 or PC 667.5(c) will be considered with caution but may be eligible.

f. If the circumstances are such that it appears to the Mental Health Treatment Court Team that the defendant would benefit from treatment and poses a low risk of harm to the community.

2. Policies and Procedures

a. Upon acceptance into the Mental Health Treatment Court, the defendant must plead guilty or nolo contendere, providing they are able to do so, must waive

all pretrial rights and waive referral to the Probation Department for a pre-sentence report and investigation. If a defendant is incapable of entering a plea, the defendant must comply with the terms set forth in the Mental Health Treatment Court Contract.

b. For the purpose of participation in the Mental Health Treatment Court component of the FAIRS program, the defendant must agree to comply with the directives of the Mental Health Treatment Court contract, which will include the following conditions:

   i. Obey all laws, also orders of the Court and reasonable and proper directions of the Mental Health Treatment Court team.

   ii. Totally abstain from the use of alcohol, drugs or other chemical substances not prescribed by a licensed practitioner.

   iii. Attend and actively participate in group counseling sessions as directed by program personnel.

   iv. Attend and actively participate in individual counseling sessions as directed by program personnel.

   v. Submit to urinalysis or other testing as directed by program personnel.

   vi. Submit person, vehicle and place of abode to search for controlled substances and alcohol, at the direction of any peace officer, with or without probable cause or reasonable suspicion.

   vii. Participate in other outpatient or residential treatment programs as directed by program personnel.

   viii. Appear before the Mental Health Treatment Court Judge at such times and dates as directed by the Court or program staff.

   ix. Immediately notify the Probation Officer of any change of address and/or telephone number.

   x. Participate in the Mental Health Treatment Court component of the FAIRS program for a minimum of one (1) year, to a three (3) year maximum.

xi. Be prohibited from having possession, custody or control of any weapon or ammunition, including any type of firearm.

xii. Comply with FAIRS individual treatment contract.

xiii. Take all **mental health** medications as prescribed.

xiv. Pay restitution as ordered by the Court and directed by Probation.

If the defendant successfully completes the Mental Health Treatment Court program, (s)he may withdraw the guilty plea(s) and the criminal complaint(s) filed will be dismissed without having suffered a criminal conviction. If the defendant enters the program post-conviction, the felony charge(s) may be reduced to a misdemeanor and probation will be terminated. Failure to comply with all program requirements, and/or failure to comply with the directions of program staff, may result in imposition of sanctions, program termination and/or incarceration. (7/1/24)

C. Domestic Violence Cases (See Local Rule 4.31) (1/1/17)

4.23 Veteran's Treatment Court

The mission of the Stanislaus County Veteran's Court Program is a hybrid drug court and mental health court model whose aim is to strike a proper balance between treating the justice-involved veteran and protecting the community. (7/1/19, 7/1/22)

1. Eligibility Criteria

a. Residents of Stanislaus County only. (7/1/19)
b. Must be a Veteran as defined in 38 U.S.C. 5303A (b), or have been the victim of Military Sexual Trauma (MST), or is otherwise eligible for Veterans Affairs' health or disability benefits. (7/1/22)
c. Preference given to combat veterans.
d. Participant must suffer from sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health problems stemming from service in the United States Military (PC 1170.9 eligible).
e. Participant must be placed on probation unless the VTC team determines the defendant charged with a misdemeanor is appropriate for diversion pursuant to PC 1001.80. The fact an executed prison sentence is suspended will not be a disqualifying factor.

i. Exclusionary factors for diversion are as follows:

1. No prior diversion
2. No second time offenses

3. No violent misdemeanor charges

ii. Time line for diversion is a follows:

1. 12 months misdemeanor diversion
2. Red phase 90 days. (If veteran hasn't exited red phase within 90 days consider terminating veteran from further participation.)

White phase 180 days

Blue phase 90 days (7/1/22)

f. Participant must voluntarily and willingly agree to participate in the VTC program.
g. VTC Team decisions are intended to be unanimous. In the event a unanimous decision cannot be reached, the assigned VTC judge will make the final decision.

2. Exclusionary Factors

a. A defendant with any current commitments to state or federal prison is not eligible. A defendant with a current commitment to local prison pursuant to PC 1170(h) may be eligible upon agreement of the VTC team.
b. A defendant with a pending case or pending pronouncement of judgment on disqualifying charges is not eligible.
c. A defendant with outstanding out-of-county warrants or foreign holds is not eligible.
d. A defendant charged with or previously convicted of any offense listed in PC 1192.7 is not eligible, except with the agreement of the VTC team.
e. No PC 667.5(c) violent felony current or prior convictions.
f. A defendant with current charges for sex-related offenses, including, but not limited to, those enumerated in PC 290, PC 311, PC 314, PC 647 (a), and PC 647.6, is not eligible.
g. No sex, arson or gang registrants.
h. No documented gang members.
i. No DUI cases in which the defendant has two or more prior DUI convictions, except with the agreement of the VTC team.
j. The defendant is not eligible, if as the result of the current offense, the victim suffered death or great bodily injury, except upon agreement of the VTC team
k. For defendants with charges that are not eligible for VTC; if the case resolves in its assigned court for charges that are eligible for VTC, the case may be sent to VTC for assessment, and if accepted into VTC, sentencing and probation will be monitored through VTC. (7/1/22)

l. Any defendant who has participated in a Veteran's Treatment Court within five years of the date of the current offense is not eligible for referral to Stanislaus County VTC. (7/1/22)

3. Termination

a. Grounds for Termination
   i. Failure to comply with the VTC program/probation conditions.
   ii. Participant is found not amenable to treatment.
   iii. Failure to perform and a lack of progress in the VTC program.

b. New offenses:

   i. Felony and Misdemeanor filings: Default is termination, unless in the interests of justice the VTC team agrees that the participant may remain in the program. (7/1/19)
   ii. Arrests (No Filing by District Attorney): May result in termination.

c. Presumed Termination from VTC

   i. Failure to report to probation after sentencing, combined with failure to appear at first court appearance after sentencing.
   ii. Failure to report to and/or attend treatment and assigned programs.
   iii. Threatening or disrespectful behavior toward program staff or a fellow participant.
   iv. Leaving residential treatment without permission or being terminated from residential treatment for negative/inappropriate behavior.

d. Automatic Termination from VTC

   i. Failure to appear in Court and absence for at least 60 days after failure to attend treatment or assigned programs, or absconding from residential treatment.
   ii. Falsifying required meeting attendance documents.
   iii. Falsifying a drug test.

e. If participants have pled prior to entry into VTC, upon satisfactory completion of the program, probation will be terminated successfully.

f. If participants plead guilty or no contest in order to enter VTC, upon satisfactory completion of the program and payment of any ordered

restitution, probation will be terminated successfully and charges will be dismissed.

g. The Judge will consider termination after consideration of factors in mitigation and aggravation. Upon termination the Judge will immediately announce judgment.

4. Referral Process

a. Initial Referral

i. (1) Defense attorney notifies the Court and DDA when a case may be eligible for VTC and requests the matter be referred

b. Eligibility Determination – Two requirements

i. The defendant must be a veteran
ii. The defendant must qualify under PC § 1170.9 (PTSD. TBI, MST, or other mental condition resulting from military service)

c. There will be a maximum of 80 cases set each month. Further referrals will be set for the following month, unless authorized by the Court to exceed the 80-case limit. (7/1/19)

d. There will be a maximum cap of 30 VTC clients. 30 Diversion clients. Further clients must be approved by the Court. Once cap is reached, program will be closed until the cap reduces 60 clients. At which time, the program will reopen to new clients. (7/1/19)

5. Phases- Phase 1=Red, Phase 2 = White and Phase 3 =Blue

Movement between phases should be at the initiation of defendant and total agreement of treatment team. (7/1/22)

Veteran will have 3 years to complete phases to move towards graduation.

a. Felony

i. Phase I- Red 90 days min/ 6 mos max

ii. Phase II -White 1 yr min/ 2 yrs max

iii. Phase III- Blue 90 days min/6 mos max

1. Complete 40 hours of community service to waive fines/fees

b. Misdemeanor

i. Phase I- Red 90 days min/ 6 mos max

ii. Phase II – White 6 mos min/ 2 yrs max

iii. Phase III – Blue 90 days min/ 6 mos max
1. Complete 20 hours of community service to waive fines/fees.
a. Provide proof the month before set to graduate

6. Graduation

Graduation will be held monthly on a normal Veteran's Treatment Court day. Graduation will be at 10:00 am. (7/1/22)

a. Determined by criteria determined by VTC team. But at a minimum

1. A period of treatment and supervision. 18 months shall be considered the customary length of treatment and supervision.
2. Payment of victim restitution as determined by VTC team
3. No positive drug or alcohol results for 3- 6 consecutive months. Time to be determined by MDT.
4. No unexcused absences for scheduled programs for 60 days
5. Obtain gainful, consistent employment or sufficiently involved in a vocational training program or unable to work due to injury
6. Achieved stable living arrangement
7. Achieved understanding of addiction and its impact on personal life, criminal behavior, and relapse prevention
8. Fulfillment of treatment goals and objectives
9. Achieve understanding of the importance of clean and sober fellowship

Numbers 6, 7, and 8 will be shown through essay(s) written by the veteran as a graduation requirement. The essay(s) are to be read by the veteran at graduation. (7/1/16)

TRAFFIC CASES

4.24 General - Appointments Are Required For Hearings

A. When a person is cited to appear in Traffic Court an appointment is required in order to attend an arraignment hearing. The appointment must be booked on or before the "appear/respond by" date on the citation and scheduled at least five court days out. The appointment requirement also applies to a "mandatory appearance". An appointment for arraignment may be scheduled either online, by phone, or in person with the Clerk's Office.

Alternatively, the defendant may schedule the arraignment and trial on the same date by following the procedures outlines in Vehicle Code 40519 and posting bail. If the defendant elects to enter a not guilty plea in writing, form TR-006 (Advisement of Rights and Plea of Not Guilty in Writing) must be completed and filed with the Clerk's Office by the "appear/respond by" date on the citation.

B. Instead of scheduling an appointment for arraignment or trial, the defendant may pay the full bail with the Clerk's Office on or before the "appear/respond by date" or any lawfully granted extension pursuant to Local Rule 4.27. This is considered a bail forfeiture without an entry of plea and will be reported to the DMV as a conviction.

The defendant may proceed with a bail forfeiture under this section and attend traffic school if both the type of violation and the defendant are eligible for traffic school. The full bail plus the traffic school fee must be paid on or before the "appear/respond by date" or any lawfully granted extension pursuant to Local Rule 4.27. The defendant will then have ninety (90) days from the date of the bail forfeiture to complete traffic school. If the defendant fails to timely complete traffic school, the traffic school fee is forfeited and the conviction will be reported to the DMV.

C. Timely proofs of correction may be submitted to the Clerk's Office. Timely means the proof of correction is submitted on or before the "appear/respond by" date or within a lawfully granted extension pursuant to Local Rule 4.27.

D. Pursuant to Penal Code section 1428.5, all hearings including trials may be conducted in person or by remote technology. A party or attorney must complete and file a written consent to proceed by remote technology. The judicial officer has the discretion to grant or deny a remote appearance to any party, attorney, or witness at any time.

(Rule 4.24 [1/1/05, 1/1/20, 1/1/21, 7/1/24, 1/1/25] amended July 1, 2025)

4.25 Bail

This Court will adhere to the bail schedule for traffic violations found in Rule 4.102 of the California Rules of Court including the footnotes requiring increase of bail because of prior convictions. (7/1/07)

4.26 Trials -Infractions

A. This Court adopts the provisions of Vehicle Code Section 40901 for the trial of any alleged infraction involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code.

B. Pursuant to Penal Code section 17, subdivision (d)(1), any violation of an offense listed in Penal Code section 19.8, filed in the Traffic Division is deemed an infraction, regardless of level of offense shown on the citation. This rule is made without prejudice to the defendant's right to have the violation proceed as a misdemeanor.

C. The provisions of Welfare and Institutions Code section 603.5 are hereby adopted with respect to minors alleged to have committed only a violation of the Vehicle Code classified as an infraction or a violation of a local ordinance involving the driving, parking or operation of a motor vehicle.

(Rule 4.26 [1/1/05, 1/1/23] amended January 1, 2025)

4.27 Continuances

A. The Clerks' Office has authority to grant up to two (2) separate continuances, for not more than **thirty (30)** days each, of the "appear/respond by" date.

B. The Clerk's Office has authority to grant up to two (2) separate continuances for not more than thirty (30) days each, of the due date to pay a fine that has not yet been adjudicated.

C. Unless the case has been scheduled for a further proceedings hearing, the Clerk's Office has authority to grant up to two (2) separate continuances, for not more than thirty (30) days each, of the Traffic School completion date from the date of the original completion date.

D. All other requests for continuances shall be presented to the judicial officer hearing the traffic calendar pursuant to Penal Code 1050.

(Rule 4.27 [7/1/20, 1/1/21, 1/1/23, 1/1/24, 7/1/24] amended January 1, 2025)

4.28 Trial by Declaration

A. By this rule, the Court provides pursuant to Vehicle Code Section 40902, that a defendant may elect to have a trial by written declaration upon any alleged infraction, as charged by the citing officer, involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, other than an infraction cited pursuant to Article 2 (commencing with Section 23152) of Chapter 12 of Division 11.

B. A defendant may request a trial by written declaration on or before the respond by date set for on the citation, or any lawful continuance of that date as defined by Local Rule 4.27, by submitting a Request for Trial by Written Declaration (Judicial Council Form TR-205). A trial by written declaration is not available if the defendant has been notified that a personal appearance is mandatory.

C. Trials by written declaration will proceed in accordance with the provisions of Vehicle Code section 40902 and California Rules of Court, rule 4.210. A failure to timely submit the Request for Trial by Written Declaration Form and/or the required deposit of bail on or before the due date will be deemed a failure to appear, which may result in the court proceeding with the trial by written declaration pursuant to Vehicle Code section 40902(c) and 40903. (See Local Rule 4.30.)

Evidence must be submitted in writing or on a CD at the time the Declaration and bail are filed. Flash drives will not be accepted.

(Former Rule 4.29 [1/1/05, 7/1/20, 7/1/24] amended January 1, 2025)

4.29Adjudication of Traffic Cases Pursuant to Vehicle Code § 40903

Failure to appear as promised (FTA) on a traffic infraction may result in a bench warrant, bail forfeiture, civil assessment or the Court deeming the defendant's failure to appear as the defendant's election to proceed with trial by written declaration in abstentia.

(Former Rule 4.30 [7/1/20, 1/1/24, 7/1/24] amended January 1, 2025)

4.30 Motions

Motions must be submitted in writing. If possible, the judicial officer will review and make a decision without the necessity of a separate hearing. If the judicial officer determines a hearing is required, law and motion is scheduled for Thursdays at 9:15 a.m.

(Former Rule 4.30 [7/1/20, 1/1/23, 7/1/24, 1/1/25] amended July 1, 2025)

4.31 Miscellaneous Matters

A. Ability to Pay Determination Based on Financial Hardship

A defendant may submit a written request for reduction of fines based on a financial hardship by using Judicial Council Form TR-320, using the online MyCitations tool at https://mycitations.courts.ca.gov/atp, or requesting an "ability to pay" hearing before a judicial officer. Financial documentation must be submitted with any request for an "ability to pay" hearing.

Pursuant to Government Code section 68645.3(a), the court hereby authorizes a designated clerk of the court to review online requests for reduction made through the MyCitations online tool. The designated clerk of the court may make the ability to pay determination if the defendant attests to being a current recipient of public benefits, including those listed in subdivision (a) of Government Code section 68632. The designated clerk of the court shall adhere to the court-established rate when making reductions in the MyCitations online tool for individuals who receive public benefits. If the designated clerk of the court denies the reduction portion of the request, the defendant may request a court hearing with a judicial officer.

B. Payment Installment Plans

The amount of bail, fines and/or fees is due to be paid in full within sixty (60) days of the plea of no contest or guilty judgment. If the defendant is not able to pay the full amount within sixty (60) days, the defendant can complete the Judicial Council TR-300 Form and the Court's Payment Plan Enrollment Form to enter into an installment plan.

Installment plans in excess of 90 days are not available when the defendant chooses to attend traffic school. The bail plus traffic school fine is due paid in full within ninety (90) days of the guilty plea or judgment. The Clerk's Office will not process a traffic school completion certificate until the bail and traffic school fees have been paid.

C. Community Service

Community service is available in all cases if an affirmative request is made. Community service is voluntary and may be combined with a monetary payment of fines. If community service is requested on a case also eligible for traffic school, the traffic school portion of the fine must generally be paid in currency.

Community Service must be performed at a non-profit agency, governmental, educational, or faith-based entity that arranges for community service to be performed. The defendant will have ninety (90) days to complete the community service.

To show proof of completion of the community service hours, the defendant must obtain a letter from each agency where the hours were performed. The letter must be on letterhead and include the number of hours that were completed, the date(s) when the community service was completed, what work was completed, and it must be signed by an authorized representative of the agency.

If the defendant completes fewer hours of community service than ordered, any portion of the bail remaining outstanding will be due in currency and may be sent to the Franchise Tax Board or another agency for collection action on the unpaid balance.

D. Further Proceeding Hearings - Compliance

The Court will schedule a further proceeding hearing for various matters, such as providing proof of correction, completion of community service, completion of a payment plan, or completion of a diversion program.

A defendant may submit proof of compliance to the Clerk's Office for judicial review at any time prior to the hearing.

(Rule 4.31 [7/1/14, 7/1/20, 1/1/21, 1/1/23, 1/1/24, 7/1/24, 1/1/25] amended July 1, 2025.)

DOMESTIC VIOLENCE CASES

4.32 Domestic Violence Protocol

This Protocol is adopted in conformity with Penal Code 136.2, California Rule of Court 5.450, and Stanislaus County Superior Court Rule 4.31.

A. Definitions

For purposes of this protocol:

1. "Criminal court protective order" means any court order issued under California Penal Code §136.2 arising from a complaint, information, or an indictment charging a crime of domestic violence as defined in California Penal Code §13700.

2. "Court" means all divisions of the Superior Court of the County of Stanislaus.

3. "Cases involving child custody and visitation" include family (dissolutions, legal separations, nullities, Domestic Violence Prevention Act, parentage, petition for custody and support, Title IV-D 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.

4. All references in this Protocol to Family Court include any division of the Superior Court, hearing matters involving child custody and visitation, including Juvenile Court and Probate Court.

5. "CLETS Restraining Orders" include personal conduct, residence exclusion, stay away, and other orders issued under the Domestic Violence Prevention Act in the Family Code or Section 213.5 of the Welfare & Institutions Code.

B. Purposes

This protocol is intended to set forth the procedures for communication and sharing regarding the issuance of Criminal Court protective orders and civil restraining orders, including those orders involving child custody and visitation, where the same restrained person and protected person are involved in both orders. It is important to permit appropriate visitation between a criminal defendant and their children pursuant to civil court orders, while simultaneously to provide for the safety of the protected person or witness by ensuring that a criminal court protective order is not violated. Since there are large numbers of cases in the criminal courts that relate to matters in the Family, Juvenile, or Probate Courts, it is vital that a process exists for communication and information sharing between the divisions of the Court dealing

with the same parties and families, as well as a process for the modification of orders, to ensure consistency between various court protective orders.

C. Procedure in the Criminal Domestic Violence Court

1. Where the Restrained and Protected Persons have Children Together

When the Criminal Court issues Criminal Protective Orders protecting Victim(s), the Criminal Court shall inquire of the defendant (restrained person) whether there are any children of the relationship between the defendant and the protected person, and whether there are any Court Orders for custody/visitation of those children. If there are children, the Criminal Court shall consider whether peaceful contact should be allowed for purposes of visitation of the defendant with the children and shall give the **Restrained Person Pamphlet** containing informational material to the defendant concerning their rights to request a modification of the Criminal Protective Order. The Criminal Court shall also inquire as to whether there are any other protective/restraining orders involving the defendant, protected person and/or the witness. **Subject to available resources**, the Court shall examine the Court's local database for existing protective or restraining orders before issuing permanent orders. Court personnel shall relate the identified cases in the Court's local database to ensure future identification of these cases.

When the Protected Persons Include Minor Children of the Restrained Person

When the Criminal Court issues No Contact and/or a Stay Away Orders from the minor children of the defendant, the Criminal Court shall forward a copy of the issued criminal protective order to the Family Law, Probate or Juvenile Division for placement in the related file.

2. When the Protected Person is Present in the Criminal Court

If the protected person is present in Criminal Court when the Criminal Protective Order is issued, the Court shall provide the victim with a copy of the Criminal Protective Order, along with a **Protected Person Pamphlet**. If the protected person is not present in Court, the District Attorney's Office will provide the victim with a copy of the Criminal Protective Order, along with a **Protected Person Pamphlet**. The Protected Person Pamphlet shall advise the protected person of their rights to request restraining orders, custody and visitation orders, and child support orders through the appropriate Court.

3. **Modification of Criminal Protective Orders in Criminal Court**
   Because Criminal Protective Orders take precedence over Family Law Protective Orders, it is important that the process of modification be easily available.

a. The District Attorney's Office may, at any time, place the issue before the Court at the request of a protected person or the Family, Juvenile or Probate Court.

b. The Probation Department may place the issue before the Court on the probation review calendar at the request of a defendant, protected person, or the Family, Juvenile or Probate Court.

c. The defendant or their counsel may place the issue before the Court on the probation review calendar.

d. An **Application for Modification of Criminal Protective Order** allows a defendant, protected person, another court or any other appropriate agency (see (f)) to request the Criminal Court to place the case on calendar to consider a request to modify the protective order. This form will be available in the Family Law, Probate, Juvenile and Criminal Court Clerk's Office, the Family Law Facilitator's Office, and any other appropriate agencies.

e. Upon a proper request pursuant to this protocol, the appropriate Criminal Court may place the matter on calendar on its own motion.

f. Copies of any applicable CLETS restraining orders and custody and visitation orders shall be attached to the Application to Modify Criminal Protective Order. The District Attorney, Probation, Defendant or their attorney, Protected Person or their attorney or any other division of the Court, may present the Application to Modify Criminal Protective Order to the Criminal Court. The application shall contain the case numbers of both the Criminal case and any Family, Juvenile, or Probate cases involving the defendant and the protected person and must be signed by the appropriate Judge prior to being presented to the Criminal Clerk's Office for scheduling of the hearing. The submitting party will provide copies of the application, which shall be placed in the applicable court files. The requesting party shall complete personal service no less than **ten** (10) calendar days before the hearing on the defendant and all other appropriate parties and agencies, including the District Attorney's Office, the Probation Department, and Defense Counsel. If someone other than the Protected Person submits the application, the District Attorney shall send a copy of the Application to the protected person at their last known address. If the Protected Person submits the application, the Sheriff's Office shall include

service of these documents with their current process for civil restraining order service.

4. **Procedure After the Criminal Court Hearing on Modification**
After the hearing on modification of the protective order, the Criminal Court shall provide copies of the Modified Protective Order or Minute Order denying the Motion to Modify Criminal Protective Order to the applicable Family, Juvenile, or Probate Court for inclusion in its file(s). If the application was submitted by someone other than the Protected Person, the District Attorney shall send a copy of the new Criminal Protective Order or the Minute Order denying the Motion to Modify Criminal Protective Order to the protected person at their last known address.

D. Procedure in Family, Juvenile and Probate Courts

1. **Criminal Record Information to be made Available to the Family Court**
Subject to available resources, the Family, Juvenile, and Probate Courts shall review the Court's local database for existing restraining/protective orders involving the same restrained and protected parties, before issuing permanent CLETS Restraining Orders.

2. **Provisions for Safe Access to Children**
Any order of the Family, Juvenile, or Probate Court that permits contact between a restrained person subject to CLETS restraining orders and their children shall contain specific language setting forth the schedule for such contact and the safe exchange of the children. Such an order shall not contain language that conflicts with a Criminal Protective Order that provides for no contact, or limits access to, the other parent. The Court or a Court-related agency may, however, recommend contact and direct the defendant (restrained person) to the Family Court process for modification of the order.

E. Communication between the Courts and Related Agencies

1. Subject to available resources, any Court issuing protective/restraining orders must make reasonable inquiries to determine the existence of other protective/restraining orders involving children of the protected and restrained parties in the Court's local database.

2. Any division of the Superior Court may provide copies of Criminal Protective Orders, CLETS Restraining Orders, Court Minutes, and applicable custody and visitation orders to other divisions of the Court. If any of such orders are confidential, they shall be sent in an envelope labeled Confidential and they shall not be made available to the public. Confidential orders will be stamped

as "CONFIDENTIAL" and will be kept in confidential document envelopes according to current Stanislaus County Superior Court policy.

3. Subject to appropriate confidentiality requirements, the Court may, upon written request, provide copies of CLETS Civil or Criminal Restraining Orders, along with applicable custody and visitation orders, to related agencies, including Probation, County or State Parole, and Community Services Agency (CSA). (7/1/07, 7/1/24)

RULE 5 JUVENILE COURT

5.00 Juvenile Dependency: General Competency Requirement

All attorneys appearing in juvenile dependency proceedings, and who are compensated with public funds, must meet the minimum standards of competence set forth in these rules. These rules are applicable to attorneys representing public agencies, attorneys employed by public agencies, and attorneys appointed by the Court to represent any party in a juvenile dependency proceeding. (7/1/17, 1/1/22, 7/1/24)

5.01 Juvenile Dependency: Screening for Competency

A. Any attorney appearing in a dependency matter for the first time shall complete and submit a Certification of Competency to the Court within **ten** (10) days of their first appearance in a dependency matter.

B. Attorneys who meet the minimum standards of training and/or experience, as set forth in Local Rule 5.02, as demonstrated by the information contained in the Certification of Competency submitted to the Court, shall be deemed competent to practice before the Juvenile Court in dependency cases except as provided in Local Rule 5.02**.**

C. 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 the 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 Local Rule 5.02 D hereinafter.

D. In the case of an attorney who maintains their principal office outside of this county, proof of certification by the Juvenile Court of the California County in which the attorney maintains an office shall be sufficient evidence of the competence to appear in a juvenile proceeding in this county. (7/1/17, 1/1/22, 7/1/24)

5.02 Juvenile Dependency: Minimum Standards of Education and Training

Each attorney appearing 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. (1/1/22)

A. Prior to certification, the attorney shall have either:

1. Participated in at least **eight (8)** hours of training or education in juvenile dependency law, which training or education shall have included information on the applicable case law and statutes, the California Rules of Court, Judicial Council forms, motions, trial techniques and skills, writs and appeals, child development, child abuse and neglect, family reunification and preservation and reasonable efforts, or

2. At least **six (6)** months of experience in dependency proceedings in which the attorney has demonstrated competence in the attorney's representation of their clients in said proceedings. In determining whether the attorney has demonstrated competence, the Court shall consider whether the attorney's performance has substantially complied with the requirements of these rules.

B. In order to retain their 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 on the attorney's schedule for compliance with Minimum Continuing Legal Education Rules and Regulations as adopted by the State Bar Board of Governors on July 8, 1995, and as it may be later amended. The attorney shall declare under penalty of perjury on the renewal Certification of Competency that they have completed at least eight hours of continuing training or education directly related to dependency proceedings since the attorney was last certified. For the initial compliance period following the effective date of this rule the compliance requirements shall be as follows: Group 2, (names H-M) 2 hours by January 31, 1997; Group 3 (names N-Z) 4 hours by January 31, 1998; and, Group 1 (names A-G) 6 hours by January 31, 1999. The attorney shall maintain evidence of completion of the required training or education. Evidence of completion of the required number of hours of training or education may include a copy of a certificate of attendance issued by a California MCLE provider; a certificate of attendance issued by a professional organization which provides training and/or education for its members, whether or not it is a MCLE provider; a copy of the training or educational program schedule together with evidence of attendance at such program; or such other documentation as may reasonably be considered to demonstrate the attorney's attendance at such program. Attendance at a Court sponsored or approved program will also fulfill this requirement. The Court or Court Administrator may audit the evidence of compliance of an attorney upon demand.

C. The attorney's continuing training or education shall be in the areas set forth in Rule 5.02 A (1) 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 Act, the Parental Kidnapping Prevention Act, state and federal public assistance programs, the Indian Child Welfare Act, client interviewing and counseling techniques, case investigation and settlement negotiations, mediation, basic motion practice and the rules of civil procedure.

When a certified attorney fails to submit evidence that they have completed at least the minimum required training and education to the Court by the due date, the court shall notify the attorney that they will be decertified. That attorney shall have **twenty (20)** days from the date of the mailing of the notice to submit evidence of their completion of the required training or education. If the attorney fails to submit the required evidence or fails to complete the required minimum hours of continuing training or education, the Court shall order that certified counsel be substituted for the attorney who fails to complete the required training. (7/1/17, 1/1/22, 7/1/24)

5.03 Juvenile Dependency: Standards of Representation

All attorneys appearing in a dependency proceeding shall meet the following minimum standards of representation:

A. The attorney shall thoroughly and completely investigate the accuracy of the allegations of the petition or other moving papers and the Court reports filed in support thereof. This shall include conducting a comprehensive interview with the client, contacting social workers and other professionals associated with the case to ascertain if the allegations and/or reports are supported by accurate facts and reliable information, and obtaining such other facts, evidence or information as may be necessary to effectively present the client's position to the Court.

B. If the client is a minor child who is placed out of home, in addition to interviewing the child, absent exceptional circumstances, the attorney shall also interview with the child's caretaker.

C. The attorney shall vigorously represent the client within applicable legal and ethical boundaries. This shall include the duty to work cooperatively with other counsel and the Court, to explore ways to resolve disputed matters without hearing if it is possible to do so in a way which is consistent with the client's interests, and to comply with local rules and procedures as well as the statutorily mandated time lines. This shall include the duty to work cooperatively with other counsel, CASA and the Court, to explore ways to resolve disputed matters without hearing if it is possible to do so in a way which is consistent with the client's interests, and to comply with local rules and procedures as well as the statutorily mandated time lines. (7/1/17, 1/1/22, 7/1/24)

5.04 Juvenile Cases: Time Waivers and Continuances

Attorneys for the parties are required to adhere to the statutory time lines for all hearings. Time waivers will be accepted and continuances granted only on a showing of exceptional circumstances in dependency cases or good cause in justice cases. (1/1/19, 1/1/22)

5.04.1 Juvenile Justice Detention Hearings, Pre-Trials and Contested Hearings

Law and Motion dates must be reserved with the courtroom clerk of the assigned department prior to filing.

Detention hearings and pre-trial conferences are designed for the setting of contested jurisdictional or other contested hearings, for the taking of admissions, or for resolution of quick contested issues. They are not designed for contested issues requiring notice and the opportunity to be heard. Accordingly, the following rules apply (1/1/20, 1/1/22):

A. Pretrial Hearings

1. All parties are ordered to meet and confer before entering the courtroom regarding any contested matter. The parties are expected to narrow the issues as much as possible, so court time can be used efficiently resolving issues that cannot otherwise resolve.

2. Any contested matter that will take more than ten minutes to resolve shall be noticed and will be heard on a contested calendar within the statutory timelines.

3. If time is of the essence regarding a contested matter, and notice requirements were not met, the parties shall be prepared to explain good cause for absence of notice.

B. Contested Hearings

1. Law and Motion and contested hearing dates must be reserved with the courtroom clerk of the assigned department prior to filing and must state an estimate of the time needed for the motion.

2. Once set, multi-day hearings shall only be vacated and continued subsequent to a noticed written motion unless good cause exists. Any request to continue must be made at the earliest practical opportunity.

3. All motions and responses thereto shall be filed in writing not less than two days prior to the hearing unless good cause is shown. Said motions and responses shall include the department, date and time of hearing, the theories relied upon for the granting or denying of the motion, points and authorities and any required declarations. At the time any pleading is filed, the party filing the pleading shall either 1) deliver a courtesy copy of the pleading to the courtroom where the case is assigned or 2) if the judge assigned to the case has indicated that email delivery is acceptable, email a copy to the judge. Orders presented for signature in court shall be presented with an original and two (2) copies. The signature line must always be at the end of the order and not followed by any attachment. It should never be on a page by itself. (1/1/22)

4. Unless otherwise allowed or required by statute or Rule of Court, all motions shall be made so that they can be timely served and heard prior to the date of (or immediately before) the transfer hearing or jurisdictional hearing.

5. Absence of a memorandum of points and authorities shall be deemed by the Court to be a concession that the motion lacks merit. No issues other than those set forth in the memorandum of points and authorities will be considered unless they were not reasonably discoverable before the motion was filed, or there is other good cause shown.

6. Failure to deliver or email a courtesy copy of pleadings to the courtroom in which the case is assigned shall not constitute grounds to deny a motion or disregard a responsive pleading, but it may serve as grounds to continue the hearing.

7. A memorandum of points and authorities shall not exceed **fifteen** (15) pages, excluding exhibits, declarations or attachments. Any party may submit a written request to exceed the **fifteen** (15) page limitation **two (2)** days before the motion is to be filed or response due. The written request must be submitted to the court scheduled to hear the motion and set forth good cause why the **fifteen (15)** page limit needs to be exceeded. (7/1/24)

5.05 Juvenile Cases: Procedures for Reviewing and Resolving Complaints About Appointed Counsel

A. Any party to a Juvenile Court proceeding may complain about the performance of their appointed attorney in a Juvenile Court proceeding. The complaint may be made orally during a court proceeding, or in writing and filed with the Juvenile Court Clerk's Office. In the case of a complaint concerning the performance of an attorney appointed to represent a minor, the Court Appointed Special Advocate (CASA), the social worker, a caretaker relative or foster parent may make the complaint on the child's behalf. (1/1/22)

B. The Juvenile Court shall conduct a hearing to review the complaint no later than ten (10) court days from the date it is received. The attorney will be given the opportunity to respond. (1/1/22)

After reviewing the complaint, the response, and any additional information, the Court may find cause to relieve the attorney and appoint new counsel. This procedure is available in addition to any other remedy available under the law. (7/1/17, 1/1/22, 7/1/24)

5.06 Procedures for Informing the Court of the Interests Of a Dependent Child

A. At any time during the pendency of a juvenile 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 a right or interest as soon as is reasonably possible for counsel to do so. (1/1/22)

B. Notice to the Court may be given by filing of Judicial Council form JV-180 or by the filing of a declaration. 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 forum in which the right or interest may be affected, and the nature of the proceeding being contemplated or conducted there.

C. If the person filing the notice is the counsel for the minor, the motion shall state what action on the child's behalf the attorney believes is necessary, whether the attorney is willing or able to pursue the matter on the child's behalf, whether the association of counsel specializing in practice before that agency or Court may be necessary or appropriate, whether the appointment of a guardian ad litem may be necessary to initiate or pursue the proposed action, whether joinder of an administrative agency to

the Juvenile Court proceedings pursuant to Welfare and Institutions Code section 362 may be appropriate or necessary to protect or pursue the child's interests and whether further investigation may be necessary.

D. If the person filing the notice is not the attorney for the child, a copy of the notice shall be served on the attorney for the child, or, if the child is unrepresented, the notice shall so state.

E. 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.

F. If the Court determines that further action on behalf of the child is required, the Court shall do one or more of the following:

1. Authorize the minor's attorney to pursue the matter on the child's behalf;

2. Appoint an attorney for the child if the child is unrepresented;

3. Notice a joinder hearing pursuant to section 362 compelling the responsible agency to report to the Court with respect to whether it has carried out its statutory duties with respect to the child;

G. Appoint a guardian ad litem for the child for the purposes of initiating or pursuing appropriate action in the other forum(s);

Take any other action the Court may deem necessary or appropriate to protect the welfare, interests and rights of the child. (7/1/17, 1/1/22, 7/1/24)

5.07 Juvenile Justice Cases: Appointment, Conduct and Removal of Counsel

Attorneys wishing to be appointed in juvenile justice cases shall certify their compliance with CRC 5.664 by filing a JV-700 form with the court prior to being appointed. (7/1/17, 1/1/22)

5.08 The Advocate Program (CASA)

The Juvenile Court may appoint child advocates to represent the interests of children involved in either juvenile dependency or juvenile justice proceedings. In order to qualify for appointment, the child advocate must be trained by and function under the auspices of a Court Appointed Special Advocate (CASA) program, formed and operating under the guidelines established by the California Judicial Council (W & I 1356.5).

The advocate program shall report regularly to the Presiding Judge of the Juvenile Court with evidence that it is operating under the guidelines established by the National Court Appointed Special Advocate Association and the California State Guidelines for child advocates. (7/1/03, 1/1/22)

5.09 Child Advocates

A. Advocates' Functions

Advocates serve at the pleasure of the Court having jurisdiction over the proceeding in which the advocate has been appointed. In general, an advocate's functions are as follows:

1. to support the child throughout the Court proceedings;

2. to establish a relationship with the child to better understand their particular needs and desires;

3. to communicate the child's needs and desires to the Court in written reports and recommendations;

4. to identify and explore potential resources that will facilitate early family reunification or alternative permanency planning;

5. to provide continuous attention to the child's situation to ensure that the Court's plans for the child are being implemented;

6. to the fullest extent possible, to communicate and coordinate efforts with the case manager (probation officer/social worker);

7. to the fullest extent possible, to communicate and coordinate efforts with the child's attorneys; and,

8. to perform a fact-finding function which serves the interests of the child in other judicial or administrative proceedings outside Juvenile Court; report to the Juvenile Court concerning same; and, with the approval of the Court, offer their services on behalf of the child to such other courts or tribunals.

B. CASA Sworn Officer of the Court

An advocate is an officer of the Court and is bound by these rules. Each advocate shall be sworn in by a Superior Court Judge/Referee/Commissioner before beginning their duties and shall subscribe to the written oath set forth in Exhibit A attached hereto.

C. Specific Duties

The Court shall, in its initial order of appointment, and thereafter subsequent order as appropriate, specifically delineate the advocate's duties in each case, which may include independent investigation of the circumstances of the case, interviewing and observing the child and other appropriate individuals, reviewing appropriate records and reports, consideration of visitation rights for the child's grandparents and other relatives, and reporting back directly to the Court as indicated. If no specific duties are outlined by Court order, the advocate shall discharge their obligation to the child and the Court in accordance with the general duties set forth in these rules.

D. Procedures in Juvenile Justice Cases (W & I 602)

1. A request for appointment of a child advocate in a juvenile justice case may be made orally or in writing in open court or *ex parte* by the probation officer or any party to the case, or by the Court on its own motion. If the Court grants the request, it shall order that the case be referred to Court Appointed Special Advocates (CASA) for screening. The order shall be transmitted to CASA by the Courtroom Clerk. (1/1/22)

2. When CASA receives a referral, it shall screen it, and if it determines that the minor is a suitable subject for the appointment of a child advocate and if there is a suitable child advocate available for appointment, CASA shall complete an application for the appointment of a designated child advocate and present the application *ex parte* to the referring Court, which may then grant the application or set the matter for hearing.

3. When the Court grants the application for appointment of a child advocate (either at the time of application or after hearing), CASA shall prepare and present to the Court an order appointing the child advocate.

4. Any party to the proceeding may petition the Court for a hearing to reconsider the appointment.

5. A child advocate may petition the Court to set the minor's case for a review hearing.

6. The child advocate serves at the pleasure of the Court, and the appointment of the child advocate may be terminated by the Court. Any party or the Director of the Child Advocate Program may file a motion for termination of a child

advocate. The Court will determine whether there will be a hearing on such a motion.

7. Any child advocate with a grievance concerning termination may petition the Court for a hearing. Such petition shall include facts indicating that the child advocate has exhausted all remedies available to him or her within the child advocate program. The Court will determine whether there shall be a hearing on such a petition.

E. Procedures in Juvenile Dependency Cases (W & I §300)

1. A request for appointment of a child advocate in a dependency case may be made orally or in writing in open court or *ex parte* by the Social Worker, any party to the case, by the Court on its own motion, or by an interested person. Unless there is opposition, the referral shall be forwarded to the child advocate office for screening and assignment.

2. When CASA receives a referral, it shall screen it, and if it determines that the minor is a suitable subject for the appointment of a child advocate and if there is a suitable child advocate available for appointment, CASA shall complete an application for the appointment of a designated child advocate and present the application *ex parte* to the referring Court, which may then grant the application or set the matter for hearing.

3. When the Court grants the application for appointment of a child advocate (either at the time of application or after hearing), CASA shall prepare and present to the Court an order appointing the child advocate.

4. When an appropriate child advocate has been identified, that person's name shall be submitted to the Court for appointment.

5. Any party to the case may petition the court for a hearing to reconsider the appointment.

6. CASA will submit a finalized report to the Juvenile Court Clerk's Office at least **ten (10)** days prior to the hearing date. CASA will provide and distribute copies of the report to the social worker and the parties of record at least **ten (10)** days prior to the hearing.

7. The child advocate serves at the pleasure of the Court, and the appointment of the child advocate may be terminated by the Court. Any party or the Director of the Child Advocate Program may file a motion for termination of a child

advocate. The Court will determine whether there will be a hearing on such a motion.

8. Any child advocate with a grievance concerning termination may petition the Court for a hearing. Such petition shall include facts indicating that the child advocate has exhausted all remedies available to him or her within the Child Advocate program. The Court will determine whether there shall be a hearing on such a petition. (1/1/05, 1/1/22, 7/1/24)

5.10 Release of Information to Advocate

A. **To Accomplish Appointment**
To accomplish the appointment of an advocate, the Judge/Referee/ Commissioner making the appointment shall sign an order granting the advocate the authority to review specific relevant documents and 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 appointed to investigate proceedings on behalf of the Court.

B. **Access to Records**
An advocate shall have the same legal right to records relating to the child they are appointed to represent as any case manager (social worker or probation officer) with regard to records pertaining to the child held by any agency, school, organization, division or department of the state, physician, surgeon, nurse, other health care provider, psychologist, psychiatrist, mental health provider or law enforcement agency. The advocate shall present their identification as a Court-appointed advocate to any such record holder in support of their request for access to specific records. No consent from the parent or guardian is necessary for the advocate to have access to any records relating to the child.

C. **Report of Child Abuse**
An advocate is a mandated child abuse reporter with respect to the case to which they are appointed.

D. **Communication**
There shall be ongoing, regular communication concerning the child's best interests, current status, and significant case developments maintained among the advocate, case manager, child's attorney, attorneys for parents, relatives, foster parents and any therapist for the child. (7/1/03, 7/1/24)

5.11 Right to Timely Notice

In any motion concerning the child for whom the advocate has been appointed, the moving party shall provide the advocate timely notice. (7/1/03)

5.12 Calendar Priority

In light of the fact that advocates are rendering a volunteer service to children and the Court, matters on which they appear should be granted priority on the Court's calendar, whenever possible. (7/1/03)

5.13 Visitation Throughout Juvenile Dependency

An advocate shall visit the child regularly until the child is secure in a permanent placement. Thereafter, the advocate shall monitor the case as appropriate until dependency is dismissed. (7/1/03, 1/1/22)

5.14 Family Law Advocacy

Should the Juvenile Court dismiss dependency and create family law orders pursuant to W & I Code section 362.4, the advocate's appointment may be continued in the family law proceeding, in which case the Juvenile Court order shall set forth the nature, extent and duration of the advocate's duties in the family law proceeding. (7/1/03)

5.15 Right to Appear

An advocate shall have the right to be present and be heard at all Court hearings and shall not be subject to exclusion by virtue of the fact that they may be called to testify at some point in the proceedings. An advocate shall not be deemed to be a "party," as described in Title 3 of Part II of the Code of Civil Procedure. However, the Court, in its discretion, shall have the authority to grant the advocate *amicus curiae* status, which includes the right to appear with counsel. (7/1/03, 7/1/24)

5.16 Access to Juvenile Court Records

Juvenile court records may not be obtained or inspected by either civil or criminal subpoena. If a person/agency is not entitled to access under Welfare and Institutions Code sections 827 – 830.1, then they must obtain a court order from the Presiding Judge of the Juvenile Court, or another judicial officer designated by the Presiding Juvenile Judge. An intentional violation of Welfare and Institutions Code section 827 is punishable by a fine of up to $500. (7/1/17, 1/1/22)

A. Definition of Juvenile Case File

Pursuant to Rule 5.552, subdivision (a) of the California Rules of Court, "juvenile case file" includes:

1. all documents filed in a juvenile court case;

2. reports to the court by probation officers, social workers of child welfare services programs, and CASA volunteers;

3. documents made available to probation officers, social workers of child welfare services programs, and CASA volunteers in preparation of reports to the court;

4. documents relating to a child concerning whom a petition has been filed in juvenile court that are maintained in the office files of probation officers, social workers of child welfare services programs, and CASA volunteers;

5. transcripts, records, or reports relating to matters prepared or released by the court, probation department, or child welfare services program; and

6. documents, video or audio recordings, photographs and exhibits admitted into evidence at juvenile court hearings. (7/1/16)

Records relating to juvenile contacts or investigations which are maintained by a law enforcement agency, probation department or Department of Children and Family Services are confidential even if juvenile court proceedings have not been instituted.

B. Access and Copies of Juvenile Case File

Pursuant to Welfare and Institutions Code Sections 827-830.1 and California Rules of Court, Rule 5.552, specified persons/agencies are entitled to access to juvenile records without a court order, excluding portions of the record which are otherwise confidential, and portions of the record which include the names and information of other children. To obtain access to or copies of these records, the person/agency entitled to access or copies must file a Declaration in Support of Access (JV001). This form is available and maintained in the Juvenile Court Clerk's Office. This requirement does not apply to discovery provided by probation to the parties and their attorneys of record.

For all other requests to obtain access to a juvenile case file, a petition for disclosure of confidential juvenile records must be filed with the Juvenile Court Clerk's Office using mandatory Judicial Council formsJV569 – Proof of Service for Petitioner for Access to Juvenile Case File and JV570-Petition for Access to Juvenile Case File. Any copying fees must be paid before copies of documents from the juvenile case file will be released. (1/1/22)

C. Access to Juvenile Justice Records Where Petition Sustained on Offense Listed in Welfare and Institutions Code section 676(a)

1. Pursuant to Welfare and Institutions Code section 676(d), when a petition has been sustained for an offense, the following information contained in the court

file shall be available for public inspection: (a) the charging petition, (b) the minutes of the proceedings, and (c) the orders of adjudication and disposition of the court. (1/1/22)

2. The name of a minor found to have committed one of the serious violent offenses listed in Welfare and Institutions Code section 676(a) shall not be confidential, unless the court orders the name to be confidential based on good cause.

D. Petitions to Prohibit Disclosure of Juvenile Justice Records

Pursuant to Welfare and Institutions Code section 676(e) any party may petition the juvenile court to prohibit disclosure to the public of any file or record. The juvenile court shall prohibit disclosure of such record if it finds that the harm to the child, victims, witnesses, or public from the disclosure outweighs the benefit of public knowledge. (1/1/22)

E. Release of Juvenile Police Records

Requests for release of juvenile police records must comply with Welfare and Institutions Code section 827.9. (7/1/16, 7/1/17, 1/1/22)

5.17 Electronic Filing Program/Scope

All juvenile dependency and juvenile justice case documents shall be electronically filed in accordance with California Code of Civil Procedure 1010.6, California Rules of Court rules 2.250 – 2.261 and Local Rule 1.14.

In addition to following e-filing protocols, in juvenile cases, parties shall provide requested courtesy copies directly to the assigned judicial officer and not to the Juvenile Court Clerk's Office. Each judicial officer shall specify their preferred method of delivery of courtesy copies – either via email or hard copy. (1/1/22, 7/1/24)

5.18 Email Notices Regarding Juvenile Dependency Case Filings

The Court requires email notice of proposed filings of juvenile dependency petitions and related proceedings. The email notice must be sent via secure email to the Juvenile Court Clerk's Office email group: juv_dependency@stanct.org.

A. All documents must also be filed electronically through the Court's e-filing portal.

B. The "Dependency Partners" email group at Dependency_Partners@stanct.org will be maintained as a contact email address for attorneys, agencies, and other dependency stakeholders in Stanislaus County. Changes to the attorneys, agencies or other groups involved in the email group should be reported to the Juvenile Court Clerk's Office

so the group information is current. Emails sent to this email group must be secure. Emails related to court filings shall be classified as both "high priority" and "confidential". (1/1/22)

5.19 Direct Calendaring of Juvenile Justice Cases

A. The Juvenile Justice departments shall consist of judges as may be assigned by the Court's Presiding Judge. All felony and misdemeanor juvenile justice cases shall be directly assigned to the juvenile justice department judge for all purposes at the time of the arraignment/detention hearing on the petition. The judge so assigned will preside at the jurisdictional hearing of the matter and process the case in its totality following the arraignment/detention hearing. (1/1/19, 1/1/22)

B. After a minor's case has been assigned to a particular judge for all purposes, all subsequent petitions and other proceedings involving the same minor shall be assigned the same case number as the original case. In the event the minor is responsible in a case involving other minors, the rule set forth in section (b) above shall govern the assignment of the new case.

C. In the event of unavailability, another juvenile justice judge or an assigned or temporary judge may handle cases directly assigned to the unavailable judge, but the case shall remain directly assigned to the unavailable judge who shall handle all matters related to the case upon their return. (1/1/22, 7/1/24)

D. All juvenile justice files shall be stamped by the clerk with the following notice:

"THIS CASE HAS BEEN ASSIGNED TO JUDGE _____, DEPARTMENT _____ FOR ALL PURPOSES." (1/1/22)

5.20 Juvenile Dependency: Simple Motions

1. All counsel shall be required to use the most current Simple Motion form, a copy of which is contained in the Appendix to the Local Rules.

2. The Simple Motion shall be used for, as the name implies, routine matters such as: Permission to Travel; Quashing of a Protective Custody Warrant; Change of Name to Reflect Name on a Certified Birth Record; Appointment of Counsel; or a Request to Vacate/Reset Hearing Date. (1/1/22)

3. All motion hearings, except for Motions to Quash Protective Custody Warrants, must be reserved in advance with the Juvenile Court Clerk's Office —not the courtroom clerk. Given that Motions to Quash a Protective Custody Warrant will

always be granted, there is no requirement to reserve a hearing date, and none will be reserved. (1/1/22)

4. The court will hear a maximum of three simple motions per day, and/or motions involving up to three families per day, in the court's discretion.

5. In the case of all motions where a hearing date has been reserved, the party submitting the motion shall be responsible for notifying all counsel of the hearing date, a copy of the motion after submission to the court, and advisement as to whether the motion has been granted, denied, or the hearing date confirmed.

6. Prior to submission of all motions, save and except for Motions to Quash Protective Custody Warrants, counsel submitting the motion mush give all counsel (and CASA if there is a CASA) a minimum of two business days' notice of the request, and set forth all responses received. The motion shall also contain the date, manner, and time notice was given to counsel.

7. In the case of a request for a youth to travel, a motion is not required provided all of the following shall occur: The time for travel time will not exceed 10 days in duration; the travel is within the State of California; and any missed visit(s) shall be made up.

8. Pursuant to statute, all motions to continue must be filed no later than two court days prior to the hearing on the motion. All other motions must be set a minimum of five courts days from the date of the hearing is reserved. In the event there is an exigent need to set a motion in less than five days from the date the hearing is reserved, a Request for Order Shortening Time, and an Order Shortening Time, must be submitted with the motion when it is presented to the Juvenile Court Clerk's Office. (7/1/20, 1/1/22, 7/1/24)

Stanislaus County Superior Court

EXHIBIT A

Oath

Court Appointed Special Advocate

I, _____, do solemnly swear that I will perform the duties of a Court Appointed Special Advocate to the best of my ability and will serve the best interests of the child. As an officer of the Court, I will respect the rules of the Court and will, to the best of my ability, maintain fairness, impartiality and integrity.

I will adhere to the rules of confidentiality and will respect the privacy of all parties. I will not take a case where I have prior knowledge of the child or family members, and I will be directly responsible for the supervision of the child at all times they are under my care.

I will at all times honor the trust and confidence place in me as a Special Advocate by the Juvenile Court.

DATED:

_____

Subscribed and sworn to before me,
this____ day of _____.

_____
Presiding Judge of the Juvenile Court

RULE 6 APPELLATE DIVISION

6.00 Sessions

Regular sessions of the appellate division of the Superior Court shall be ordinarily held on the second Wednesday of each calendar month at 4:00 p.m. Special sessions shall be held at the call of the Presiding Judge of the appellate division or a majority of the judges of the appellate division. (7/1/08, 1/1/21)

6.01 Oral Argument

Unless otherwise ordered, counsel for each party shall be allowed ten (10) minutes for oral argument in limited civil and misdemeanor cases (Rule 8.885(e)(2)) and five (5) minutes for oral argument in infraction cases (Rule 8.929(2)). Parties and attorneys are encouraged to use the waiver procedure described by California Rules of Court, rule 8.885(d). Oral argument may be conducted by videoconference. (Rule 8.885(b)(1)(B).) If so, the Clerk shall advise all parties in the original notice of oral argument, or in a supplemental notice sent to all parties no later than five (5) days before the date set for oral argument, which shall include the location from which each judge of the Appellate Panel hearing oral argument will participate. (Id., (c)2.) Parties who desire to appear at oral argument by videoconference shall give notice to the Court and all other parties within ten (10) days of receipt of the Court's notice that oral argument will be conducted by video conference. (Id., (b)(1)(A).) There is no fee or cost to appear at oral argument by videoconference. (7/1/09, 1/1/21, 7/1/22)

6.02 Briefs

Briefs shall be prepared and filed in accordance with California Rules of Court, rules 8.882 and 8.883 in limited civil and misdemeanor cases, and rules 8.927 and 8.928 in infraction cases.

Briefs filed in paper form should only be bound once in the top left corner and should not be covered with tape, as an exception to the requirements set forth in Rules 8.883(9) and 8.928(c)(3).

(Rule 6.02 [7/1/09, 1/1/21, 7/1/23] amended January 1, 2025)

6.03 Calendaring

In appeals other than misdemeanor appeals in which appellate counsel has filed a brief under *People v. Wende* (1979) 25 Cal.3d 436, the Court Clerk shall, unless otherwise ordered, place the matter on calendar as set forth in California Rules of Court, rules

8.885(a) and 8.929 once a matter is fully briefed or the time for briefing has expired. (1/1/21)

6.04 Motions

Pursuant to California Rules of Court, Rule 8.808(b), the Appellate Division is not required to conduct a formal hearing or entertain oral argument on law and motion matters. If the Appellate Division determines that oral argument is appropriate, it shall instruct the Court Clerk to place the matter on calendar for hearing at the next regularly scheduled session and provide notice to the parties. (7/1/09, 1/1/21)

6.05 Record of Oral Proceedings

A. In limited civil appeals, the Court permits the use of an electronic recording as the record of the proceedings and adopts the provisions of California Rules of Court, Rules 8.835(c) and 8.837(d)(6). The parties may stipulate or the Court may order that the original official electronic recording of the proceedings, or a copy of the electronic recording made by the Court, be designated as the record of oral proceedings without being transcribed. (1/1/21)

B. In misdemeanor appeals, the Court permits the use of an electronic recording as the record of the proceedings and adopts the provisions of California Rules of Court, Rule 8.868(c). The parties may stipulate, or the Court may order, that either the original official electronic recording of the proceedings or a copy of the electronic recording made by the Court be designated as the record of oral proceedings without being transcribed. (1/1/21)

C. In infraction appeals, the Court permits the use of an electronic recording as the record of the proceedings and adopts the provisions of California Rules of Court, Rules 8.915(a)(2) and 8.917(c). The parties may stipulate, or the Court may order, that either the original official electronic recording of the proceedings, or a copy of the electronic recording made by the Court be designated as the record of oral proceedings without being transcribed. (1/1/18, 1/1/21)

6.06 Wende Briefs

If appellate counsel files a brief under *People v. Wende* (1979) 25 Cal.3d 436, the Court shall review the record in its entirety and determine whether any arguable basis exists for the appeal. (1/1/21)

If Appellant's Counsel intends to file a *Wende* brief, the following procedure shall be used:

A. Appellant's Counsel is to file a brief summarizing the facts and proceedings. The brief must contain citations to the record on appeal; (1/1/21)

B. Appellant's Counsel must inform Appellant of the nature of the brief and advise Appellant that Appellant may file a brief on Appellant's own behalf. Appellant's Counsel must provide the Court with proof that Appellant has been so advised; (1/1/21)

C. Appellant's Counsel need not withdraw from the case so long as they have not described the appeal as frivolous and have advised Appellant that Appellant may request that the Court have Appellant's Counsel relieved; and (1/1/21)

D. If the Court determines there are non-frivolous grounds for appeal, it shall order briefing on these issues. (7/1/17, 1/1/21)

E. The Respondent need not respond unless the Court orders briefing. (1/1/21)

F. Oral argument will not be set in *Wende* appeals where the court concludes no arguable issue is raised. (Cal. Rules of Court, rule 8.885(a)(2).) If no arguable issues are found, the cause will be deemed submitted when the time has expired to file all briefs and papers, including any supplemental brief permitted by the court. (1/1/21)

6.07 Traffic Infraction Appeals

Pursuant to CCP Section 77(h) traffic infraction appeals shall be heard by only one (1) appellate division judge, who will be assigned on a rotating basis by the presiding appellate judge as each case arises. Such appeals shall be heard on the same date and at the same time as other appellate division matters, and the court will provide notice of the hearing date, time and location. (1/1/21)

6.08 Filing a Notice of Appeal

Unless excused by a Judicial Officer or his/her designee, any party submitting a Notice of Appeal for filing in Superior Court must provide an original and five (5) copies of the Notice of Appeal, as well as any accompanying documents, for distribution to the appropriate parties. (7/1/03, 1/1/21)

6.09 Clerk's Transcript

Pursuant to Rules 8.833(a), 8.863(a) and 8.910(a)(1)(B), the Court elects to use the original trial court file instead of a Clerk's Transcript for Appellate Division matters unless and until notice is given of the court's intention to use a different procedure. (7/1/09, 1/1/21)

6.10 Selection and Disqualification of Appellate Panel Judges

The Chief Justice of the California Supreme Court appoints judges of the Superior Court to preside over matters within the jurisdiction of the Appellate Division of the Superior Court. (Code Civ. Proc., § 77; Cal. Rules of Ct., rule 10.1100.)

The Presiding Judge of the Appellate Division selects the Appellate Division judges to serve on a three-judge Appellate Panel to hear and decide appeals according to the judges' availability and the monthly oral argument sessions of the Appellate Division. (*Ibid.*)

When cases are set for Oral Argument, the three judges assigned to that session's Appellate Panel determine individually whether there is a conflict that requires their recusal and, if so, then another judge of the Appellate Division is selected to replace that judge to ensure a full, three-judge Appellate Panel. A judge has a duty to decide any proceeding in which he or she is not disqualified. (Code Civ. Proc., § 170.)

The Legislature has determined that peremptory challenges for a judge appointed to the Appellate Division are prohibited. (Code Civ. Proc., §§ 170.6, 170.7.) Likewise, the statutory disqualification procedures pertaining to for cause challenges do not apply to appellate judges; therefore, the provisions of Code of Civil Procedure section 170.3 do not govern challenges to a judge of the Appellate Division by a party or counsel. (*Kaufman v. Court of Appeal* (1982) 31 Cal.3d 933, 937; *cf., Housing Authority of Monterey County v. Jones* (2005) 130 Cal.App.4th 1029, 1040; 2 Witkin, Cal. Proc. 6th Courts § 139 (2023).)

Accordingly, any challenge for cause or other request for disqualification of a judge of the Appellate Division by a party or counsel must be served and filed according to the California Rules of Court governing motions in the Appellate Division and should be made as soon as the basis for challenge or disqualification is known to the party or counsel, but no later than **fifteen (15) days** before the date initially set for Oral Argument, unless good cause is shown for the late filing in the moving papers. (Cal. Rules of Ct., rule 8.808.)

The decision on a motion to disqualify a judge of the Appellate Division assigned to an Appellate Panel shall be determined by the Presiding Judge, the Presiding Judge's designee(s), or a judge or judges of the Appellate Division, excluding the challenged judge. The decision on a motion to disqualify is not an appealable order and may be reviewed only by a timely writ of mandate to the appropriate court of review or by transfer as provided in Division 6 of Title 8 of the California Rules of Court. (7/1/24.)

RULE 7 FAMILY LAW

7.00 General Policy Statement

It is the policy of the Stanislaus County Superior Court to manage all family law cases from the time the first Request for Order is filed to allow focus on settlement at the earliest possible date, to reduce the cost of litigation, and to reach a fair and final resolution of the case expeditiously. These rules are intended to provide generally uniform practice and procedures among departments involved in family law matters in Stanislaus County. (7/1/20)

7.01 Matters Assigned to the Family Law Department

A. Application: All proceedings filed in the following matters are currently assigned to the Family Law Department: (7/1/20)

1. Matters arising from the California Family Code, including cases where the Department of Child Support Services appears on behalf of the County of Stanislaus or any party. (7/1/20)

2. Matters arising from the Uniform Divorce Recognition Act, Family Code sections 2090-2093. (7/1/20)

B. Matters arising from the Uniform Child Custody Jurisdiction and Enforcement Act, Family Code sections 3400-3430. (7/1/20)

1. Matters arising from the Uniform Parentage Act, Family Code sections 7600-7644. (7/1/20)

C. Matters arising from the Domestic Violence Prevention Act, Family Code sections 6200-6305. (7/1/20)

1. Matters arising from the Family Code sections 500.101-5700.905 (UIFSA) and orders to show cause, motions, or trials in actions brought by the Department of Child Support Services under the provisions of Articles 4 and 7 of Part 3, Chapter 2, Family Code sections 17400-17540. (7/1/20)

2. Matters arising from Family Code sections 3587-3910, Support of Adult Child(ren) or Parents. (7/1/20)

3. Post-dissolution judgment actions, involving omitted or reserved property issues. (7/1/20)

4. Non-marital property right actions consolidated for trial with Family Code, except those cases in which a jury trial has been demanded. (7/1/20)

5. Conservatorships and Guardianships (both relative and non-relative) arising from Division 4 of the Probate Code. (7/1/20)

7.02 Direct Calendaring of Family Law Cases

A. Application: This rule applies to proceedings for dissolution of marriage, legal separation of the parties, nullity of marriage, dissolution of domestic partnerships, proceedings to establish a parent and child relationship, requests for domestic violence prevention orders, petitions for child custody and visitation, and proceedings for summary dissolution and guardianships. (7/1/20)

B. Judicial assignment: When a family law case described in paragraph A is filed or received and filed as a transfer from another county, the Court shall assign the case to a judicial officer for all purposes including trial, except or otherwise as provided or required by law. At the time of the initial filing or initial receipt of the file, the Clerk's Office shall affix to the face of the petition and to the notice of case management conference, the following notice: (7/1/20)

"THIS CASE HAS BEEN ASSIGNED TO JUDGE_____, DEPARTMENT _____FOR ALL PURPOSES INCLUDING TRIAL"

C. Unavailability of judge: In the event of unavailability, another judicial officer or an assigned or temporary judge may handle cases directly assigned to the unavailable judge, but the case shall remain directly assigned to the unavailable judge for all purposes, including trial, who shall continue to preside over the case upon his or her return, except where the case is reassigned by the Presiding Judge or designee to a different judicial officer for all purposes, including trial. (7/1/20)

D. Related cases: After a case is assigned to a particular judge for all purposes, all related not previously assigned cases shall be assigned to the same judge. A related case is one involving the same minor child or children, the same or substantially similar parties, and that raises common questions of law or facts. Whenever possible, all related cases shall be assigned to the same judicial officer in accordance with the direct calendaring policy. Upon discovery at any time of a new or pending related case that has not been so assigned, the Court may reassign the new or pending case to the same judicial officer previously assigned to the prior related case. All parties and counsel of record must file a “Notice of Related Case” on the appropriate Judicial Council form in accord with the Rules of Court and Code of Civil Procedure. Failure to do so in a timely manner after discovery or knowledge of a related case not assigned to the

same judicial officer may result, after notice and a hearing, in the imposition of monetary sanctions. (7/1/20, 7/1/24)

E. Notification by petitioner: Petitioners shall notify all respondents of the direct assignment when so notified by the Court and a party that joins another party to the action shall notify the joined party of the direct assignment. Petitioners, or parties joining another party to the action, shall file a proof of service of their notification of the direct assignment within **five (5)** days after the notice is served. (7/1/20)

F. Identification of judge on filings: In all family law cases assigned to a judge for all purposes, the face page of each filed document, under the case number, shall state the name and department of the judge assigned for all purposes. (7/1/20)

G. Peremptory challenges: In the Family Law Department, a single judge is assigned to and regularly presides in a single department. Consequently, the time limits for peremptory challenges are governed by Code of Civil Procedure section 170.6, subdivision (a)(2), and for petitioners shall be within fifteen (15) days after notice of the assignment and, for respondents, within fifteen (15) days after filing the first pleading or appearance. (7/1/20)

7.03 Time for Service of Petition and Response

A. Application: These rules apply to the service of pleadings in proceedings for dissolution of marriage, nullity of marriage, legal separation of the parties, dissolution of domestic partnerships, and proceedings to establish parent and child relationship pursuant to the Uniform Parentage Act, commencing with Family Code section 7600. Specifically excluded from these rules are requests for restraining orders pursuant to the Domestic Violence Prevention Act commencing with Family Code section 6200, summary dissolutions, and actions for exclusive custody pursuant to Family Code section 3120. (7/1/20)

B. Service of petition: The petition must be served on the respondent and proof of service on the respondent must be filed with the court within **sixty (60)** days after the filing of the petition. (7/1/20)

C. Timing of responsive pleadings: The parties may stipulate, without leave of Court, to one **fifteen (15)** day extension beyond the **thirty (30)** day time period prescribed for the response after service of the initial petition. The Court must approve any other extensions of time to respond. (7/1/20)

D. Modification of timing and application for order for extending time: The Court, on its own motion or on the application of a party, may extend or otherwise modify the

times provided in subdivisions B and C. An application for a court order extending the time to serve a pleading must be filed before the time for service has elapsed. The application must be accompanied by a declaration showing why service has not been affected, documenting the efforts that have been made to complete service, and specifying the date by which service is proposed to be completed. (7/1/20, 7/1/24)

E. Failure to serve: Unless the Court has granted an order extending the time to serve a petition, the failure to serve and file pleadings as required under this rule may result in an Order to Show Cause being issued as to why sanctions shall not be imposed. (7/1/20)

F. Request for entry of default: If a responsive pleading is not served within the time limits specified by law and no extension of time has been granted, the petitioner within 60 days after the time for service has elapsed must file a request for the entry of default. Failure to do so may result in an Order to Show Cause being issued as to why sanctions shall not be imposed. Unless properly excused, a complete and current Income and Expense Declaration or a Financial Statement (Simplified), and a complete and current Property Declaration shall be attached to the Request to Enter Default. The failure to include the disclosure documents, if required, shall be deemed a sufficient basis to set aside the entry of default upon timely request. (7/1/20)

G. Default judgment: When default is entered, the party who requested the entry of default must submit a default judgment against the defaulting party within 60 days after entry of default, unless the Court has granted an extension of time. Failure to diligently obtain entry of judgment against a defaulting party or to request an extension of time to apply for a default judgment may result in an Order to Show Cause being issued as to why sanctions shall not be imposed. (7/1/20)

7.04 Case Management Conference

In proceedings for dissolution of marriage, nullity of marriage, legal separation of the parties, dissolution of domestic partnerships, proceedings to establish parent and child relationship, the Court will set each case for a case management conference approximately **one hundred fifty (150)** days after the date of filing. Petitioner shall serve the notice of the case management conference and a blank case management conference statement on the respondent. (7/1/20, 1/1/22)

A. Subjects to be considered at the case management conference.

At the case management conference, the parties must address, if applicable, and the Court may take appropriate action with respect to the following:

1. Whether there are any related cases;

2. Whether any additional parties may be joined in the proceeding;

3. Whether there are any other matters (e.g. out of state custody orders) that may affect the court's jurisdiction or processing the case;

4. Whether the parties have agreements on issues such as child custody, child support, spousal support, or division of property;

5. Whether discovery has been completed and, if not, by when it will be completed;

6. Whether certain issues (e.g. marital status, date of separation, or date of valuation) should be bifurcated;

7. Whether the case is entitled to any statutory preference, and if so, the statute granting the preference;

8. If the trial date has not been previously set, the date by which the case will be ready for trial and the available trial dates;

9. The estimated length of trial;

10. The nature of the disputed issues; and

11. Any other matters that should be considered by the court or addressed in its case management order. (7/1/20)

B. Meet and confer requirement.

Unless the Court orders another time period, no later than **thirty (30)** days before the initial case management conference, the parties must meet and confer, **unless there exists a current restraining order prohibiting personal contact with the other party and both parties are self-represented**, in person or by telephone, to consider each of the issues identified in subdivision A, and, in addition, to consider the following:

1. Identifying and, if possible, informally resolving any anticipated motions;

2. Identifying the facts and issues in the case that are uncontested and may be stipulated to;

3. Identifying the facts and issues in the case that are in dispute;

4. Identifying whether bifurcation or other motions can eliminate, reduce or substantially narrow the scope and/or length of the contested issues at trial;

5. Possible settlement; and

6. Other relevant matters. (7/1/20)

C. Case Management Statement. No later than **fifteen (15)** calendar days before the initial case management conference date, each party must file an initial case management statement with the Clerk of the Court.

The parties must use the Mandatory Case Management Statement, Local Form FL-005, which is available on the Court's website under the "Forms" link and is also available at the Family Law Court Clerk's Office. All applicable items on the form must be completed. In lieu of each party filing a separate case management statement, any two or more parties may file a joint statement. In summary dissolution proceedings, the parties will not be required to file Case Management Conference Statements. However, the parties to a summary dissolution shall be prepared to explain to the Court why they have not submitted to the Court an application for judgment. (7/1/20)

D. Case management order.

The Court will issue a case management order in each case. The order will set a schedule for subsequent proceedings and otherwise provide for the management of the case. (7/1/20, 1/1/22)

E. Order to Show Cause.

The Court may issue an Order to Show Cause (OSC) to any party or attorney violating any applicable law, state rule of court, these local rules, or a lawful court order. (1/1/21)

1. The OSC shall specify the date and time of the hearing and give notice to the party or attorney as to the violation(s) and the duty to personally appear before the Court as specified.

2. Responsive papers to the Order to Show Cause must be filed and served no later than five (5) court days before the hearing.

3. After the hearing, the Court may in its discretion do one or more of the following:

impose monetary sanctions, dismiss the petition with or without prejudice, strike the petition and deem the response to be the operative petition, strike the response and order entry of default, impose a stay, or hold order on the action, or make any other order as required. (1/1/21, 7/1/24)

7.05 Formatting of Papers

A. Application: Rules 7.05-7.15 apply to the court's short-cause and/or law and motion calendar. (7/1/20)

B. Time of hearings: Unless otherwise set by the Court, all family law restraining orders and mediation matters dealing with custody and visitation issues will be at 8:30 a.m., with economic matters at 9:00 a.m., on a date set by the Clerk. Economic and miscellaneous issues will be heard at 9:00 a.m. Motions and requests for orders are to reflect these times for appearance. (7/1/20)

C. Multiple issues require separate hearings: When a Request for Order raises multiple issues, (i.e. custody and/or visitation and economic issues, etc.), upon the filing of the moving papers two separate hearing dates will be assigned. The first hearing will address the custody/visitation issues and the second hearing will address the economic or miscellaneous issues. Both dates will appear on the face of the moving document, and a filing fee will be required for each of the hearing dates. (7/1/20)

D. Mandatory Forms: All order requests from the family law court must be made on a Request for Order (FL-300) or other mandatory Judicial Council form, as required by the nature of the request. (7/1/20, 1/1/21)

E. Duty to Notify Court of Other Proceedings. Any petition, application, motion or order request, including any response thereto, involving an issue of child custody, visitation, child support or domestic violence shall contain a prominent statement in writing notifying the Court and all parties of: (1/1/21)

1. Any jurisdictional action pending or any present jurisdiction exercise by the Juvenile Court, either independently or pursuant to Welfare and Institutions Code section 304, the Superior Court, or other Court, involving the child(ren) or the parties concerned in the motion, petition or Request for Order. Such information shall include the name and location of the Court, the file number therein, the statutory basis for said action and a copy of the most recent order made in the action. (7/1/20)

2. Any prior applications for relief similar to that requested in the current moving paper of which said moving party or counsel have knowledge. (7/1/20)

3. As noted in Rule 7.02D, failure to notify the court of a related case in a timely manner after discovery or knowledge of a related case not assigned to the same judicial officer may result, after notice and a hearing, in the imposition of monetary sanctions. (7/1/20)

F. Other hearing dates: All documents filed in cases with pending hearings must reflect the next upcoming hearing date on the face of the document, near the title. For all documents that already reflect a specific hearing date, this rule does not apply. (7/1/20)

G. Income and Expense Declaration and Supporting paperwork

1. **Mandatory filing:** Except upon good cause shown, no case in which monetary relief of any kind is requested, including any request for child support, spousal support or family support, or attorney's fees and/or costs, shall be heard unless a current Income and Expense Declaration (FL-150) in the form prescribed by Rule 5.260 of the California Rules of Court has been completed and filed by the moving party. A copy of that declaration must be served with the moving or responding papers. Good cause includes, without limitation, situations in which the custodial parent (obligee) is receiving a full TANF/CalWorks grant. Parties are expected to completely disclose all relevant financial information to each other and the Court whenever a financial matter is at issue. If a party is receiving public assistance benefits, that fact shall be disclosed in the Income and Expense Declaration (FL-150). In the event the moving party fails to comply, the matter may be dropped from the calendar. After notice and a hearing, the Court may impose sanctions if delay results from failure of any party to comply with these requirements. (7/1/20)

2. **Definition of "current":** Except as may be defined elsewhere herein, "current" means executed within **three (3)** months of the date matter is to be heard, or when the filed declaration requires no modification to correctly state the party's income and expense condition as of the date the matter is to be heard. (7/1/20)

3. **Examination regarding income and expense declaration:** The Income and Expense Declaration (FL-150) will be considered as received in evidence at the hearing subject to amendment and/or cross-examination in the Court's discretion. Examination on matters covered by the Income and Expense Declaration (FL-150) will be heard only under exceptional circumstances within the Court's discretion and normally will be limited to testimony

regarding unusual items not adequately explained in the Income and Expense Declaration (FL-150). (7/1/20)

4. **Completeness of Income and Expense Declaration**: The Income and Expense Declaration (FL-150) is not fully complete unless all blanks on the form are "answered." Notations such as "unk." for unknown, "est." for estimate, "n/a" for not applicable and "none" should be used to avoid leaving any item blank. If current facts are temporary, both the actual current facts and the estimated prospective facts may be shown if properly identified. Information concerning the party's finances shall be stated, and if not exactly known, reasonably estimated, on each declaration. In addition, an Income and Expense Declaration (FL-150) is not fully complete unless it contains the following: (7/1/20)

a. Schedules wherever required (including all business income, commission income, rental income, interest income, etc.). These schedules shall completely set forth the source of income, total gross income, an itemization of all deductions, and the net income after deductions. Business expense schedules shall identify depreciation and any other non-cash expenses. (7/1/20)

b. A fully completed section on attorney's fees, including the hourly rate, if any, even if attorney's fees have not been requested. (7/1/20)

c. A schedule of bonuses, if any, setting forth the amount and date of the most recent bonus, the date on which the next bonus is expected to be received, and the amount of the next bonus (if known). (7/1/20, 7/1/24)

d. A statement of overtime and a description of the frequency of receipt. (7/1/20)

e. Deductions from income based on withholding allowances or deductions from income based on dependency actions that reflect actual tax liability. (7/1/20)

5. **Requirement of an Additional Factual Declaration:** An additional factual declaration shall be provided where the following circumstances are applicable: (7/1/20)

a. If a party is unemployed, the declaration should describe previous employment, gross and net income derived there from, reasons for termination, and should state current efforts to seek employment. (7/1/20)

b. If there are other income-producing household members, including a new spouse or nonmarital partner, the declaration shall state the relationship to the party, their

gross and net income, their contributions to household expenses, and any financial arrangements between the party and those persons. (7/1/20)

6. **Requirement of Exchange of Financial Documents** Each party shall exchange, at least five (5) days prior to any hearing involving financial matters, wage stubs or other documents evidencing income for the preceding three (3) months. Additionally, each party shall provide the other a copy of the party's most recent federal income tax return. If the hearing is scheduled between February 1 and the date the parties' tax return is filed, copies of all W-2 forms, 1099 forms, and other forms reflecting receipt of income during the previous year shall be exchanged. Where available, a self-employed party shall provide his/her most recent business profit and loss, or financial statement. (7/1/20, 7/1/24)

7.06 Tentative Rulings

Parties are not required to give notice of intent to appear to preserve the right to a hearing. The tentative ruling will not become final until the hearing.

A. Eligible Motions. Tentative rulings may be provided by the Court in Family law matters for the following specific types of motions that have been identified as appropriate for the tentative ruling process:

1. Motion to Compel Discovery
2. Motion to Be Relieved as Attorney of Record
3. Motion for Alternate Valuation Date
4. Motion to Set Aside Default/Judgment
5. Motion for Reconsideration of Order
6. Motion for Bifurcation of Marital Status/Economic Issues
7. Motion for Joinder of Parties
8. Motion to Amend Pleadings
9. Motion for Change of Venue
10. Motion for New Trial
11. Motion to Enforce Judgment
12. Motion to Award or Divide Omitted Assets or Debts
13. Motion to Modify Judgment
14. Motion to Continue a Trial
15. Motion for Vocational Examination
16. Motion for Appointment of Elisor
17. Motion Regarding Family Law Attorney Real Property Lien (Fam. Code, §§ 2033, 2034)
18. Motion to Compel Compliance with Property Orders

19. Motion for Attorney's Fees and Costs (conduct-based sanctions only)
20. Motion to Quash Service of Summons, to Quash Proceedings, to Stay or Dismiss for Inconvenient Forum, or to Strike the Petition
21. Motion for Pendente Lite Sale Order or Exclusive Management and Control of Community Property Assets that are deemed significant by the trial judge

B. Posting of Tentative Rulings: Tentative Ruling Announcements will generally be posted by 3:30 p.m. of the court day prior to the hearing in the following manner:

1. Court's website: https://www.stanislaus.courts.ca.gov/online-services/tentative-rulings/family-law-tentative-rulings.

2. Clerk's Office Lobby: On the bulletin board in the Clerk's Office.

3. Courtroom Doors: On the outer doors of each family law courtroom at the Court's discretion.

(Rule 7.06 [7/1/20] amended July 1, 2024)

7.07 Informal Discovery Conferences (IDC):

[Authority: Fam.Code, §§ 2450, 2451; Cal.Rules of Ct., rule 5.83]

A. Court Motion: The Court may order an IDC when a discovery motion is filed, or otherwise upon reasonable notice to the parties with opportunity to respond, as part of a Family Centered Case Resolution Order. The Order shall be prepared and served on Judicial Council form FL-174, by Minute Order, or else by Findings and Order After Hearing, in the Court's discretion. (7/1/20, 7/1/23)

B. Party Motion: Parties requesting an IDC shall file a request for case management conference and specify that an IDC is desired as part of a Family Centered Case Resolution Order. Any other party may object to the IDC at the case management conference and be heard as to the objection without the need for formal written objection. If the parties agree, they may submit a stipulation and order for an IDC. In either case, Judicial Council form FL-174 shall be completed and submitted to the Court for review and signature, specifying "IDC pursuant to Local Rules, rule 7.07(B)," in box No. 9 "Other," including the IDC date, time and department, along with any other orders regarding discovery agreed to by the parties or ordered by the Court. The signed order must then be filed and served on all parties by the party requesting the IDC or, if by stipulation, by either party as agreed. (7/1/20, 7/1/23, 7/1/24)

C. IDC Procedure: The IDC shall be scheduled at or after 1:30 p.m., in order to utilize available conference rooms. Represented parties shall appear by counsel only, though clients must be available, either in person or by telephone, for the duration of the IDC. Unrepresented parties shall appear in person. Failure to appear, or to participate in good faith, may result in monetary or other sanctions if the Court schedules a noticed hearing on those issues. The IDC shall be conducted as the Court determines, including the appointment of a judge pro tem to supervise the conference. (7/1/20, 7/1/23)

7.08 Particular kinds of motions or requests for order

A. Appointment of Elisors: Where one of the parties will not or cannot execute a document/documents necessary to carry out a court order, the clerk of the court, or their authorized representative or designee, may be appointed as an elisor to sign the document(s).

A party must request the appointment of an elisor using a Request for Order form (FL-300) supported by facts establishing the necessity for the appointment of the elisor. The moving party must also submit a proposed order, which designates "The Clerk of the Court or Clerk's Designee" as the elisor. The proposed order must not set forth a specific court employee by name.

The proposed order shall indicate for whom the elisor is being appointed and in what capacity the elisor is to sign the document. The proposed order must expressly identify the document(s) the elisor must sign and a copy of the document(s) must be attached to the proposed order. The original document(s), when presented for signature by the elisor, must match the copy of the document(s) attached to the order. If the elisor's signature must be notarized, the moving party must arrange for a notary public to be present when the elisor signs the document(s).

B. Joinder for Grandparent or Non-Parent Visitation.

1. **Pending Custody Proceedings:** During the pendency of the family law proceedings, a grandparent may file a motion for joinder to seek grandparent visitation. Family Code section 3103 governs such requests. The motion for joinder will be subject to the Court's Tentative Ruling process. Since joinder is mandatory in matters involving visitation pursuant to California Rules of Court, rule 5.24, the standard tentative ruling will be to grant joinder, to direct the grandparent to file the Request for Order, and to have the matter set for hearing.

2. **Post-Judgment Custody Proceedings:** After judgment or a final determination

of child custody and visitation, joinder motions for grandparent visitation are governed by Family Code section 3104. In these cases, the Court will not order the joinder of the grandparent until the Court decides whether the Court should grant visitation. (See, i.e., Cal. Rules of Ct., rule 5.24(e)(1)(B).) Therefore, the Notice of Motion and Declaration of Joinder and Request for Order shall be filed simultaneously and shall be set for the same hearing date. If there is no pending proceeding, an independent petition must be filed as per 3104.

3. **Other Visitation Petitions**: A non-grandparent party seeking visitation with a minor child after the death of a parent under Family Code section 3102 should file a separate petition for visitation, unless otherwise instructed by the court.

C. Modification of Custody/Visitation Arrangements

1. All Request for Orders to Modify Child Custody and/or Visitation shall include on the face thereof the name of the Mediator if the matter has been previously mediated, either in the same or a different file of if the same parties together have been involved in mediation with other children.

2. Applications to modify existing custody/visitation arrangements or orders filed within **three (3)** months of the issuance of an order to establish or modify support by the opposing party will be viewed with disfavor. Such modifications will be granted only:

   a) To bring the existing order in conformity with the actual current practice of the parties, or

   b) Upon a strong showing such modification is necessary to protect the best interest of the child(ren). Attorney fees shall be awarded to the non-moving party unless the Court finds substantial justification for the application.

D. Mediation and Family Court Services Evaluation of custody and visitation requests

1. **Mediation in all cases:** All cases involving contested issues of custody and/or visitation shall be mediated, and the court will indicate the need for mediation on the face of any request for order that is filed. (Fam. Code, § 3170, subd. (a).) In represented cases, no attorney may schedule or request more than two (2) mediations in which his or her presence will be necessary on the same day. Violations may result in a continuance of the mediation, vacating the request for order and/or sanctions, after notice and opportunity to be heard, at the Court's discretion.

2. **Orientation program:** The Court has an on-line mediation orientation program offered in both English and Spanish. Parties who require assistance with other languages are to notify the court, which will try to secure translation assistance. **All parties who are scheduled for mediation, including parties in domestic violence cases,** are required to complete the on-line Mediation Orientation Program before the scheduled custody/visitation hearing. The online orientation has information that is important. Topics include information on the effects of divorce upon children, child sharing, communication, confidentiality, and parenting plans. The program is accessible from the Court's official website at **https://www.stanislaus.courts.ca.gov/.** A party who has completed the on-line program within 18 months before the current scheduled hearing will be excused from retaking the program. The Court may allow mediation where only one party has taken the program if to deny mediation would work a disservice or hardship to the party who has taken the program, or the child(ren) involved. On a showing of good cause and in the best interest of the children, the Court may allow mediation where neither party has taken the program. The Mediator may request the Court to postpone mediation where one or both have not taken the program if after commencing mediation, the Mediator concludes that a party or parties should take the program before participating in mediation. Where a party fails to comply with the Court's order to take the mediation orientation program, the Court may impose a monetary sanction against that party after notice and a hearing.

3. **Child sharing plan:** Whenever there is an issue regarding child sharing, every moving and responding pleading should set forth a detailed proposed child sharing plan, including all orders the party would like the Court to issue.

4. **Confidentiality:** Mediation and Family Court Services Evaluations are not confidential, except as provided by law. If no agreement is reached, the mediator or evaluator, after a mediation session or evaluation, shall be called upon to make a recommendation to the Court regarding a resolution of the child sharing issues.

5. **Complaints:** All complaints regarding mediation or a mediator, Family Court Services Evaluation or a Family Court Services Evaluator, including a request to change a mediator or evaluator, shall be directed in writing to the Family Court Services supervisor or designee, who shall take appropriate action upon the request. Any party dissatisfied with the action taken may bring a formal motion to the Court. This action may include appointing a co-mediator or replacing the mediator or evaluator. No peremptory challenge is allowed against a mediator or evaluator.

6. **Rules pursuant to California Rules of Court rule 5.220:** In compliance with California Rules of Court, Rule 5.220, the following Local Rules of Court are adopted with respect to court-ordered child custody evaluations:

   a) No peremptory challenge to an evaluator is allowed.

   b) A standard FCS custody evaluation shall be limited to three (3) hours in total, subject to the mediator's sole discretion to allow more time if deemed appropriate.

   c) The mediator may request further information or documents upon completion of the standard evaluation, but the parties are not to submit any supplemental information or documents not requested by the mediator unless (a) permission from the mediator is first sought and obtained, and (b) the other party or parties are permitted to examine the documents and information and permitted to offer any responsive information or documents. Whether such additional information or documents will be accepted and considered by the mediator shall rest in the mediator's sole discretion.

   d) As a rule, the following categories of documents and information will typically be of assistance to the mediator if relevant to the custody issues in dispute:

      - School records
      - Medical records
      - Counseling records
      - Photographs and/or videos depicting interactions with the minor(s) at issue or present health, demeanor and appearance of the minor(s).

   e) As a rule, the following categories of documents and information will typically not be of assistance to the mediator and will not be considered unless exceptional circumstances exist warranting consideration, as determined in the mediator's sole discretion:

      - Text or SMS messages
      - Social Media posts or comments
      - Screen captures re computer, smart-phones or tablets
      - Voice mails or recorded calls

   f) Where any documents or other information are determined to be relevant and worthy of consideration, **no party shall submit more than ten (10)**

pages combined of the preceding categories of documents or information for use in a standard FCS evaluation.

g) The evaluator has discretion to discuss and disclose the lack of confidentiality with the child.

h) If an evaluator sees the child with one parent/person seeking custody or visitation, the evaluator also shall see the child with the other parent/person seeking custody or visitation unless the other parent/person seeking custody or visitation refuses/fails to see the evaluator with the child or the evaluator feels it is not in the best interest of the child(ren) to be in the presence of the other parent.

i) The evaluator has the discretion to interview siblings separately or together or both.

j) The evaluator is prohibited from making an evaluation based only on an interview with one parent/person seeking custody or visitation unless the other parent/person seeking custody or visitation refuses/fails to be interviewed by the evaluator.

k) The grievance procedure in place for evaluators has been described in paragraph 5, above.

l) Evaluators may petition to withdraw from a case as described in California Rules of Court rule 5.220(d)(1)(A)(iii).

m) All appointed persons who evaluate or investigate child custody matters are required to complete domestic violence training as set forth in California Rules of Court 5.225 and 5.230 and such person shall provide to the Court proof of required domestic violence training.

n) Any Court ordered child custody evaluation shall be done in compliance with the guidelines set forth in California Rules of Court 5.220.

7. **Communication with mediator or evaluator:** The Mediator/Evaluator shall be allowed to have ex parte communication only during the evaluation process. Once a custody order has been issued, parties and counsel will not be permitted to communicate ex parte with the counselors to seek any change or modification. The Mediator/Evaluator shall accept from the parties all information regarding the best interest of the child(ren) and the Mediator/Evaluator shall then determine if revealing any of that information

would place the child(ren) at emotional or physical risk. The Mediator/Evaluator shall have discretion about revealing that information to the other party based on his/her determination. The Mediator/Evaluator shall maintain all information received during an evaluation in the event that the Court orders that material produced. Due to the volume of cases, and the necessity of fairly and efficiently allocating the limited availability of the Mediator/Evaluator's time to provide the greatest access to the largest number of parties, the Mediator/Evaluator, in his or her sole and exclusive discretion, shall consider no more than ten (10) pages of written or pictorial documents. If more than this is desired by the parties, then a full Family Court Services evaluation may be requested or required, as determined by the Court, and the matter continued for this purpose.

8. **Conduct of mediation:** On the day of the hearing, Mediation clients are given an individual intake sheet for a differential assessment of domestic violence. Clients are given the option of separate sessions with the Mediator when either party alleges domestic violence, and parties have the right to have a support person in the Mediation session. A support person may be excluded if they disrupt the process of Mediation. The Mediator shall confer separately and privately with each party who does not report domestic violence to determine whether joint or separate sessions are appropriate.

9. **Prohibition on the issuance of non-CLETS restraining orders:** Only CLETS restraining orders are to be issued pursuant to the Family Code commencing with section 6200. During mediation, the mediator will not recommend the issuance of a non-CLETS restraining order. Further, the Court will not approve a stipulation by the parties to the issuance of a non-CLETS restraining order. This rule will not limit a party's right to seek other types of restraining orders as provided by statute, such as property restraints. Likewise, this rule does not in any manner affect the automatic restraining orders that apply in family law cases.

10. **Custody orders after hearing:** The written custody order will be prepared and delivered to the parties and counsel on the same morning following the mediation session. Parties and counsel shall remain in the courtroom until the order has been prepared so they may review and approve as to form and content. If a party or counsel leaves the courtroom without reviewing the order any subsequent requests to amend or correct an order will have to be made by a formal motion or by written stipulation of the parties. If an agreement is reached and approved by the Court, or if no agreement and no Long Cause hearing was requested on the Court's order, said order is permanent and any

change in custody shall be only by way of written pleading identifying a material change in circumstance.

11. **Request for Copies of Therapeutic Treatment Records:** To balance the rights of the parties to full and fair access to documentary evidence necessary to prosecute or defend a custody proceeding with the confidential nature of court-ordered therapeutic treatment and the therapeutic professional-patient relationship, any party or that party's attorney may obtain copies of court-ordered therapeutic treatment records and notes. The party or the party's attorney shall first complete and sign Local Form FL022 "Release of Therapeutic Treatment Notes" and shall agree to maintain the privacy and confidentiality of the disclosed records unless and until offered and admitted in a custody proceeding where the records have not been sealed by court order and/or the courtroom has not been closed to the public by court order. Local Form FL022 is adopted for mandatory use and is intended to implement and supplement this local rule.

E. Child and Spousal Support

Introduction: This rule applies to requests for child and/or spousal support but not to contractually based claims for support of an immigrant, which are governed by federal law. Because the Family Court is a division of limited jurisdiction, contractual claims for support under federal law should be filed in the Civil Division. If a party files such a claim in the Family Law Division, pursuant to Code of Civil Procedure section 402 the court may transfer the case on its own motion to the Civil Division.

1. **Child Support:** In determining the amounts to be paid for temporary and permanent child support, the Court will be consistent with the DissoMaster (tm) program or other computer support program authorized by the Judicial Council. The support schedules allocate "net income" of the parties to meet the needs of all the parties, recognizing that, in most cases, there is not sufficient income to sustain either party in the same standard of living that existed prior to separation.

    a) **Confidential Information Sheet:** Upon filing of any petition or response in any family law case type, the filing party shall file a confidential information sheet entitled "Confidential Declaration of Parties in Family Law Case" to help the Court identify the parties in the case. The confidential information sheet shall be placed in a confidential envelope maintained within the Court's case file and shall not be made available to any parties other than the Court absent a court order. The confidential information sheet form is available on the Court's website under the "Forms" link and is available at the Family Law Court Clerk's Office.

b) **Requests for order and motions regarding child support**: In all matters where child support is at issue, a supporting declaration shall set forth the amount of support calculated pursuant to Family Code sections 4070-4073. If it is contended that the guideline amount is inappropriate, a declaration shall set forth the calculation of the amount alleged to be proper, and the reasons therefore.

c) **Proceedings Involving Recipients of Public Assistance Benefits:** Notwithstanding any other rule, if a party or the minor child(ren) are receiving public assistance benefits:

(1) **Disclosure on Income and Expense Declaration:** That fact shall be disclosed on the Income and Expense Declaration (FL-150); and

(2) **Service on DCSS:** Proof of service of a notice of hearing and all moving papers upon the Department of Child Support Services at least ten (10) Court days prior to the hearing shall be filed; and

(3) **Orders**: All orders submitted to the Court shall comply with Family Code sections 4200-4203.

d) **Calendar Settings for Mediation and Economic Issues**: The Court understands that in many cases the issues of custody/visitation and economic issues go hand in hand. However, the time it takes for mediation precludes the handling of both issues on the same calendar. In all matters which involve both issues the Court now requires that two calendar dates be received at the time papers are filed. The initial date will be for mediation with a second date for economic issues.

e) **Child Support Case Registry form:** Any document setting forth a stipulation between the parents regarding child support must be accompanied by Child Support Case Registry forms (FL-191) completed by each parent.

f) **Modifications:** Absent a significant change of circumstances, modification of child support orders should not be filed with the Court more than one time per year. A stipulation to modify child support shall be returned unprocessed unless accompanied by a completed Child Support Case Registry form (FL-191).

g) **Timeshare:** The Court discourages timeshare calculations based on hours and minutes. Absent good cause, the Court will generally calculate timeshare by looking at the days and half-days each parent has custody of the child(ren).

h) **Adoption allowance:** In cases where the parties receive an adoption allowance for the minor child/children, these benefits will not be considered income to the parents. As a rule, the benefits will be allocated between the parents in accordance with their percentage of custodial time pursuant to the most recent custody order. The Court will calculate guideline child support excluding the adoption allowance. In most cases, the custodial parent will receive the entire adoption allowance and the non-custodial parent will receive an offset equal to that parent's proportionate share of the allowance against his/her child support obligation.

i) **Earned Income of a Minor Child:** Earned income of a minor child below **$300** per month shall be deemed the income of the minor child. Earned income of a minor child in excess of **$300** per month shall be allocated as part of the income to the custodial parent of said minor child. Benefits received by the minor child through the Supplemental Security Income Program (SSI) shall not be considered income for the determination of child support.

2. **Spousal Support:** Pursuant to Family Code section 4336, there is a presumption that a marriage of 10 years or more is a long-term marriage. The Court's policy is to reserve jurisdiction over spousal support in all long-term marriages. Waivers of spousal support are viewed with disfavor and will only be approved where the record clearly establishes that the supported party will be able to adequately meet his or her financial needs at the time selected for termination of jurisdiction. If the record of financial support is not clear, spousal support in a long-term marriage must be reserved.

a) **Temporary spousal support:** Temporary spousal support shall be awarded consistent with the DissoMaster (tm) program or other computer support program authorized by the Judicial Council unless rebutted by admissible evidence. The Court will follow the Alameda County Guideline in determining temporary spousal support. The DissoMaster can be defaulted to the Alameda option for attorneys to refer to in counseling their clients. Under special circumstances as determined by the Court, the Court has the discretion to use either the Santa Clara or Marin/Kings option. The Court notes that the different amounts of spousal support that result from each option only occur when there is both child and spousal support to be

awarded. When only spousal support is at issue, all options result in the same amount.

b) **Permanent spousal support:** Permanent spousal support shall be awarded pursuant to Family Code section 4320, 4330-4337, 4339, 3651, 3653, 3654 and relevant case law.

3. **Preparation and Submission of Order for Signature by Court:** All orders on support matters that are signed in court and presented to parties for filing must be filed with the Clerk's Office within **one (1)** business day of the hearing. If an order is not signed in court, the moving party shall prepare a written order following any hearing or trial. Unless otherwise ordered by the Court, and except in summary dissolution cases, California Rules of Court, rule 5.125, governs submission of proposed orders after hearing or trial. However, this court will generally allow 15 days for submission of an order that does not require approval by opposing counsel and 30 days for submission of an order that does require such approval. This court will hold all non-approved orders for a period of **five (5)** days, after which, regardless of any objection received, the Court will either sign the proposed order, order the preparing party to modify the order as the Court shall direct or hold a hearing to determine the appropriate language. After an order has been signed by the judge and filed, the party preparing the order shall mail **two (2)** filed marked copies to opposing counsel or **one (1)** copy to a party appearing in Pro Per and **one (1)** copy to the Department of Child Support Services office if a party or the child(ren) are on public assistance, and the order relates to child support, spousal support, or child custody. In the event the Judge who heard the hearing or trial is unavailable for longer than **two (2)** weeks from submission of the order or judgment, the order or judgment shall be signed by the family law presiding judge.

4. **Proposed support Judgments:** Any proposed judgment submitted to the Court regarding support obligations or arrearages shall use Judicial Council form FL-630. In the event the proposed judgment sets forth an arrearage, the party submitting the form shall attach a supporting declaration setting forth the factual basis for the arrearage and how the arrearage has been calculated. Such declaration should contain, at a minimum, the months in which support was not received and the amount of support owing for each such month. When a proposed judgment is submitted by an institutional party, such as the Department of Child Support Services or other state of county agency, the supporting declaration shall be executed by an individual who can personally attest to the business record showing the arrears and interest owed.

5. **Writs of Execution concerning support judgments:** Any writ of execution submitted to the Court in connection with an outstanding support obligation or arrearage shall use Judicial Council form EJ-130. The Clerk of Court shall verify the amount of the judgment set forth in item no. 11 before any writ is issued. Any writ of execution submitted to the Court shall contain a supporting affidavit setting forth the way the amount set forth in item no. 11 has been calculated. Such affidavits shall be executed by an individual who can personally attest to the information contained therein and shall, at a minimum, set forth the initial amount of the judgment, the date and amount of any payments made toward the judgment and accrued interest.

(Rule 7.08 [7/1/17, 7/1/24] amended July 1, 2025)

7.09 Service of Papers:

A. Time for service: Absent an order shortening time, Requests for Orders, Oppositions, Responsive Declarations and all supporting papers must be filed and served pursuant to Code of Civil Procedure sections 1005, 1011 and 1013 and applicable Rules of Court. (7/1/20)

B. Failure to Serve: If service is not completed by the date specified by law or in the Request for Order/Notice of Motion and proof of service is not timely filed with the Court, the matter will remain on the Court's calendar to be dropped in open Court unless both parties appear or the moving party appears with proper proof of service. The tentative ruling may, in the Court's discretion, reflect that the Request for Order/Notice of Motion is tentatively denied on the basis that proof of service has not been filed five (5) or more days prior to the hearing. (Cal. Rules of Ct., rule 5.94(b).) (7/1/20)

C. Reissuance of Domestic Violence Restraining Orders: A party may request a reissuance of a Request for Order or Request for Domestic Violence Restraining Order no later than the day of the scheduled hearing. In a Domestic Violence case, if there are no existing orders and if reissuance is not timely requested, the case will be dismissed in its entirety. (7/1/20)

7.10 Continuances:

If a motion for continuance is to be made, that matter should be placed on calendar no less than **five (5) court days** prior to the scheduled event along with payment of the filing fee for the motion. If the parties and/or counsel agree that a continuance is necessary, a Stipulation and Order should be submitted to the Court no less than **five (5) court days** prior to the scheduled event along with the filing fee. Any stipulation and order must

state the reason for the continuance, and the parties and/or counsel shall obtain the next available date from the courtroom clerk in the department to which the case is assigned for all purposes. If the Stipulation and Order is timely filed and the above-referenced criteria are met, the Stipulation and Order will be forwarded to the judge for approval. If the Stipulation and Order is not timely received by the Court, the Stipulation and Order must state the reason for the continuance, and the parties or counsel shall obtain the next available date from the courtroom clerk in the department that the case is assigned for all purposes. (1/1/21)

(**NOTE:** Parties and counsel are not to engage in ex parte communication with the Court or its staff with respect to scheduling requests without prior leave of court. The Court will disregard any comments made about the merits of a case or the positions of the parties and such comments may result in sanctions or other professional discipline after notice and hearing.) (1/1/21)

7.11 Mandatory Settlement Efforts

A. Meet and Confer Obligation. On all requests for order(s), motions and hearings in family law matters, excluding any matters involving domestic violence, each party, or that party's counsel, shall meet and confer in person or by phone before the hearing date and shall make a good faith attempt to settle all issues in the request for order(s), even if a complete settlement is not possible and only conditional agreements are made. The failure to abide by this rule may result in continuance of the hearing date or may, after notice and a hearing, serve as the base for subsequent conduct-based sanctions. (Cal. Rules of Ct., rule 5.98(a); Fam. Code, § 271; Code Civ. Proc., §§ 128.5, 128.7.) (1/1/21)

B. Copies of Documents: Copies of documents, intended to be offered as part of a case in chief, shall be provided to opposing parties prior to the Court hearing. (Cal Rules of Court, rule 5.98(b).) A party may not wait until the time of the hearing to "surprise" the opposing party with proffered documentary evidence, except to impeach the veracity of a party or witness. (7/1/20)

C. Settlement prior to hearing: If a case is settled after calendar call but before the hearing, one of the attorneys should inform the judge's bailiff of that fact, whereupon the stipulation may be taken ahead of all contested matters in the judge's discretion. No party shall represent that a case is settled if there is any issue remaining to be determined by the Court. (7/1/20)

7.12 Calendar Management

A. Limit on time allotted for oral argument: On or prior to the day of a hearing, counsel shall meet and confer prior to the call of the case and determine if the anticipated hearing time exceeds 15 minutes. If both concur that more than 15 minutes of argument will be necessary, they shall advise the clerk in the department to which the case has been assigned for all purposes. The Court may need to reschedule any matter requiring longer than 15 minutes of oral argument for a different date. If a hearing begins and the time estimate of either party is exceeded, the Court may, in its discretion: rule without further hearing; defer the matter to the end of the calendar if time permits; continue the matter to the next available date as obtained from the courtroom clerk in the department that the case is assigned for all purposes; or order the matter off calendar. (7/1/20)

B. Appearance and time estimate: Prior to the call of the calendar at the designated time, counsel shall advise the bailiff of their presence, other Court appearances, and the status of their matters. When the matter is called, counsel shall state their names, appearances, whether moving or responding, and be prepared to state an accurate time estimate of their side of the case. (7/1/20)

C. Calendar Conflicts: To ensure the orderly administration of Court calendars and to minimize waiting for counsel, it is the responsibility of counsel to make suitable arrangements in the event of calendar conflicts. Such arrangements include, where necessary, contacting opposing counsel in the advance of the hearing date to arrange a continuance. It is also the responsibility of counsel to notify the Clerk's Office if more than one Request for Order/Motion is being submitted by any attorney on the same day or if any potential conflict(s) may exist on a specific date(s). Failure of an attorney to appropriately manage his or her calendar, or the unreasonable refusal of opposing counsel to stipulate to a continuance when one is necessary, may result in an award of attorney fees and/or sanctions after a noticed hearing is held. In addition, failure to be present at calendar call, or to inform the clerk or bailiff of a necessary appearance in another courtroom, may result in a matter's being either dropped from the court's calendar or heard in the moving party's absence. Unexcused tardiness is unacceptable, and any attorney or client who expects to be late to a hearing must immediately notify the court and the opposing party or attorney of the reasons for and extent of the delay. (7/1/20)

D. Attorney Competence. Attorneys are expected to be thoroughly prepared to answer the questions of the Court concerning the facts of the case, and to cite applicable statutory and case law if requested by the Court, or if any contested point of law is involved. Violation of this rule may result in monetary or other sanctions deemed appropriate by the Court after notice and hearing. (1/1/21)

E. Notification of status of other proceedings: At the hearing on the motion, petition, or Request for Order, the parties shall call to the attention of the Court any action pending or jurisdiction taken by the Juvenile Court after the filing of the motion, petition, or Request for Order. (7/1/20)

F. Witnesses: Although parties are authorized to call witnesses at a Short Cause or Law and Motion Hearing, as permitted by Family Code section 217 and California Rule of Court, rule 5.113, every reasonable effort shall be made to stipulate to the testimony of the witness, and thereafter excuse the witness from attendance. The unnecessary retention of witnesses in Court is not favored, and such retention may be considered by the Court in awarding fees and costs. (7/1/20)

7.13 Ex Parte Orders:

Ex parte orders in family law matters shall be presented to the clerk of the court for delivery to a judge assigned to the family law calendar. (7/1/20)

If a party to a dissolution or paternity action is seeking orders because of domestic violence and there is currently a Dissolution or Paternity action filed in this county, said request shall be filed by means of a Request of Domestic Violence Prevention Order (Form DV-100) and shall use the existing case number. This does not apply to Emergency Protective Orders (EPO) that are generated by law enforcement. (7/1/20)

All applications for emergency orders (except for ex parte applications for domestic violence restraining orders) shall be in accordance with Chapter 7 commencing with Rule 5.151 of the California Rules of Court. (7/1/20)

A. Order Excluding from Home or Stay Away: An application for an ex parte restraining order excluding either party from the family dwelling or the dwelling of the other, or a stay away order causing the same result, must be supported by a declaration showing the danger of immediate and serious harm specifying in detail the time and place of any past act or acts of alleged misconduct as required by Family Code section 6321 and the availability of alternate housing for each party. The declaration in support of any residential stay away order or move out order must contain information stating whether the residence involved is currently occupied by one or both parties, and if not occupied by both, the declaration must contain a statement as to when one or both parties left the residence and the reason why. If the respective residences cannot be determined from the application, the ex parte order will not be issued. This rule also applies to domestic violence proceedings. (7/1/20)

B. Ex Parte Orders Changing Custody of Minor

An application for ex parte order to immediately change the custody of any minor child(ren) must be supported by a declaration showing by clear, specific allegations that the health and welfare of the child(ren) requires immediate change of custody. (Fam. Code, § 3064, subd. (a).) The declaration shall also set forth, in brief, the circumstances in which the child would be placed pending the hearing. The declaration shall also contain a statement of which party currently has actual physical custody of the child(ren) in question, how such physical custody was obtained, and for how long the party has had such physical custody. The party seeking an ex parte order changing custody may be directed to seek relief through Child Protective Services, or other enforcement/investigative agencies. (7/1/20)

C. Exclusive Use of Vehicles

An ex parte order granting exclusive use of a vehicle will not be granted unless the declaration demonstrates that the opposing party either has suitable transportation available or requires no such transportation. (7/1/20)

7.14 Modified Orders or Set Aside Ex Parte Orders:

If the Court modifies any requested orders, it will be the responsibility of the applicant or attorney to conform all copies with the changes before filing and service unless the Court has already done so. (7/1/20)

If a responding party requests an ex parte order be set aside prior to the date set for hearing, notice shall be given to the moving party as provided in Cal. Rules of Ct., rule 5.151. The Court may order an earlier hearing date or modify the orders on a proper showing in lieu of setting aside the orders. (7/1/20)

A. Stipulations Modifying Existing Orders

In any family law matter in which a modification of an existing order is sought by stipulation, the stipulation must be signed by both parties and their respective attorneys, if any. This includes Stipulations to Set Aside Defaults. Except in Title IV-D cases, any document setting forth a stipulation between the parents regarding child support must be accompanied by Child Support Case Registry forms (FL-191) completed by each parent. Any stipulation addressing the issue of child support not accompanied by a completed Child Support Case Registry form (FL-191) shall be held for ten (10) days after filing and then returned unprocessed unless the form is provided within that time. (7/1/20)

B. Modifications Involving Recipients of Public Assistance Benefits

If the custodial parent has assigned support rights to the County under Family Code section 17400, the Department of Child Support Services and a supporting non-custodial parent (obligor) may stipulate, without the signature of the custodial parent (obligee), for an order modifying the method of payment or changing the amount of support. (7/1/20)

7.15 Post Hearing Proceedings

Submission of Order. All orders signed in Court and presented to parties for filing must be filed with the Clerk's Office within **one (1)** business day of the hearing. If an order is not signed in court, the moving party shall prepare a written order following any hearing or trial. Unless otherwise ordered by the Court, and except in summary dissolution cases, California Rules of Court, rule 5.125 governs submission of proposed orders after hearing. However, this court will generally allow 15 days for submission of an order that does not require approval by opposing counsel and 30 days for submission of an order that does require such approval. This court will hold all non-approved orders for a period of **five (5)** days, after which, regardless of any objection received, the Court will either sign the proposed order, order the preparing party to modify the order as the Court shall direct or hold a hearing to determine the appropriate language. After an order has been signed by the judge and filed, the party preparing the order shall mail **two (2)** filed marked copies to opposing counsel or **one (1)** copy to a party appearing in Pro Per and **one (1)** copy to the Department of Child Support Services office if a party or the child(ren) are on public assistance, and the order relates to child support, spousal support, or child custody. In the event the Judge who heard the hearing or trial is unavailable for longer than **two (2)** weeks from submission of the order or judgment, the order or judgment shall be signed by the family law presiding judge. (7/1/20, 1/1/21)

7.16 Joint Settlement Conferences, Settlement Conferences, and Statements

A. Application: Rules 7.16-7.19 apply to the court's contested trial calendar. (7/1/20)

B. Settlement Conference Policy Statement: It is the policy of the Superior Court of Stanislaus County to settle issues and cases to the extent legally possible, to allow focus on settlement at the earliest possible date, to reduce the cost of litigation, and to reach a final conclusion of the case fairly and expeditiously. Therefore, compliance with these Settlement Conference Rules, attendance at Joint Settlement Conference, and full participation by both parties and attorneys are all mandatory. After a noticed hearing, sanctions will be imposed for non-compliance. (7/1/20)

C. Mandatory Joint Settlement Conference: To help effectuate the above-stated policy, a Joint Settlement Conference must be held in all family law matters requiring a case management conference before the case will proceed to settlement conference and trial. A Joint Settlement Conference is mandatory. Except in cases where there exists a current restraining order prohibiting personal contact with the other party and both parties are self-represented, the parties and their respective attorneys shall meet to attempt to settle all issues in the case at the Joint Settlement Conference. Attendance by the attorneys and parties is mandatory; attendance by experts and professional advisors is permitted at the option of each party. The Joint Settlement Conference shall take place no sooner than **ninety (90)** days and no later than **thirty (30)** days before the date initially set for the settlement conference. (7/1/20)

D. Settlement Conference Statement. After conclusion of the Joint Settlement Conference, each party shall file a Settlement Conference Statement signed by the party or their attorney. Said Settlement Conference Statement shall be fully completed utilizing Local Form FL-008, which is available on the Court's website under the "Forms" link and is also available at the Family Law Court Clerk's Office. This rule applies in cases where there exists a current restraining order prohibiting personal contact with the other party and both parties are self-represented. Issues not specified in the Settlement Conference Statement may be added later only with the consent of the trial judge, who has discretion to refuse or permit the addition of such issues with whatever qualifications or restrictions the Court deems appropriate. In the event a party/attorney fails to meet or fails to submit a Settlement Conference Statement, that party will then be precluded from requesting the addition of issues not set forth in the other party's Settlement Conference Statement. (1/1/21)

E. Time for filing: The Settlement Conference Statement must be filed with the Court at least **ten (10)** Court days prior to the Settlement Conference. (7/1/20)

F. Conduct of Settlement Conference. All proceedings described in paragraph **B**, above, are required to have a settlement conference within approximately **fifteen (15)** days of trial. In each case, counsel who attends the conference shall be thoroughly familiar with the case and shall be prepared to discuss it. The attorney responsible for the preparation and trial of the case should attend the settlement conference. (7/1/20)

G. Presence of Persons with Settlement Authority. Experience has demonstrated the importance and necessity of the presence of all persons whose consent will be required for a binding settlement agreement. Only on good cause prior to the time of the settlement conference may the Court allow such persons to be available telephonically. (7/1/20)

H. Violation of Settlement Conference Rules. For a meaningful conference, all

attorneys and/or the parties must agree and must participate in good faith. (1/1/21)

7.17 Trial Evidence:

The most common types of evidence used in family law contested trials are: (7/1/20)

A. Subpoena for Child Custody Counselor or Evaluator: Although parties are authorized to call witnesses at a Short Cause or Law and Motion Hearing, as permitted by Family Code section 217 and California Rule of Court, rule 5.113, Code of Civil Procedure § 1987.1 (a) states that a subpoena must be served so as to allow the witness a reasonable time for preparation and travel to the place of attendance. In custody or visitation matters, a party may decide to subpoena the child custody recommending counselor or child custody evaluator to testify at the trial. These individuals often have their own private practices and need sufficient notice to prepare for their attendance and avoid other scheduling conflicts. Therefore, the Court generally deems reasonable notice, in the absence of exigent circumstances, to be at least **30 days** prior to the scheduled hearing date. A failure to give such notice may be the basis for excluding the party from calling that witness at trial. (7/1/20)

B. Documentary Evidence. Documentary evidence should be offered by stipulation to avoid the need for foundational witnesses. Irrespectively, copies of all such evidence must be exchanged by counsel and identified by the Clerk prior to the commencement of trial. Original transcripts of depositions must be lodged with the Court if they will be referred to at trial. This local rule does not alter or affect the use or admissibility of impeachment or rebuttal materials as provided by the Evidence Code, the Code of Civil Procedure, or the Rules of Court. (1/1/21)

7.18 Trial on attorney's fees:

A. Application. While attorney's fee requests on the court's short-cause calendar can often be resolved using a fully completed Income and Expense Declaration, the court expects compliance with the following rules governing attorney fees requests on trial matters. (7/1/20, 1/1/21)

B. Factors to Be Considered. Whether under Family Code sections 270 et seq., 2030 et seq., and 3557, or under another source authorized by law, any party seeking an award of attorney's fees and costs should expect to present evidence on the following issues: (7/1/20)

1. The nature of the litigation; (7/1/20)
2. Its complexity; (7/1/20)
3. The nature and extent of the conflict; (7/1/20)

4. The amounts involved; (7/1/20)
5. The financial circumstances of the parties (both "need" and "ability to pay"); (7/1/20)
6. The skill required; and (7/1/20)
7. The professional standing and reputation of the attorneys. (7/1/20)

The conscientious efforts of counsel to resolve as many areas of disagreement as possible without judicial intervention is entitled to serious consideration in awarding attorney's fees. In addition to the foregoing, the various factors set forth in Code of Civil Procedure section 128.5 and Family Code section 271may bear on the award of attorney's fees to either side, including the resistance of a request for an award on the basis that the services were not "reasonably necessary" to the prosecution or defense of the proceeding. (1/1/21)

C. Documentation in Support of an Award of Fees or Costs: The following rules apply whether the request for an award is noticed or without notice. (7/1/20)

1. Income and Expense Declaration: Fees and costs will not be awarded unless an Income and Expense Declaration (Judicial Council form FL-150) is submitted with each item fully and accurately completed. If special circumstances warrant it, the facts in support should be set forth at item 13 of the Application for Order and Supporting Declaration. Examples of special circumstances would include the need for an appraiser, accountant, actuary, doctor, extensive discovery, or out-of-state discovery, etc. (7/1/20)

2. Declaration Testimony and Billings: Declaration testimony of experts in support of prospective cost awards will be allowed. Where an expert submits a report, a billing based on that service may be admitted at any hearing where the report itself may be received. (7/1/20)

3. Separate declaration required: If a request is made for a combined amount of fees and costs in excess of $1,000.00, the request shall include a separate written declaration signed by the attorney, describing the factors relevant to the request which may include: (7/1/20)

a. Services performed and costs incurred to date; (7/1/20)

b. Time expended; (7/1/20)

c. Hourly rate charged, if applicable; (7/1/20)

d. Best estimate of the future services to be performed, costs to be incurred and necessity therefore; (7/1/20)

e. Each party's access to community assets; (7/1/20)

f. Specific amounts requested; (7/1/20)

g. A full disclosure of all amounts paid by or on behalf of the party requesting fees and costs; (7/1/20)

h. History of prior appearances and awards; and (7/1/20)

i. Any other relevant factors. (7/1/20)

D. Bifurcation (Separate Hearing) Re: Fees and Costs: Counsel may request the opportunity to present evidence of opposing counsel's/opposing party's failures to respond to attempts to resolve the domestic dispute prior to trial. This evidence may be considered relevant to the issue of attorney's fees and costs and/or sanctions, but be inadmissible as "settlement negotiations". In this case, counsel should advise the opposing party and the court by a statement in the pre-trial statement that the issue will be raised, and that counsel requests the issue be bifurcated for hearing after the court renders its dissolution judgment. (7/1/20)

7.19 Post-Trial Proceedings

A. Post-Trial Motions. Motions to Vacate, for New Trial and for Reconsideration are to be made in full compliance with the Code of Civil Procedure, Family Code and the Rules of Court. In particular, reconsideration motions pursuant to Code of Civil Procedure section 1008, subdivision (a), are not to be requested merely to have a rehearing, or "do-over," of the trial or hearing. Litigants are advised to consider subdivision (c) of the same statute, which reads in relevant part: "A violation of this section may be punished as a contempt..."

B. Duty to Prepare Judgment: After a contested trial, the party directed by the Court shall prepare the judgment or order in accordance with the Court's decision and shall comply with California Rule of Court 3.1590. (7/1/20, 1/1/21, 7/1/24)

7.20 FAMILY LAW JUDGMENTS:

Rules 7.20-7.24 govern the submission and signing of judgments in Stanislaus County. Parties are advised and encouraged to use the helpful instructions titled Completing Divorce or Separation which have been provided by the state judicial branch and which

can be accessed at: http://www.courts.ca.gov/1035.htm. These publications contain excellent instructions on what forms need to be filed and what steps taken to obtain a judgment, whether the judgment is by default, uncontested, or after trial. The focus of these rules is to provide parties and their attorneys with information regarding the policies and procedures used in the Stanislaus Superior Court. The Family Law Clerk's Office will provide self-represented litigants with information regarding the Court's Self-Help Center and Family Law Facilitator's Office, either of which can provide additional instructional information to assist self-represented litigants in obtaining a judgment. (7/1/20, 7/1/24)

7.21 Time for filing judgment and time for finality

A. Waiting period: Although a judgment for the dissolution of marriage may be submitted for processing at any time, no such judgment can be final until **six (6)** months have expired from date of service of summons and petition, or date of appearance of Respondent. When a judgment is not presented to the Court for signature until after the **six (6)** months has lapsed, the marital status will terminate on the date that the Court signs the Judgment. A Judgment for Legal Separation shall not state a marital termination date.

B. Retention of jurisdiction: Upon noticed motion and good cause shown, or stipulation of the parties, the Court may retain jurisdiction over the date of termination of the marital status, or order the marital status terminated at a future specified date. (Fam. Code, § 2339 et. seq.)

C. Nunc Pro Tunc Judgments: To be entered nunc pro tunc, a judgment must comply with Family Code section 2346.

D. Status Only Judgments. A "status only" or "bifurcated judgment" (Family Law) may be obtained pursuant to Family Code section 2337, upon duly noticed motion, or by stipulation and order. (7/1/20, 1/1/21, 7/1/24)

7.22 Formatting Requirements for All Judgments

A. Identification of Moving Party: Every judgment shall state in the upper left-hand corner the name and address of the person presenting it to the Court for signature (7/1/20)

B. Use of Judicial Council Forms. When specified as mandatory, Judicial Council Forms and the Court's Local Forms are required to be filed and non-conforming papers may be rejected. (1/1/21)

C. Child Support Case Registry Form: Any stipulation for judgment or judgment addressing the issue of child support shall be returned unprocessed unless accompanied by a completed Child Support Case Registry form (FL-191). Any document setting forth a stipulation between the parents regarding child support must be accompanied by Child Support Case Registry forms (FL-191) completed by at least one parent. (7/1/20)

D. Completed Income and Expense Declaration: An Income and Expense Declaration (FL-150) must be submitted where any one of the following orders is requested: child support, spousal support (except where a party seeks reservation of the Court's jurisdiction to award spousal support in the future), waiver or termination of spousal support in a long-term marriage (**10** years or more between the date of marriage and the date of separation), family support, or attorney's fees. Rule 7.05E4 governs completeness of income and expense declarations. (7/1/20)

E. Support Orders Where Custodial Parent and/or Children are on TANF or CalWorks (formerly known as AFDC)

Where a party wishes to obtain a child, spousal or family support order by default and the custodial parent receives TANF or CalWorks, the Department of Child Support Services, (or other appropriate representative of the County to which support rights have been assigned) must be served with **ten (10)** calendar days' notice of the request by mail. All such orders for support must specify that payment is to be made to the Department of Child Support Services and include all other orders required by the Department of Child Support Services. Petitioner should modify the child support attachment to the judgment to so reflect. (7/1/20)

F. Order Reserving the Court's Jurisdiction to Award Child Support

When child support has not been assigned, a party may reserve the Court's jurisdiction to award child support by stating in the judgment: "The Court reserves jurisdiction to award child support without prejudice to any action brought by a party or the Department of Child Support Services." No such reservation of jurisdiction shall be granted unless the party files a declaration stating that neither the party nor the child(ren) are receiving or have applied for TANF or CalWorks or, unless the party so testifies. (7/1/20)

G. Orders Concerning Child Custody, Child Visitation, Child Support, Spousal Support and Attorney's Fees: Copies of current orders concerning child custody, child visitation, child support, spousal support, and attorney's fees, as applicable, shall be attached to the Judgment. If the judgment includes any of these orders, it must also provide that each party keep the other party informed of that party's current address during the minority of the child. (7/1/20)

H. Custody and Visitation Orders by Default: Where a child custody and visitation order is requested by default the moving party must, either in the supplemental declaration to the Declaration for Default or Uncontested Dissolution/Legal Separation or in the Prehearing Statement, state the following: (7/1/20)

1. Custodial arrangement since separation (7/1/20)

2. Extent of contact between the child and the non-custodial parent; and (7/1/20)

3. If the moving party seeks to deny visitation to the defaulting party, a statement concerning the reasons. (7/1/20)

I. Distribution of assets and debts: If there are assets and/or debts to be disposed of by the Court, the petitioner must propose a division of property and/or debts. The division of the community estate and confirmation of separate property, as applicable, may be set forth either in the body of the judgment, or in an attached agreement incorporated in the Judgment by reference. Especially when proceeding by default, the party submitting the judgment may accomplish this by submitting a declaration listing each item of community property with current market values, encumbrances, and equities. The declaration shall also include a list of all community obligations with identities of creditors and balances due. (7/1/20)

1. **Real Property**: All real property referred to in the judgment must be described by its complete common street address and legal description. A judgment will not be signed if it contains only the street address. (7/1/20)

2. **Motor Vehicles**: When motor vehicles are to be divided, petitioner shall attach copies of the Kelly Blue Book valuation showing the current market value and copies of documents showing the current car loan balance. When bank accounts are being divided, the petitioner shall submit copies of bank statements showing balances as of the date of separation. When pension/retirement accounts are to be divided, petitioner shall submit copies of statements showing the balances as of the date of separation and copies showing current values representing the community interest. (7/1/20)

J. Spousal Support

The petitioner must address the issue of spousal support for both parties in the proposed judgment. The petitioner may request that the Court: award spousal support for either party, terminate the Court's jurisdiction to award spousal support to either or **both** parties, or reserve the Court's jurisdiction to award spousal support in the future to either or both parties. All orders for spousal support shall state the amount of support, the date(s) payable, and unless there is an agreement to the

contrary, that support shall terminate on the death of either party or remarriage of the supported party. A marriage of **ten (10)** or more years is presumptively a long-term marriage. In a long-term marriage petitioner may not automatically waive the right to receive spousal support or terminate respondent's right, absent a showing of the ability of self-support. If the record of financial support is not clear, spousal support in a long-term marriage must be reserved. All judgments awarding spousal shall provide that each party keep the other party informed of that party's current address until spousal support is terminated. (7/1/20)

K. Attorney's Fees Orders. Any request for an award of attorney's fees must be supported by a factual declaration as provided in these local rules, indicating the amount of time the attorney spent on the case and the attorney's hourly rate. (7/1/20, 1/1/21)

L. Personal Conduct Restraining Order: If the Judgment contains personal conduct restraining orders, a CLETS form must be attached. If a restraining order is in effect on Form DV-130, a copy of the restraining order, along with the date of expiration of the restraining order must also be attached. Good cause for granting any such order(s) shall be set forth in an attached declaration(s). (7/1/20)

7.23 Judgment Procedure

A. Action by Clerk: After the judge signs the judgment, the Family Law Clerk's Office shall vacate any existing Case Management Conference Hearing, unless otherwise directed by the judge. At the time the notice of entry of judgment is mailed to the parties, the Clerk's Office will advise them of the vacating of the Case Management Conference hearing. (7/1/20)

B. Notice of Entry of Judgment and Envelopes: Petitioner must submit, together with the proposed judgment and any forms required above, an original and two copies of the notice of entry of judgment. Petitioner shall also submit **two (2)** stamped envelopes addressed to the parties as listed on the notice of entry of judgment. Envelopes must be of appropriate size with regard to the number of documents submitted and must have sufficient postage affixed. (7/1/20)

1. **Signature of Judge:** The signature of the judge shall not follow any attached agreement of the parties but shall be set forth on the judgment following the orders of the Court. Where appropriate signatures of the parties and/or their attorneys shall be set forth immediately above the space provided for the date and signature of the judge. (7/1/20)

2. **Status as Counsel:** After a Final Judgment has been entered, the attorney of record for the party remains as attorney of record, and is entitled to timely notice, unless there is on file a proper withdrawal by either stipulation or order, or pursuant to Code of Civil Procedure section 285.1. (7/1/20)

7.24 Rules Specific to Default and/or Uncontested Judgments: The paragraphs in this rule apply to default and/or uncontested judgments, only.

A. Prerequisites to Obtaining an Uncontested Judgment: An Uncontested judgment may be submitted if and only if one of the following has occurred: 1) Respondent has been declared in default; 2) Respondent has appeared but has also filed an Appearance, Stipulation and Waivers form by which the parties have stipulated to proceed uncontested; and/or 3) if Respondent has filed a response, the parties may appear in open court and both orally stipulate to waive notice of time and place of trial, findings and conclusion, and statement of decision and agree that the matter shall be heard on the uncontested calendar. (7/1/20)

B. Notice of Entry of Default/Request to Enter Default
In a proceeding for dissolution of marriage or legal separation of the parties, where a request to enter default is submitted, the petitioner **shall** provide the Court Clerk with a stamped envelope bearing sufficient postage addressed to the spouse who was defaulted, with the address of the Court Clerk (Clerk of the Superior Court, P.O. Box 1098, Modesto, CA, 95353-1098) as the return address, and the Court clerk **shall** mail a copy of the request to enter default to that spouse in the envelope provided. (7/1/20)

C. Family Law Judgment by Declaration: All papers necessary to obtain a judgment by declaration under Family Code section 2336 shall be filed with the clerk. A request to enter default, or appearance, stipulation and waivers, as applicable, is required to be submitted for filing as appropriate. (7/1/20)

D. Declaration for Default or Uncontested Dissolution/Legal Separation: After the default has been entered and the declaration regarding service of the preliminary declaration of disclosures has been filed, the petitioner must file a completed Declaration for Default or Uncontested Dissolution/Legal Separation (Form FL-170). This Declaration must address all issues in the Petition and may not request any orders in the judgment beyond the relief requested in the petition. A Supplemental Declaration (Local Form FL-019) or Pre-Hearing Statement (Local Form FL-002) can be used for issues not covered within the contents of the Judicial Council Form FL-170. (7/1/20)

E. Marital Settlement Agreements and Stipulations for Entry of Judgments: In a default or uncontested dissolution action, no marital settlement agreement or stipulation for entry of judgment shall be approved by the Court unless: (7/1/20)

1. **Required Approvals:** Allegations in the petition refer to the making of the marital settlement agreement or the agreement, or a separate agreement signed and filed by the parties and their respective attorneys provides that the agreement may be presented for Court approval, or the adverse party and his attorney have endorsed their approval of the agreement on the form of judgment; (7/1/20)

2. **Counsel:** The parties thereto are represented by separate counsel and the agreement or stipulation for entry of judgment is signed by such parties and their respective attorneys. If only one party is represented, an affidavit filed by the other party to the agreement stating that s/he has been advised to consult an attorney in reference to the agreement, but declined to do so, will be accepted in lieu of the signature of an attorney for such party. Such affidavit shall be a separate document limited solely to a waiver of counsel. (7/1/20)

3. **Notarization:** When a judgment of dissolution of nullity, of marriage, or legal separation of the parties is to be granted upon the default of one of the parties; the signature of the spouse who was defaulted on any marital settlement agreement or any stipulated judgment **shall be notarized** pursuant to Family Code section 2338.5. (7/1/20)

4. **Submission prior to Hearing:** All marital settlement agreements and stipulations for entry of judgments are to be submitted **three (3)** court days before the hearing, if scheduled for hearing. (7/1/20)

5. **Attachment to judgment:** Marital settlement agreements or stipulations for entry of judgment shall not be filed as a separate document in the court file. Rather, said document shall be attached to the judgment of dissolution, legal separation, or nullity. (7/1/20)

F. Default/Uncontested Hearings:

1. **Default procedure:** Where a party proceeds by way of a default, a default hearing will be set only by a specific request by the party or by order of the court. All other defaults shall be submitted by way of affidavit. (7/1/20)

2. **Uncontested Procedure:** Where a family law judgment is requested after a response has been filed but after entry of stipulation and waivers to proceed uncontested, the affidavit provisions of the Family Code may be used. As

described above, hearing may be set upon request of a party, or by Court order. (7/1/20)

3. **Submission of Documents:** Documents required to be filed at least **ten (10)** Court days prior to an uncontested or default hearing are: (7/1/20)

a. **Disclosures:** A declaration regarding service of a current final declaration of disclosure pursuant to Family Code section 2100 et seq. is required in uncontested hearings where a Response was filed. In default hearings only proof of service of the preliminary declaration of disclosure is required. (7/1/20)

b. **Declarations:** Except for good cause shown, a Declaration for Default or Uncontested Dissolution/Legal Separation (Form FL-170) with a supplemental declaration attached indicating which orders are to be included in the judgment of dissolution or legal separation or in the alternative, a Prehearing Statement (See Local Form FL-002), along with a current Income and Expense Declaration (FL-150) pursuant to Family Code Sections 2101 and 2106. (7/1/20)

c. **Scope of requests:** A party may not request orders in the judgment beyond the relief requested in the petition. Good cause is shown where the party(ies) submit(s) a marital settlement agreement addressing all issues. The marital settlement agreement shall be attached to the judgment of dissolution. The supplemental declaration or prehearing statement shall include the following: (7/1/20)

1. Community Property

A list of all items of community property with current market values, encumbrances, and equities. All real property referred to in a judgment shall be described by its complete common address and legal description. (7/1/20)

2. Community Obligations

A list of all current community debts and obligations with the identities of the creditors and balance due. (7/1/20)

3. Funds Held by Others

To the extent that either separate property or community property consists of funds held by others, such as insurance policies, pensions, profit sharing, or other trust or retirement funds, the statement shall fully identify the policy or fund, including policy, serial or account numbers, the present values and basis for calculation, and all

terms or conditions imposed upon withdrawal of such funds. If loans exist against any of these funds, the details regarding those loans should be set forth. (7/1/20)

4. Division of Community Property and Obligations

A proposal showing the requested equal division of the community property and community obligations. (7/1/20)

5. Child Custody and Visitation

A. Where the judgment is taken by default, and there is no existing order or no attached written agreement of the parties concerning custody and visitation, an attached factual declaration shall set forth the following: (7/1/20)

a. Where the party is seeking joint custody, what contact shall the defaulting party have with the child/ren. (7/1/20)

b. Where the party is seeking to deny visitation between the child/ren and the defaulting party, the reasons why visitation should not be ordered. (7/1/20)

B. In preparing the declaration, the party shall inform the court when the parties were separated, who has been the primary caretaker of the child(ren) during the immediate past **six (6)** months and the extent of contact between the child(ren) and the non-caretaker parent during that time. (7/1/20)

6. Child Support

A. Where judgment is obtained by default, and there is no attached written agreement concerning child support, an attached declaration shall state the effective date of the order sought, the amount of support sought per child and in total, the net incomes of each party, the name and birth date of each child, the amount of support suggested in the case of each child by guidelines, and whether this amount is below the statewide guidelines, and if so, the factual basis pursuant to Family Code sections 4055-4069. (7/1/20)

7. Spousal Support

A. The issue of spousal support for each party must be addressed. A support amount may be requested, support may be terminated, or the issue of support may be reserved. (7/1/20)

B. If a request for support is by default, the petitioner must attach a declaration which states the effective date of the order sought, the amount of support sought, and the net incomes of each party. (7/1/20)

C. A short-term marriage is not in and of itself a sufficient basis for termination of spousal support. (7/1/20)

8. Restoration of Name

Restoration of a party's name prior to marriage name shall be ordered in a judgment only upon the party's written request or request in open court. (See Family Code sections 2080-2082). (7/1/20)

9. Appearance, Stipulation and Waivers

An uncontested judgment, except in Department of Child Support Services support matters, may be obtained only upon the filing of an appearance, stipulation and waivers form wherein the parties agree that the matter may be tried as an uncontested matter, waive their rights to notice of trial and Statement of Decision, and agree that the matter may be tried by a commissioner sitting as a temporary judge. None of the stipulations and waivers shall apply unless the Court approves the written settlement agreement or stipulation for judgment. The moving party must file a completed declaration for default or uncontested dissolution. (7/1/20)

10. Incorporation of the Marital Settlement Agreement

Where parties want the terms of the marital settlement agreement to become the terms of the judgment, the marital settlement agreement must be incorporated into the judgment. (7/1/20)

11. Stipulations for Entry of Nullity Judgments

Stipulated judgment for nullity may be signed by the Court, absent a hearing, where the stipulation or an accompanying factual declaration contains facts supporting the grounds for the nullity judgment. Stipulations for entry of nullity judgments shall be presented to the Clerk along with an original plus two (2) copies of all documents submitted, including the Judgment for Nullity and the Notice of Entry of Judgment. Also required are two (2) addressed stamped envelopes as required by Family Code section 2338.5(c). (7/1/20)

7.25 Contempt

A. Continuance: If a person cited for contempt appears without an attorney, one continuance normally will be granted to permit the citee to retain counsel. (7/1/20)

B. Counsel: If the citee is found to be indigent, counsel shall be appointed. (7/1/20)

C. Presence of the citee: The citee will be ordered to be present at the time and date set for the continued hearing, thus avoiding further service. (7/1/20)

D. Order of proof: In all contempt proceedings, a specific order of proof is preferred on the part of the moving party. (7/1/20)

1. The moving party shall introduce into evidence the prior order of the Court (by judicial notice or otherwise) which was in full force and effect at the time of the alleged contempt. (7/1/20)

2. The moving party shall establish that the opposing party had notice of that order. (7/1/20)

3. The moving party shall proceed to establish the violation of that order, and the willfulness of that violation. (7/1/20)

E. Prima facie case: Counsel for the moving party shall be thoroughly prepared to present a prima facie case, i.e. the moving party should be able to make a prima facie case on the original affidavit and have witnesses ready for cross examination by the citee, without calling the citee to testify. (7/1/20)

F. Submission of order: After the contempt hearing it shall be the responsibility of the moving party to prepare an order for the signature of the Court, setting forth the findings and orders of the Court. Such an order shall be submitted to opposing counsel, when there is an opposing counsel, for approval as to form and content prior to its submission to the Court. When the opposing party is a self-represented litigant, the order will be submitted directly to the Court, without approval as to form and content by the self- represented party. (7/1/20)

G. Form of order: The party, or attorney, preparing the order after hearing must set forth all findings of the Court: factual findings of the existence and current validity of a described order, knowledge of the contemnor of that order, the violation of that order, and the willfulness of that violation. The orders of the Court shall thereafter be set forth with regard to the finding of contempt, and the sentencing. No contempt order will be signed by the Court without compliance with the foregoing. (7/1/20)

H. Stay of Execution. After a finding of contempt and sentencing thereon, there is a Court preference, subject to individual judicial discretion, that a stay of execution will not be granted unless the citor requests that the citee be given an opportunity to purge the contempt. Counsel are expected to advise their clients of this fact in advance of the Court hearing. (1/1/21)

I. Continuance of sentencing: In appropriate cases, the Court may permit a continuance of sentencing to assure compliance with Court orders. (7/1/20)

7.26 Miscellaneous Family Law Rules

A. Family Law Facilitator

The Family Law Facilitator shall perform the duties outlined in Family Code Section 10004, and any additional duties as directed by the Supervising Judge of the Family Law Facilitator Program pursuant to Family Code Section 10005. The additional duties shall be made party of any Agreement reached between the Court and the Facilitator. (7/1/20)

B. Interpreters

1. **In domestic violence cases:** If an interpreter is needed by any party or witness intended to be called by that party, the Court shall provide an interpreter. This includes all proceedings pertaining to a request for a domestic violence restraining order, including trials. The party is to advise the Court in advance of the hearing of the need for an interpreter. (7/1/20)

2. **In mediation, guardianship, economic and other short cause matters**: If an interpreter is needed by any party, the Court shall provide an interpreter. The party is to advise the Court in advance of the hearing of the need for an interpreter. (7/1/20)

3. **At trial:** Where a party is represented by counsel, counsel shall advise the Court that an interpreter is necessary for the party and/or a witness. This notice shall be given no later than 30 days prior to the trial. The Court shall provide an interpreter to the extent that an interpreter is available. If unavailable, the Court will so advise counsel and counsel will have to make arrangements for the presence of the interpreter and payment of that interpreter (7/1/20)

4. **Policy Statement:** Based upon the availability of money through the Court's budget and the availability of grant money for domestic violence proceedings, the Court reserves the right to alter this rule and policy. The Court recognizes the

importance of having certified or qualified non-certified interpreters in family law matters. For so long as sufficient funds are available, the Court intends to provide interpreters pursuant to this present rule. (7/1/20)

The Court reserves the right to order the payment of the fees for an interpreter in accordance with the Government and Evidence Codes, except where such fees may be properly waived under the forma pauperis rules as set forth in the Government Code. (7/1/20)

C. Court Reporters

1. **Requests for a Court Reporter**: A party may request an official court reporter by email to familylawreporters@stanct.org or by phone at (209) 530-3105. If services are needed for a trial or long cause hearing, the request should be made at least **30 days** in advance. For all other proceedings, the request should be made at least 10 **days** prior to the proceeding. If a staff court reporter is available to report a family law matter, the party requesting the reporter shall pay a $30 reporter fee for any hearing under an hour. If it appears that no court reporter will be available, the requesting party will be notified of that fact as soon as possible before the trial date, hearing, or other proceeding. A party with an approved fee waiver may request an official court reporter at no expense to the party within the time limits set forth in these rules. An approved fee waiver does not cover the cost of preparing a reporter's transcript. (1/1/22)

2. **Reporter Pro Tem**: Pursuant to California Rules of Court, rule 2.956, if the services of an official court reporter are not available for a hearing or trial, a party may arrange for the presence of a certified shorthand reporter to serve as an official reporter *pro tempore*. It is that party's responsibility to pay the reporter's fees for attendance at the proceedings, unless the party has an approved fee waiver; the expense may be recoverable as part of cost recovery, as provided by law. The stenographic notes of such reporter will be handled pursuant to Government Code § 69955. Pro Tem Reporters must follow standard local format requirements:

    a. 28 lines per page;
    b. 60 characters per line;
    c. Line numbered at left of transcripts box;
    d. True type font no greater than 13;
    e. Q. and A. indented no more than five spaces;
    f. Text following Q. and A. no more than two spaces;
    g. Colloquy and continuing paragraph indented five spaces;
    h. Text following speaker identification no more than two spaces;
    i. Page numbers at bottom, right-hand column;

j. Parentheticals indented ten spaces or centered;
k. No blank lines before or after parentheticals;
l. Footer with reporter's name and CSR number.

3. **Policy Regarding Staff Court Reporters**.

a. Court reporter fees will be assessed on all family law trials where a Superior Court staff court reporter reports the proceedings, unless the Court is required to supply a reporter free of charge pursuant to an approved fee waiver. Counsel or parties without counsel will be billed for this service if a free reporter is not being provided. The billing statements will include the date, case number, time charged and amount due. (1/1/22)

b. Unless otherwise ordered by the Court, all parties, regardless of who requested the reporter, shall pay their proportionate share of reporter fees per the fee schedule set forth herein. When there is more than one party per side, each side will be billed 50%. That is, one party from each side will pay or be billed. The billed party will be responsible to collect from the other parties. Non-payment of any court reporter fees shall result in the denial of future court reporter services to the non-paying party or attorney and the assessment of collection charges.

c. The Court reserves the right to order proceedings reported if both sides waive reporting services and if reporting services are deemed necessary by the Court. In that event, all parties will be ordered to share the cost pursuant to the fee schedule below.

d. The fee schedule for official court reporting services is:

1 day - $700.00

1/2 day - $350.00 (A ½ day is defined as any hearing or matter lasting longer than one (1) hour.) (7/1/22)

4. **Daily Transcripts**: Request for daily transcripts in family law cases must be made at least one week in advance of trial. Parties requesting daily transcripts will be required to pay daily transcript rates and the per diem rate for an official court reporter (unless the parties agree to split the costs). The cost of daily transcripts is not covered when the court provides a court reporter pursuant to an approved fee waiver.

Additionally, pursuant to Government Code section 69953.5, if a request for daily

transcripts requires the services of more than one court reporter, the party requesting the daily transcripts shall pay the per diem rate for the services of each additional court reporter required to fulfill the request. (1/1/22)

5. **Transcripts of Trial or Other Proceedings**: Whenever a party requests a court reporter to furnish a transcript of all or part of a trial or proceedings, the court reporter shall forthwith inform all other parties of such request and inquire whether any of such parties desires, at his own expense, a copy of such transcript. An approved fee waiver does not cover the cost of a reporter's transcript. (1/1/22)

6. **Availability of Staff Reporters – Family Law Matters:**

   If there are insufficient staff court reporters to report family law trials or law and motion matters, a party may arrange for the presence of a certified shorthand reporter at their own expense pursuant to California Rules of Court 2.956. A party with an approved fee waiver may request an official court reporter within the time limits set forth in these rules at no expense to the party. An approved fee waiver does not cover the cost of a reporter's transcript. Parties should check with the Supervising Court Reporter regarding the availability of a staff court reporter. Contact may be made via e-mail: familylawreporters@stanct.org or by phone at (209) 530-3105. In the event a party arranges for the presence of a certified court reporter at their own expense without checking to see if an official court reporter is available and there is an official court reporter available, the official court reporter will report the proceedings. (1/1/21, 1/1/22)

7. **Court Requested Family Law Transcript**:

   Pursuant to Government Code section 69953, in any case where a verbatim record is not made at public expense pursuant to Government Code section 69952, the cost of making any verbatim record shall be paid by the parties in equal proportion. Either party, at his own option, may pay the whole cost. Civil proceedings do not fall under the parameters of Government Code section 69952.

   When the judge requests the reporter provide a transcript of the proceedings not covered in Section 69952, the parties are responsible for sharing the cost of that transcript. The reporter will begin working on the judge's requested transcript when they receive payment in full from the party or parties. If either party chooses to purchase a transcript of their own, the cost of their copy will be added to their portion of the invoice. (1/1/21, 1/1/22)

D. Limitation on Conformed Copies

All documents presented for filing are limited to an original plus **two (2)** copies, and unless otherwise required by code, the Clerk's Office will conform a maximum of **two (2)** copies. (7/1/20)

E. Domestic Violence Protocol

The Court has adopted a Domestic Violence Protocol in conformity with Penal Code section 136.2 and California Rule of Court 5.445. The Domestic Violence Protocol is set forth in Stanislaus County Superior Court Criminal Rule 4.31. (7/1/20)

F. QDRO Appearance Fee: If a petitioner submits for the court's signature and filing a Qualified Domestic Relations Order after a default judgment has been entered, there will be no first appearance fee required if the order contains respondent's signature. (7/1/20)

G. Appointment of Minor's Counsel

1. **Application for Panel**
   Counsel wishing to be included on the Court's panel of attorneys approved for appointment as minor's counsel shall submit a complete and signed Declaration of Counsel for a Child Regarding Qualifications (FL-322), a cover letter requesting consideration that may include any pertinent information not contained in the FL-322 and, optionally a current curriculum vitae, to the Family Law Clerk's Office, marked "Attention: Minor's Counsel." The caption of the FL-322 and item No. 2 shall be left blank and the form will not be file-marked. (1/1/22)

2. **Decision on Panel Applicants**
   Attorneys shall be approved by the Supervising Family Law Judge after consultation with the Family Law Team Judges. The decision is final and the non-reviewable, though attorneys may reapply no sooner than one (1) year after an unsuccessful application. Decisions shall be made from time to time, as meetings of the Family Law Team Judges allow, with no definitive approval period other than an annual review of all counsel approved for appointment. Counsel wishing to remain on the Court's appointment list shall file a new, signed FL-322 at the beginning of each calendar year. (1/1/22)

3. **Appointment as Minor's Counsel**
   Upon acceptance and appointment, the Order Appointing Counsel for a Child (FL-323) shall be prepared and completed by the judge assigned to the case for all purposes and then filed and served in conformity with law and procedure. In the assigned judge's discretion, minor's counsel to be appointed may submit a

proposed FL-323 for the assigned judge's review and approval. If the FL-322 filed pursuant to part G (1.) or G (2.) was submitted more than a year prior to actual appointment, then minor's counsel shall submit a new, signed FL-322 within ten (10) court days of appointment. (1/1/22)

4. **Compensation of Minor's Counsel**
The default hourly rate for minor's counsel shall be set pursuant to the Court's policy and is currently $125 per hour where fees are to be paid as a public charge. Any deviation from this rate must be addressed to the assigned trial judge and shall be determined in the judge's discretion based on findings in the particular case, to be included in the FL-323 order appointing counsel. (1/1/22)

5. **Complaint Procedure re Minor's Counsel**
All complaints regarding minor's counsel shall be directed in writing to the Supervising Family Law Judge, who shall take appropriate action upon the request within a reasonable time, or who may refer the matter to the next regular meeting of the Family Law Team to do so. The complainant shall be provided a written response acknowledging the complaint and advising when review and consideration are complete. Any party dissatisfied with the action taken, if any, may bring a formal motion to the Court by filing a Request for Order (FL-300), checking the "Other" box, and entitling the order request, "Motion to Disqualify or Vacate Appointment of Minor's Counsel." Decisions on such motions are subject to review by writ or appeal as provided by law. (1/1/21, 1/1/22)

7.27 Guardianships

A. Consolidation of Adoption and Guardianship Proceedings

If an adoption proceeding is pending involving a minor who is also the subject of a petition for guardianship, the proceedings will be consolidated and heard in the department designated by the presiding judge to hear adoption and guardianship proceedings. (7/1/20)

B. Appointment of Temporary Guardian

1. **General Procedures:** If a Temporary Guardianship is needed, a Petition for Appointment of a Temporary Guardian must be filed concurrently with, or subsequent to, the filing of a petition for appointment of a general guardian. If a temporary petition is to be presented ex parte, notice of such application is required pursuant to Probate Code section 2250, subdivision (c). A proof of service shall be filed in the action. (7/1/20)

2. **Ex Parte Exception:** If a minor has been living with the proposed guardian for a considerable time and there is sufficient reason to believe that a parent(s) will remove the child from the petitioner's custody upon being served with the notice of the temporary guardianship application, the Court will consider an ex parte temporary guardianship. (7/1/20)

3. **Mediation:** At the hearing on the temporary guardianship, the matter may be referred to the Court Investigators' Office for mediation. (7/1/20)

4. **Investigation:** Prior to the date set for the ex parte appointment, all petitions and documents pertinent to the temporary application shall be reviewed by the Court Investigator. The petition shall state the facts giving rise to the need for the guardianship and for issuance of ex parte orders. (7/1/20)

5. **Judicial Review:** Temporary petitions will be reviewed by the Court Investigators. A petition will go to the judge only if it is procedurally correct and if the required notice has been given or dispensed with. Unless some degree of urgency is present, the Court ordinarily will not entertain an ex parte application for appointment of temporary guardian. (7/1/20)

6. **Uncontested Hearing:** If no opposition is presented and the matter appears appropriate, the Court may grant the petition without an appearance. (7/1/20)

C. Reconsideration of Temporary Guardianships

Each petition for temporary guardianship granted on an ex parte basis will be set for a hearing pursuant to Probate Code section 2250, subdivision (d) no more than **thirty (30)** days from the date the judge signs the order. That hearing date will be assigned and calendared by the Superior Court Clerk's Office at Family Court Services, Room 221. (7/1/20)

D. Appointment of General Guardian

1. **General Procedures:** Hearings on guardianship proceedings are held on Monday through Thursday mornings in the Family Court. In cases where there are no objections or the parties are present and agree the Court Investigator/Mediator will interview the parties to obtain pertinent information. The matter will be continued for appropriate criminal and Child Protective Services checks on the Petitioner. A brief report will be submitted at the court hearing recommending either for or against the proposed guardianship. Appearance of the proposed guardian and counsel are required. The Court does not favor dispensing with statutory notice for the appointment of a general guardian of a minor. However,

the Court may dispense with notice if sufficient grounds are given to justify that notice cannot be given with reasonable diligence or that the giving of such notice is contrary to the interests of justice. In all cases the Court will require nomination or consent of a minor if such minor is **twelve (12)** years of age or older and if such minor has the capacity to nominate. (7/1/20)

2. **Service:** Endorsed filed copies of all documents shall be served by first class mail on the Court Investigator, P.O. Box 3488, Modesto, CA 95353 or personally delivered to Family Court Services/Court Investigators' Office, Room 221, at the Courthouse, no less than **forty-five (45)** days prior to the hearing, or on the date of the filing of such documents. (7/1/20)

3. **Confidential Statement:** A detailed statement under penalty of perjury of the facts giving rise to the necessity for the guardianship shall be filed with each petition. The statement shall be given to the Family Law clerk or be in pleading form and marked **"Confidential"**. It shall be placed in a confidential envelope by the clerk. (7/1/20)

4. **Consents:** Where a petition seeks the appointment of a non-petitioning guardian, a consent to serve as guardian must be filed for each non-petition guardian. (1/1/14, 7/1/20)

E. Notice of Hearing

1. **Relative Guardianships.**

When a petitioner requests appointment of a relative (by blood or marriage) as guardian of the person and/or estate of a minor, a filed marked copy of the notice of the hearing and a file marked copy of the petition shall be mailed by first class mail to the Court Investigators' Office at P.O. Box 3488, Modesto, CA 95353, or personally delivered to the Court Investigators' Office in Room 221 of the Courthouse on the day the petition is filed. (7/1/20)

2. **Non-Relative Guardianships.**

When a petition requests appointment of a non-relative as guardian of the person of a minor, notice of the hearing and a copy of the petition must be mailed to Child Protective Services-Intake, Stanislaus County Department of Social Services, P.O. Box 42, Modesto, CA 95353. Petitions for appointment of a guardian shall be set for hearing at least twenty (20) days after the date of filing. Although only fifteen (15) days' notice is required by the Probate Code, the additional time is necessary to insure that the proceeding is not delayed because the agencies did not have sufficient time to complete their investigation. (7/1/20)

F. Investigation Fees re: Guardian

Contact the Superior Court Clerk at Family Court Services for the amount of the current investigation fee in Relative and Non-relative Guardianship cases. If it appears that the payment of the fee would cause a hardship, the fee may be waived upon application to the Court. The fact of the hardship may be established in the same manner as in a domestic relations proceeding. (7/1/20)

G. Guardianship of the Person – Documents to Court Investigator

In all matters affecting the custody of a minor, in addition to endorsed filed copies of all petitions, notices and proofs of service, the following shall be provided to the Court Investigator: (7/1/20)

1. Judicial Council form Declaration Under Uniform Child Custody and Jurisdiction Act**;** (7/1/20)

2. A copy of the minor's birth certificate; (7/1/20)

3. The local form "Relative Guardianship Questionnaire". The questionnaire is available from the Superior Court Clerk's Office or the Court Investigator's Office; and (7/1/20)

4. A detailed statement under penalty of perjury of the facts giving rise to the necessity for the guardianship shall be filed with each petition. The statement shall be in pleading form and marked **"Confidential".** It shall be placed in a confidential envelope by the clerk. (7/1/20)

H. Mediation of Guardianship

1. **Calendaring:** Hearings on guardianship proceedings are held Monday through Thursday mornings at 8:30 a.m. in the Family Court. (7/1/20)

2. **Investigator Assistance**: In any case where the Petitioner and parent are present and the parent objects to the guardianship, the matter will be referred to the Court Investigators' Office for mediation. The Court Investigator will meet with the parties for the purposes of assisting them in reaching an agreement on custody and/or visitation.

3. **Stipulations:** The matter may be resolved, wherein an order will be prepared by the Investigator's Office setting forth the nature of the guardianship if appropriate,

conditions of the child being returned to the parent and any visitation that is agreed upon. Other guidelines may be set forth to bring the matter to a resolution that is in the best interest of the child.

4. **Continuances:** The matter may be continued for review by the mediator to allow the parties to modify and/or change the circumstances of the parent in such a fashion that an agreement is reached to either return the child to the parent or continue with the guardianship. (7/1/20)

5. **Recommendations:** Regardless of whether an agreement is reached, the matter will be referred to the Court Investigators' Office for an investigation and report. A temporary recommendation shall be made by the mediator regarding the placement of the minor pending the investigation. That recommendation may include a visitation plan to either party during the period of continuance.

6. **Contested Matters:** If no resolution is ultimately reached, a long cause hearing will be required. (7/1/20)

RULE 8 PROBATE, GUARDIANSHIP CONSERVATORSHIPS AND ADOPTION RULES

GENERAL

8.00 Probate Hearings and Contact Information

A. Decedent's estate and trust matters will be heard on Tuesday through Thursday of each week at 8:30 a.m. Conservatorship and Guardianship matters will be heard on Tuesday and Thursday at 8:30 a.m. LPS Conservatorship matters will be heard on Tuesday and Thursday at 9:30 a.m. (7/1/21)

B. Decedent's estate and trust matters will be calendared for hearing by the Civil Unit. Conservatorship and Guardianship matters will be calendared for hearing by the Family Court Services Unit. All petitions and applications which require a hearing will be assigned a calendar date upon being filed. Any request for early setting must be approved by the Court and will be granted only for good cause.

C. For current contact information, Probate notes and tentative rulings, parties should refer to the Court's website at: https://www.stanislaus.courts.ca.gov/ (To access the Probate page - click on the "Divisions" tab, then "Probate" in the drop-down list.) (7/1/21)

D. The local forms referred to in these rules are available at and can be downloaded from the Court website. (Click on the "Divisions" tab, then choose "Probate" in the drop-down list, then click on "Probate Forms" in the "Related Links" and choose from the list of forms.) (7/1/21)

E. The physical address for the Clerk of the Probate Court is 801 10th Street, Fourth Floor, Modesto, CA 95354. The mailing address for the Clerk of the Probate Court is Superior Court of California – Stanislaus, Probate Department, P.O. Box 3488, Modesto, CA 95354. (7/1/14, 7/1/21)

8.01 Applicability of Rules to All Proceedings

All rules as hereinafter set forth shall apply to estate proceedings, guardianships, adoptions, conservatorships and trusts, except as otherwise specifically noted. These rules set forth local policies and procedures of the Stanislaus County Superior Court Probate department. These rules do not attempt to restate or summarize statutory or case law or estate administration in general.

Although these rules are binding on the parties, the Court may, in the exercise of its discretion, depart from them under certain circumstances. (7/1/13, 7/1/21)

8.02 Time for Filing

In all probate matters, papers necessary for hearing (such as proof of service, posting, orders, etc.) shall be filed with the Probate Clerk at least **five** (5) court days before the date of hearing, so that such documents may be placed in the file and checked by the Probate Examiner prior to hearing. Saturdays, Sundays, and holidays shall not be considered court days. Exceptions to this rule will be made at the discretion of the judge, but only for good cause.

A late filing fee of $25 per document may be charged for each document received for filing less than **five (5)** Court days prior to the hearing, at the discretion of the judge, after providing the late-filing party with notice and an opportunity to be heard. (7/1/13, 1/1/20, 7/1/21)

8.03 Form of Papers Presented for Filing

A. Papers presented for filing with the Probate Clerk – whether electronically or over the counter - shall conform to CRCs 2.100 and 3.1110 except that descriptions of assets may be single spaced within each item.

B. Pursuant to California Rules of Court, rule 2.257(c)(2)(B) and Code of Civil Procedure section 1010.6(e)(2)(A)(ii) electronically filed Letters must contain the electronic signature of the appointed individual(s) in the affirmation section of the applicable form.

(Rule 8.03 [7/1/07, 7/1/21] amended January 1, 2024)

8.04 Probate Examiner's Notes (7/1/23)

A. The Probate Examiner's notes are available to counsel and self-represented parties to determine if any defects in pleadings or procedure have been noted by the examiner.

B. The notes are available on the Stanislaus County Superior Court website at https://www.stanislaus.courts.ca.gov/. (From the home page, click on the "Divisions" tab, choose "Probate" from the drop-down list, and then click on "Probate Notes" in "Related Links.")

C. When the examiner receives and reviews additional pleadings and updates the notes, the new notes will be posted to the website. Additional pleadings must be filed in a timely manner in order to be reviewed by the examiner.

D. If you have questions about the Probate Notes or procedural notes found on the website you may contact the Probate Examiner via email at Probate.Examiner@stanct.org. Please include your name, the case name and number, and the hearing date you are inquiring about in your email. (7/1/21)

8.05 Hearing Date Required on Documents

The date of the hearing shall be placed immediately below the case number on the first page of every document filed which relates to a matter already set for hearing. Failure to include the hearing date on documents filed less than **five (5)** court days prior to hearing could delay matching the document with the court file and may result in a continuance. (7/1/06)

8.06 Probate Law and Motion

A. Probate law and motion matters are heard Tuesday through Friday at 8:30 a.m. If Monday is a Court holiday, then Wednesday through Thursday. You are required to reserve a date for your probate law and motion matter. To do so, please call the probate clerks at (209) 530-2010 from 8:15 a.m. – 3:00 p.m. Monday – Friday, excluding days the court is closed.

B. All moving documents shall be filed not later than five (5) court days after you reserve your law and motion hearing date. Law and motion reservations will be cancelled without further notice to the reserving party if the moving documents are not filed within five (5) court days after the reservation is made.

C. Tentative rulings will be issued on probate law and motion matters the court day prior to the hearing date. Tentative rulings can be accessed on the Internet at https://www.stanislaus.courts.ca.gov/ after 1:30 p.m.

D. You may request a hearing on a probate law and motion matter by calling the probate clerks at (209) 530-2010 prior to 4:00 p.m. or by e-mailing at civil.tentatives@stanct.org. E-mail requests must be made prior to 4:00 p.m. AND confirmed by return e-mail. If you do not receive a confirmation e-mail from the clerk, you MUST call (209) 530-2010 to request your hearing. If you request a hearing on a probate law and motion matter, you must also notify the opposing party or their counsel of your request.

(Rule 8.06 [Reserved for Future Use 7/1/21] amended January 1, 2025)

8.07 Guardians Ad Litem In Probate Proceedings

A. In all decedent's estate matters, at the time of the hearing on the petition the court may, on its own motion, consider whether a guardian ad litem should be appointed when there is either:

1. An heir who is a minor or an unborn person.
2. An heir who is an adult alleged to lack capacity.

B. A Petition for Appointment of Guardian ad Litem, whether heard at a noticed hearing or considered ex parte pursuant to Local Rule 8.35, must include the following:

1. A proposed guardian ad litem who is an attorney or the name of the attorney representing the proposed guardian ad litem. This information must be clearly stated in the petition, or alternatively, the attorney may concurrently file a consent to act or notice of appearance as counsel of record for the proposed guardian ad litem.
2. An explanation of the proposed guardian ad litem's qualifications and competencies to act as guardian ad litem.
3. A statement disclosing any family or affiliate relationship the proposed guardian ad litem has with the petitioner, the decedent, or the person whose interest the guardian ad litem will represent.
4. If the filer seeks the court's approval of any specific authority other than that allowed by statute, the petition must specify the orders, powers, and reasons. The additional orders or powers must be included in the proposed order.

C. A guardian ad litem, once appointed:

1. May accept and/or waive notice of hearing of any proceeding.
2. May consent or approve of a petition or application.
3. May not waive bond without prior court approval.
4. May not waive or disclaim any substantive rights of the represented person without prior court approval.
5. May not receive a distribution of property on behalf of the represented person without prior court approval. (See Local Rules 8.84 and 8.86.1.)
6. Must promptly inform the court of any potential or actual conflict of interest with the represented person.

(Rule 8.07 [Reserved for Future Use 7/1/21] amended January 1, 2026)

8.08 (RESERVED FOR FUTURE USE) (8.08 Repealed 7/1/21)

NOTICES

8.09 (RESERVED FOR FUTURE USE) (8.09 Repealed 7/1/21)

8.10 (RESERVED FOR FUTURE USE) (8.10 Repealed 7/1/21)

8.11 Probate Matters Once Noticed Cannot Be Advanced

Unless otherwise ordered by the Court, when a hearing on a probate matter has been noticed, or when it has been noticed and then continued to a definite date, the matter cannot be heard before the date set, either by means of a new petition, an amended petition, or by a new notice. (7/1/99, 7/1/21)

8.12 Notice of Petition to Administer Estate

Notice of a petition to administer estate must be published pursuant to Prob. Code § 8120 and CRC 7.54. Defects in publication will cause the matter to be continued and will require that the notice be republished. (7/1/06, 7/1/21)

8.13 General Notice Requirements

Counsel are reminded that the notice requirements in the Probate Code vary greatly. No set pattern may be discerned. The specific requirements of the Code (i.e. posting, mailing, publication, personal service, etc.) must be confirmed for every petition filed. (7/1/21)

8.14 Persons Entitled to Notice

A. The following persons are entitled to notice (see Prob. Code § 8110):

1. Heirs of the Decedent: Whether or not a decedent died with a will, the petition must contain the names and relationships of all of the decedent's heirs-at-law. An heir-at-law is any person who would be entitled to distribution of a part of the decedent's estate (including distribution by virtue of Prob. Code § 6402.5 if the decedent had a predeceased spouse) if the decedent died intestate (without leaving a will);

2. Beneficiaries Named in the Will: This includes all named contingent beneficiaries who may be entitled to share in the estate, and also includes persons provided for in the Will but whose gifts have been revoked by a subsequent modification to the will;

3. Deceased Heir or Beneficiary (See CRC 7.51(e)); if heir or beneficiary died before decedent;

4. Trustee Nominee. Any nominated trustee of a trust created by the will;

5. Beneficiaries of Testamentary Trusts. The terms "beneficiaries named in the Will" and "named contingent beneficiaries" used above include beneficiaries named in testamentary trusts. It is not adequate merely to give notice to the trustee of a trust where beneficiaries or contingent beneficiaries are named in testamentary trusts;

6. Trustees of Inter-Vivos Trusts who will receive "pour over" gifts from the decedent's estate. Item 8 on the Petition For Probate (Judicial Council Form DE-111) requires the petitioner to list "all beneficiaries of a trust named in the decedent's will or any codicil in which the trustee and personal representative are the same person." Since use of applicable Judicial Council forms is mandatory and the purpose of Item 8 is to identify persons entitled to receive notice of the petition, the Probate Division will require notice to be given to present and contingent beneficiaries of trusts where the trustee is a beneficiary of the will and the trustee is identical to the proposed personal representative;

7. Any non-petitioning Executor, including alternate executors named in the Will; and

8. The California Attorney General, where there is a charitable trust involved (Prob. Code § 8111). (7/1/21)

B. Method of giving various notices:

1. Unknown Address. If the address of an heir or beneficiary is unknown, the Court requires a declaration stating specifically what efforts were made to locate such heir or beneficiary before the Court will dispense with notice or prescribe an alternate form of notice. See Prob. Code § 1212 and Code of Civil Procedure § 413.30 as to what efforts are necessary. In general, these efforts shall include inquiry of relatives, friends, acquaintances, and employers and investigation of appropriate city and telephone directories, and the real and personal property index at the County Assessor's Office of the county of last known residence of the missing heir or beneficiary. (See CRC 7.51(d)).

2. Minors. See Prob. Code § 1460.1 and CRC 7.51(d).

C. If a Probate Code section requires the clerk to "cause notice of the hearing to be mailed," the clerk fulfills this function by requiring counsel to do the mailing. Therefore, counsel is charged with this duty. (7/1/21)

8.15 (RESERVED FOR FUTURE USE) (8.15 Repealed 7/1/21)

8.16 Notice to Foreign Consuls

Notice must be given to a recognized diplomatic or consular official as required under Prob. Code § 8113. If a devisee or heir is an American citizen residing in a foreign country, that fact should be alleged and notice to the diplomatic or consular official is not required.

Whether a country has recognized diplomatic or consular representation in the United States may be ascertained from the United States Department of State. (7/1/99, 7/1/21)

8.17 Notice to Director of Health Services

If a deceased person has received or may have received health care through the Department of Health Services, or if the decedent was the surviving spouse of a person who received that health care, notice of the decedent's death must be given to the Director of Health Services pursuant to Prob. Code §215. A copy of the proof of service or a declaration that notice is not required must be filed in all decedent's estate matters. (7/1/99)

APPOINTMENT OF EXECUTORS AND ADMINISTRATORS

8.18 Declination to Serve

If the person named in the decedent's will as executor declines to act as such, his written and signed declination to act must be filed with the Court unless evidence is produced that he is incompetent or refuses to act. (7/1/99)

8.19 (RESERVED FOR FUTURE USE) (8.19 Repealed 7/1/21)

8.20 (RESERVED FOR FUTURE USE) (8.20 Repealed 7/1/21)

8.21 (RESERVED FOR FUTURE USE) (8.21 Repealed 7/1/21)

8.22 (RESERVED FOR FUTURE USE) (8.22 Repealed 7/1/21)

8.23 Proving Wills – Declaration or Self Proving

A. The Court prefers that both formal witnessed wills and holographic wills be proven by declaration rather than by testimony. The declaration shall have a photographic copy of the will or codicil attached. (Prob. Code § 8220)

B. Proof as to the admissibility of each testamentary document must be submitted except that, in the event there is a codicil which expressly republishes the will, proof of the execution of the codicil may be deemed sufficient.

C. To avoid a continuance of the hearing, an affidavit or declaration proving the will should be filed with the Clerk at least **five (5)** Court days before the time set for the hearing of the petition for probate of will.

D. In uncontested proceedings self-proving wills need no additional proof unless requested by the Court. A will may be considered self-proving if the attestation clause contains the elements in the California Statutory Will form set forth in Prob. Code §6240 as follows:

1. The testator requested the witnesses to sign as witnesses to the testator's signature.

2. The witnesses and the testator signed in the presence of each other.

3. The testator is of sound mind and memory and does not appear to be acting under duress, menace, fraud, or undue influence.

4. The witnesses are over the age of 18 years.

5. The testator is over the age of 18 years.

6. The witnesses signed under penalty of perjury. (1/1/12, 7/1/21)

8.24 Copy of Will to Be Attached to Petition for Probate

A. If the will is holographic or handwritten, in addition to a photocopy, a typewritten copy of the will must be attached to the petition, to the original will and to the proof of holographic instrument.

B. The Court encourages reducing the copy of any original will on legal sized paper (14 inches) to standard size (11 inches). (1/1/04)

C. If the will is written in a language other than English, the Court requires a translation prepared by a translator certified to translate from the original language. (7/1/21)

8.25 (RESERVED FOR FUTURE USE) (8.25 Repealed 7/1/21)

8.26 Naming Heirs and Beneficiaries in Petition

All petitions pertaining to the administrative duties of a fiduciary must include the names of all persons and entities mentioned in the decedent's will and codicils regardless of any lack of devise or bequest to said person or entity. In addition:

A. If a trust was created by the decedent, the petition must contain a list setting forth the identification of the trustee(s) and all beneficiaries of the trust.

B. A list of contingent beneficiaries if the interest of the beneficiary is contingent as of the date of the petition, or the happening of an event, such as survivorship for a specified period.

C. A list of each person provided for in the original will whose devise has been revoked in a subsequent codicil.

D. The street address of the proposed personal representative and his or her relationship to the decedent.

E. The deceased ancestor through which second generation heirs take, along with the ancestor's relationship to decedent, when second generation heirs are listed in the petition. (1/1/10, 7/1/21)

8.27 (RESERVED FOR FUTURE USE) (8.27 Repealed 7/1/21)

8.28 (RESERVED FOR FUTURE USE) (8.28 Repealed 7/1/21)

8.29 (RESERVED FOR FUTURE USE) (8.29 Repealed 7/1/21)

8.30 (RESERVED FOR FUTURE USE) (8.30 Repealed 7/1/21)

8.31 (RESERVED FOR FUTURE USE) (8.31 Repealed 7/1/21)

8.32 (RESERVED FOR FUTURE USE) (8.32 Repealed 7/1/21)

8.33 Bonding of Personal Representatives

In the event a minimum bond is imposed by the Court, the minimum bond amount shall be $20,000. (1/1/06)

MOTIONS AND PETITIONS

8.34 (RESERVED FOR FUTURE USE) (8.34 Repealed 7/1/21)

8.35 Petitions for Ex Parte Orders

A. The Court may handle certain requests for relief without appearance (i.e. on an ex parte basis) including (but not limited to) the following:

1. Application for Withdrawal of Funds from Blocked Account;
2. Application for Appointment of Guardian ad Litem;
3. Application for Petition for Final Discharge and Order;
4. Application for any of the relief set forth in CRC 3.1207.
5. Petition for Appointment of Special Administrator.

B. Any other ex parte matter not covered above must be submitted to the Probate Clerk for review by the Probate Examiner. Within 72 hours of submission of the ex parte application, the Court will either issue an order approving or denying the requested relief, or provide a hearing date.

C. Other than as set forth above, the Court will not entertain any ex parte petition that does not comply with CRC 3.1200 through 3.1206, and is not accompanied by a declaration that makes "an affirmative factual showing … containing competent testimony based on personal knowledge of irreparable harm, immediate danger, or any other statutory basis for granting relief ex parte." CRC 3.1202€.

D. All Law and Motion ex parte matters must be approved and scheduled by the assigned judge through their courtroom clerk, prior to filing documents with the Probate Clerk's Office. For matters assigned to Department 22, the courtroom clerk may be reached at (209)530-3171. For matters assigned to Department 25, the courtroom clerk may be reached at (209)236-7894. If your matter is assigned to a different department, please call the Court's main number (209)530-3100 and follow the prompts.

E. If an ex parte petition for appointment of any conservator or a guardian is reviewed and assigned a hearing date, the Court will require five (5) days' notice has been given (Prob. Code sections 2250(e) and 2250.2 through 2250.6), unless the petitioner has shown both irreparable harm or immediate danger, and "good cause" for waiving the notice requirements.

F. Counsel requesting waiver or shortening of any notice time periods prescribed by the Probate Code must submit a Declaration of Due Diligence to the Court citing the specific notice provision at issue, setting forth facts relating to the efforts to give such

notice (or facts supporting the conclusion that it was impossible to give such notice) and explaining the good cause for waiving or shortening the time.

G. A party seeking an ex parte order – other than as set forth in A. – must submit the application and all supporting papers to the Probate Clerk not later than 2:00 p.m. the afternoon before the hearing. The Probate Clerk may reject any ex parte pleadings that do not comply with this deadline.

H. An ex parte order will not be granted unless accompanied by a verified petition (or a sworn declaration where applicable) containing facts and law to justify granting the requested relief.

I. Ex parte petitions filed in decedent's estates for the sale of stock or personal property must allege whether the property is specifically bequeathed. If bequeathed, the specific legatee must consent to the sale and the consent must accompany the petition.

J. All applications for ex parte orders must be accompanied by a separate order complete in itself and shall be presented to the Probate Court Clerk. It is not sufficient for such an order to provide merely that the application has been granted, or that the sale of property "as set forth in the petition" has been approved.
(Rule 8.35 [7/1/99, 7/1/21] amended July 1, 2025.)

8.36 Uncontested Matters

At a hearing on a verified petition oral testimony will not be permitted. All evidence should be stated in the petition, or accompanying declaration. (7/1/21)

8.37 Contested Matters

A. In the event of any contest or objection to any petition on the Probate calendar, the parties and their respective attorneys, if any, shall make a reasonable and good faith attempt to informally resolve the controversy at a face-to-face meeting, if possible, and otherwise by telephone or video conference, before any hearing of the contested petition.

B. If a contested matter can be submitted on the pleadings with argument, it will be heard at the end of the Probate appearance calendar. As time permits, brief offers of proof will be allowed.

C. Long-cause hearings in contested matters: Contested matters requiring two (2) hours or less will be heard on a date certain in the Probate Department. Contested matters

estimated to take more than two (2) hours will be set in the Probate Department and heard as scheduling permits.

D. Only those persons who have appeared in and been made parties to the proceeding will be allowed to participate in long-cause hearings. (7/1/21)

8.38 (RESERVED FOR FUTURE USE) (8.38 Repealed 7/1/21)

8.39 (RESERVED FOR FUTURE USE) (8.39 Repealed 7/1/21)

8.40 (RESERVED FOR FUTURE USE) (8.40 Repealed 7/1/21)

ORDERS

8.41 Probate Orders

A. Probate Orders

Attorneys or self-represented litigants are to prepare all orders. If counsel wish to obtain orders on matters that are approved on the day of hearing, those orders must be delivered to the Probate Unit of the Clerk's Office at least five (5) Court days prior to the hearing. The orders should be submitted separately and not attached to any other document or pleading. All orders or decrees in probate matters must be complete in themselves. They shall set forth all matters actually passed on by the Court, the date of hearing, the relief granted, the names of interested persons, and descriptions of property or amounts of money affected, with the same particularity required of judgments in civil matters.

All orders must be prepared so that the general effect may be determined without reference to the petition on which the order is based. No order shall merely recite that the petition as presented is granted.

The signature line must always be at the end of the order and not followed by any attachment. It should never be on a page by itself.

No additions or deletions are to be made to court orders after they have been signed.

All orders except for conservatorship and guardianship cases signed in open Court or in ex parte hearings and presented to attorneys for filing must be filed with the Probate Clerk's Office immediately after the conclusion of the court proceeding in which the order is signed. Surrendering an original court order to anyone other than court personnel or a member of the bar association, or failure to present a signed order to the Clerk's Office for filing immediately after the proceeding in which the order is signed, shall render that order null and void. (7/1/08, 7/1/21)

B. Inventory Review Hearing

At the time an order is made appointing a personal representative of an estate, a review hearing will be scheduled six (6) months from the date of appointment. The purpose of this hearing is to monitor the filing of the Inventory and Appraisal. All inventories are due four months from the date of issuance of Letters. Prob. Code § 8800(b). (1/1/08, 7/1/21)

FAMILY ALLOWANCE

8.42 When Court Approval Not Required

If the estate is being administered under the Independent Administration of Estates Act, the personal representative may pay a reasonable family allowance in accordance with Prob. Code § 10535. (7/1/99, 7/1/21)

8.43 Duration

The duration of an order for family allowance is limited to six (6) months if no inventory and appraisal has been filed and is limited to one year if an inventory and appraisal has been filed. For good cause shown in writing, such orders may be renewed. The order shall state the commencement date and the period payments are to be made; i.e., "commencing with date of death and continuing until the inventory is filed, but not to exceed six (6) months." (7/1/99, 7/1/21)

8.44 Contents of Request for Family Allowance

The application for an allowance shall include at least the following data:

A. The applicant's income from sources outside the estate,

B. An itemized list of the applicant's assets, and a statement of the appropriate value of each,

C. A general statement of the assets and of the liabilities of the estate,

D. The date of the application,

E. The date of the decedent's death,

F. A general statement of other applications (if any) on file for allowances. (7/1/99, 7/1/21)

8.45 Ex Parte Orders-When Permitted

If the petition for family allowance is made before an inventory and appraisal has been filed, it may be presented ex parte to the Court unless it is a petition for a second or additional family allowance, in which event it shall be noticed and placed on the calendar.

The petition for family allowance will not be granted ex parte under either of the following circumstances:

A. If the petition is made more than six (6) months after the administrator or executor has qualified, or

B. If the petitioner is someone other than the personal representative and the petition is not accompanied by either of the following documents signed by the personal representative: (1) Consent to the allowance or (2) Waiver of Notice. (7/1/99, 7/1/21)

8.46 Late Requests

Requests for a family allowance should be made in a timely fashion. The Court discourages requests for retroactive payment of family allowance beyond two (2) months.

If the application is made more than six (6) months after the administrator or executor has qualified, it must be noticed and placed on the calendar. (7/1/99, 7/1/21)

CREDITORS CLAIMS

8.47 (RESERVED FOR FUTURE USE) (8.47 Repealed 7/1/21)

8.48 (RESERVED FOR FUTURE USE) (8.48 Repealed 7/1/21)

8.49 (RESERVED FOR FUTURE USE) (8.49 Repealed 7/1/21)

8.50 (RESERVED FOR FUTURE USE) (8.50 Repealed 7/1/21)

8.51 (RESERVED FOR FUTURE USE) (8.51 Repealed 7/1/21)

8.52 (RESERVED FOR FUTURE USE) (8.52 Repealed 7/1/21)

SALES OF PROPERTY

8.53 Sale or Encumbrance of Specifically Devised or Bequeathed Property

No specifically devised or bequeathed real property shall be encumbered or offered for sale unless first approved by the Court after not less than **ten (10)** days' notice to the specific devisee or legatee, or unless the consent of the devisee or legatee is on file. (7/1/99)

8.54 Appraisal of Real Property Within One Year

Real property must have been appraised within one (1) year of the time of sale. Since the first appraisal reflects the value at the time of death of the decedent, if the date of death is more than one year prior to the date of sale, a reappraisal for sale is required. (7/1/99, 7/1/21)

8.55 Published Notice of Sale of Real Property

Unless a personal representative has full authority under the Independent Administration of Estates Act or a will exists which specifically grants an executor the authority to sell without notice (Prob. Code § 10303), a publication of notice of sale of real property is required. A power of sale given by a will to a named executor does not extend to an administrator with will annexed unless the sale is authorized by the will.

If publication of the notice of sale is performed, the following requirements shall be met:

A. Any sale must be in substantial accordance with the terms and conditions set forth in the notice.

B. The published notice of sale of real property constitutes a solicitation for offers. A petition must not be filed and an offer must not be accepted prior to the date of sale specified in the published notice. If this situation occurs, the sale will be denied.

C. When the personal representative accepts an offer and files a petition for confirmation of sale, there cannot be a material variance in the terms of sale as between the notice and the petition. Also, if the notice solicits cash offers only, the Court cannot confirm a sale on terms other than cash.

D. In conservatorships and guardianships, absent an order under Prob. Code § 2591(c) granting the conservator or guardian the independent power to sell real property of the estate, publication shall be required. (7/1/09, 7/1/21)

8.56 Mailed Notice of Sale

For all sales, notice of hearing on the petition for confirmation and a copy of the petition must also be served by mail at least fifteen (15) days before the hearing on the persons designated in Prob. Code § 1220 and on each of the proposed purchasers (Prob. Code § 10308(c)). (7/1/99, 7/1/21)

8.57 Description of Property

All legal notices for the sale of real property and the petition for confirmation of sale shall contain, in addition to the legal description, the common street address of the property. If there is no common street address, some indication of the location of the property shall be included. (7/1/99)

8.58 Bond on Sale of Real Property

If a bond or additional bond is required in an order confirming sale of real estate, the Court must not file the order until the additional bond is filed. (1/1/02)

8.59 Broker's Commission on Sale of Real Property

Upon the confirmation of the sale of improved real property, a broker's commission of a maximum 6 percent (6%) of the gross sales price will be allowed. For the sale of unimproved real property, the maximum allowable commission will be ten percent (10%). On a showing of good cause, the Court may consider other terms. (7/1/99, 7/1/21)

8.60 Deposit

Bids for the purchase of real property must be accompanied by a minimum deposit of ten percent (10%) of the purchase price unless the buyer's committed loan proceeds exceed ninety percent (90%) of the purchase price. In addition, overbids shall be accompanied by a cashier's check, equal to ten percent (10%) of the amount of the first overbid. On a showing of good cause, the Court may consider other terms. (7/1/99)

8.61 (RESERVED FOR FUTURE USE) (8.61 Repealed 7/1/21)

8.62 (RESERVED FOR FUTURE USE) (8.62 Repealed 7/1/21)

8.63 Conditional Sales of Real Property

The Court will ordinarily 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). However, if unusual and extraordinary circumstances exist and the necessity and advantage to the estate are set forth in detail the Court may approve such a sale. (7/1/99)

8.64 Sales of Real Property When Buyer Assumes Encumbrance

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 contingent liability. The return should set forth the facts pertinent to such assumption agreement and any contingent liability. (7/1/99)

ACCOUNTS AND REPORTS

8.65 Summary, Schedules, Supporting Information, Summary of Account Form

A. All accountings shall contain a Summary of Account (Prob. Code §1061).

The Summary of Account shall contain and be in the format as set forth below. It shall be the first page of the account and should not be in the body of the report. (1/1/22)

SUMMARY OF ACCOUNT

This account covers the period from _____ to _____ inclusive.

CHARGES

Property on hand at beginning of account period (or inventories)	$_____
Additional property received (or supplemental inventories)	$_____
Receipts (Schedule_____)	$_____
Gains on sale or other disposition (Schedule_____)	$_____
Net income from trade or business (Schedule_____)	$_____
Total Charges	$_____

CREDITS

Disbursements (Schedule_____)	$_____
Losses on sale or other disposition (Schedule_____)	$_____
Net loss from trade or business (Schedule_____)	$_____
Distributions (Schedule_____)	$_____
Property on hand at close of account period (Schedule_____)	$_____
Total Credits	$_____

Total charges must equal total credits (Prob. Code § 1061(10)(c).

All accounts filed in decedent estates, guardianship, conservatorship and trust accounts, shall comply with Prob. Code § 1060 et seq., Prob. Code §2620 et seq., and Prob. Code § 10900 et seq.

For additional requirements in conservatorship and guardianship matters refer to **Local Rules 8.124 and 8.125.**

For additional requirements in decedents' estates and in trust matters, refer to **Local Rule 8.83.**

B. The following schedules are required to be attached to the accounting (Prob. Code §1062):

1. Receipts showing the nature and purpose of each item, the source of the receipt, and the date thereof;

2. Disbursements, including the nature or purpose of each item, the name of the payee, and the date thereof;

3. Net income or loss from a trade or business, which shall be sufficient if it provides the information disclosed on Schedules C or F of the federal income tax return;

4. Calculation of gains or losses on sale or other disposition of assets;

5. Distributions of cash or property to beneficiaries, ward or conservatee, showing the date and amount of each, with the distribution of property shown at its carry value;

6. Itemized list of property on hand, describing each item at its carry value.

Reference should be made to Prob. Code §1063 for additional schedules required to be attached to all accountings.

C. Petition for approval of Account/Contents Filing: Additional information to be provided either in the body of the petition or in separate schedules or exhibits with a reference to the schedules or exhibits in the body of the petition (Prob. Code § 1064).

1. A description of all:

   a. Sales

   b. Purchases

   c. changes in the form of assets

   d. other transactions occurring during the period of the account that are not otherwise readily understandable from the schedule. (1/1/22)

2. An explanation of any unusual items appearing in the account.

3. Statement of all compensation paid to the fiduciary or to the attorney for the fiduciary other than pursuant to a prior Court order.

4. A statement disclosing any family or affiliate relationship between the fiduciary or the attorneys for the fiduciary and any agent hired by the fiduciary during the account period.

   Per Probate Code §1064 (a)(5); 1064(b)(c): An allegation disclosing whether all of the cash has been invested and maintained in interest bearing accounts or in investments authorized by law or the governing instrument, except for an amount of cash that is reasonably necessary for the orderly administration of the estate. (1/1/22)

D. The filing of an account shall be deemed to include a petition requesting its approval, and may include additional petitions for authorization, instruction or confirmation authorized by the code, including, but not limited to, a request for an order for compensation of the fiduciary and the attorney for the fiduciary.

E. For purpose of this section, "family" means a relationship created by blood or marriage. For purposes of this section, "affiliate" means an entity that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with, the fiduciary. (1/1/08)

8.66 Trust and Specifically Bequeathed Property-Allocation of Receipts and Disbursements

(Refer to Prob. Code §1063.) (7/1/99)

8.67 Debts Paid Without Verified Claims

Payment of debts of the decedent arising upon contract or funeral expenses of the decedent must be supported by verified claims presented or filed within the statutory period and allowed and approved. This rule also applies to debts and funeral expenses paid by the personal representative from his own funds, in which case a claim by the representative for reimbursement must be presented and filed in the usual way, supported by a receipt or other sufficient evidence of payment.

Although a verified claim has not been filed, the Court may, under Prob. Code §§9154 and 11005, approve the payment of a debt if the accounting shows that such debt was paid during the time within which such claim could have been filed and the estate is solvent. Such approval, however, is discretionary with the Court and must be justified by allegations in a verified petition or by testimony in open court as to the factors referred to in Prob. Code §9154. [See Estate of Erwin, 117 C.A.2d 203 (1953).] (7/1/99)

8.68 Withholding Funds from Distribution

If the Petition for Final Distribution is approved with a reserve of less than $5,000, the personal representative need not account for the reserve and may be discharged on the filing of an Ex Parte Petition for Final Discharge (Judicial Council form DE-295) that attaches conformed copies of the filed receipts only for the approved distribution. If the Petition for Final Distribution reserves an amount equal to or greater than $5,000 but less than $20,000, the personal representative must file a supplemental declaration setting forth the disposition of the reserve before or concurrently with the Ex Parte Petition for Final Discharge. If the reserve amount is $20,000 or more, a supplemental accounting of the reserve must be filed and set for hearing and notice of the hearing must be given in

the same manner as for any regular accounting. The Ex Parte Petition for Final Discharge may not be filed until the supplemental accounting is approved.

(Rule 8.68 (1/1/10) amended January 1, 2025)

8.69 Petition for Distribution Without an Account -Waivers of Account

Although a preliminary or final distribution may be made without an accounting, sufficient facts must be set forth in the petition to allow the Court to ascertain that the estate is solvent. The Court will not permit distribution in an insolvent estate without an account.

The effect of the waiver is to make it unnecessary to list the detail of receipts and disbursements. All other matters contained in Prob. Code §§1062, 1063 and 10900 must be presented in the report. Creditors' claims, property on hand to be distributed, computation of attorney's fees and executor's fees, and costs of administration, must be listed in the report. (Also refer to **Local Rule 8.83**).

The calculation of statutory commissions and/or attorney's fees must include losses on sales and include gains on sales; schedules of receipts and/or gains/losses on sale will be required even when an account has been waived where an amount other than the amount of the Inventory and Appraisal is used as a basis for calculating fees or commissions.

A waiver of account or an acknowledgment that an interest has been satisfied on final distribution must comply with Prob. Code § 10954. A notarized acknowledgement of the signature of the heir or beneficiary shall be included on each waiver of account.

(Rule 8.69 [7/1/08] amended January 1, 2026)

8.70 Signing of Account

Any account and report required to be filed by a fiduciary must be personally signed by the fiduciary. When more than one fiduciary is serving, the account and report must be signed by each of them, or the absence of one signature satisfactorily explained. (7/1/99)

8.71 Vouchers

Vouchers supporting accounts are not to be filed with the Clerk unless the Court orders them filed. (Prob. Code § 10900) (7/1/99)

8.72 Damages for Wrongful Death, Physical Injury and Property Damage

Damages recovered as a result of a decedent's wrongful death, as distinguished from physical injury or property damage incurred by the decedent, are held by the fiduciary on behalf of the decedent's statutory beneficiaries and are not part of the estate. (CCP § 377.60) However, if an executor or administrator collects damages and costs arising out of physical injury or property damage incurred by the decedent, they shall hold such money in their representative capacity as property of the estate, and such damages must be inventoried. (CCP§ 377.20) (7/1/99, 7/1/21)

FEES AND COSTS

8.73 (RESERVED FOR FUTURE USE) (8.73 Repealed 7/1/21)

8.74 (RESERVED FOR FUTURE USE) (8.74 Repealed 7/1/21)

8.75 (RESERVED FOR FUTURE USE) (8.75 Repealed 7/1/21)

8.76 (RESERVED FOR FUTURE USE) (8.76 Repealed 7/1/21)

8.77 (RESERVED FOR FUTURE USE) (8.77 Repealed 7/1/21)

8.78 (RESERVED FOR FUTURE USE) (8.78 Repealed 7/1/21)

8.79 (RESERVED FOR FUTURE USE) (8.79 Repealed 7/1/21)

8.80 (RESERVED FOR FUTURE USE) (8.80 Repealed 7/1/21)

8.81 (RESERVED FOR FUTURE USE) (8.81 Repealed 7/1/21)

DISTRIBUTION AND DISCHARGE

8.82 Petition or Status Report Required Filing Time

Within **one (1)** year from the date of issuance of letters in estates not required to file a federal estate tax return and within **eighteen (18)** months from the date of issuance of letters in estates where such return is required, the executor or administrator must either petition for final distribution of the estate or file a verified report of status of administration. If such report is filed, it shall show the condition of the estate and the reasons why the estate cannot be distributed and closed. Said report shall comply with Prob. Code § 12200.

A status review hearing will be set six (6) months from the date of the successful inventory review hearing. The purpose of this status review hearing is to monitor the case to verify that either a petition for final distribution or a status report has been filed. (1/1/08)

8.83 Report of Administration

The following shall be included in a report of administration, whether filing an account or a waiver of account:

A. Whether notice has been given to reasonably ascertainable creditors. Prob. Code § 10900.

B. Schedule of Creditor claims filed, including the date of filing the claim, the name of the claimant, the amount of the claim, and the action taken on the claim.

C. An allegation that all taxes due or owing by the estate have been paid or arrangements made.

D. An allegation that the requirements of the Revenue and Taxation Code §480 have been met. Prob. Code §8800(d)

E. An allegation that a notice of death has been provided to the Department of Health Services as required by Prob. Code §§215 and 9202, or that no such notice if required.

F. Petitions for distribution must contain allegations regarding whether or not the general personal representative or estate attorney knows or has reason to believe that an heir is or has previously been confined in a prison or facility under the jurisdiction of the Departments or Corrections or Department or Youth Authority or confined in any county or city jail, road camp, industrial farm, or other correctional facility. If

distribution will be made to such person, the petition for distribution must contain an allegation that no such notice is required or that a notice of death has been provided to California Victim Compensation and Government Claims Board as required by Prob. Code § 9202, and whether or not the Director of the California Victim Compensation and Government Claims Board has demanded collection of any outstanding restitution fines or orders. (1/1/23)

G. An allegation that a notice of administration has been provided to Franchise Tax Board as required by Prob. Code §§1215 and 9202, or that no such notice is required.

H. An allegation as to the character of the property, whether separate or community.

I. An allegation that all cash in the estate has been invested in interest bearing accounts, except for an amount of cash that is reasonably necessary for the orderly administration of the estate.

J. A computation of the attorney fees and representative commissions requested, including the fee base, including gains or losses on sales. If the fee or commission is being waived, the petition shall so state.

K. An itemization of all costs of administration, whether or not reimbursement is requested.

L. The caption of a petition must be all-inclusive as to the relief sought. This includes, but is not limited to, a request for final distribution, distribution to a trust, request for statutory or extraordinary fees or commissions.

M. A full and complete description of all assets on hand, including the legal description, assessor's parcel number, carry value and current fair market value. There shall also be a schedule setting forth the proposed distribution.

N. In any petition for distribution, all independent acts taken without prior Court approval shall be set forth. If the act required giving notice of proposed action, the notice with proof of service attached shall be filed with the clerk. (1/1/09, 7/1/21)

8.84 Distribution to Minors

The Court will require the following documents to be on file before making an order for distribution:

A. If distribution is to be made to the guardian of a minor, a certified copy of the letters of guardianship;

B. If a minor's estate is to be deposited in a blocked account, MC-355, "Order to Deposit Funds in Blocked Account" shall be presented at the hearing for distribution. (7/1/21)

C. If distribution is to a custodian under the California Uniform Transfers to Minors Act (Prob. Code §3900 et seq.), the written notice of acceptance of the office by the custodian as described on Prob. Code §6347 (b).

D. If distribution is to be made to a parent for the benefit of a minor under Prob. Code §3401, a copy of the written assurance, pursuant to Prob. Code §3300 by such parent. (1/1/04, 7/1/21)

8.85 (RESERVED FOR FUTURE USE) (8.85 Repealed 7/1/21)

8.86 (RESERVED FOR FUTURE USE) (8.86 Repealed 7/1/21)

8.86.1 Distribution Care-of Attorney

The Court will not order distribution of an heir's or devisee's interest in the estate care-of his or her attorney, unless the written consent of the heir or devisee is filed with the Court. (1/1/09)

8.87 Distribution Pursuant to Agreement

If the distributees seek distribution in a manner other than that provided by the will or by the laws of intestate succession, that fact should be alleged, and a written agreement (signed by all involved distributees with signatures acknowledged before a notary public) must be filed. If an Agreement for Distribution contains an assignment of interest from one party to another, the agreement must contain specific wording as to the assignment or a separate form of Assignment of Interest which has been signed and acknowledged before a Notary Public must be filed in the proceeding.

Note: If any such distributee is a minor or is under disability, the agreement must be signed by the minor's legal guardian. Either earlier Court approval of the agreement in the guardianship proceeding must be proved in the probate proceeding or a petition for approval of the agreement in both the guardianship proceeding and the probate proceeding must be brought on for hearing at the same time. (7/1/08)

8.88 Disclaimers

A copy of any disclaimer must be on file prior to the hearing of any petition for distribution of any affected asset. (7/1/99)

8.89 (RESERVED FOR FUTURE USE) (8.89 Repealed 7/1/21)

8.90 (RESERVED FOR FUTURE USE) (8.90 Repealed 7/1/21)

8.91 Orders Dispensing with Accounts

If a guardianship or conservatorship estate meets the requirements of Prob. Code § 2628, a petition to waive accounts should be submitted. The petition may be submitted ex parte. A suggested form (PR-002 – "Ex Parte Petition to Dispense with Accounts and Order Thereon") is available on the Court's website at https://www.stanislaus.courts.ca.gov/under "Probate Forms". (7/1/99, 7/1/21)

8.92 Discharge or Account Review Hearing

A. At the time an order for final distribution is made, a review hearing will be scheduled for the purpose of monitoring the filing of receipts on distribution and, if appropriate, the filing of a request for discharge of the personal representative.

B. In matters where there are retains of less than $20,000, the discharge review hearings will be scheduled six (6) months from the date of the order of final distribution.

C. In matters where there are retains of $20,000 or more, an account review hearing for filing the accounting required by Local Rule 8.68 will be scheduled six (6) months from the date of the order of final distribution.

(Rule 8.92 [1/1/11, 7/1/21] amended January 1, 2025)

JOINT TENANCIES AND LIFE ESTATES

8.93 Proceedings in Name of Decedent

A petition to establish the fact of death must be filed in the name of the deceased person whose interest has been terminated. The petition must be verified. (7/1/99)

8.94 Separate Petition Preferred

Probate Code §200, et seq. authorizes a petition to establish fact of death to be included in a verified petition for probate of will or for letters of administration. However, attorneys are encouraged to file a separate petition under the same number in order to avoid administrative difficulties. No such separate petition may be filed after the filing of a petition for final distribution; and, if a petition to establish fact of death is then filed, it should be in a new proceeding under a new number. (7/1/99)

8.95 Obtaining Order

The order can be obtained ex parte if the petition is accompanied by:

A. An affidavit or declaration by petitioner that petitioner has no reason to believe that there is any opposition to, or contest of the petition.

B. A death certificate.

C. A copy of the deed or other document that created the joint tenancy, and

D. The proposed order.

E. Filings not accompanied by these documents must be set for hearing in accordance with the appropriate Probate Code section.

F. If a check for the certification fee and a stamped self-addressed envelope are furnished, the Clerk will obtain the Judge's signature, file the order, certify the copy, and mail it to the petitioner's attorney. (7/1/99)

8.96 Fees

There is no provision in the code for the determination by the Probate Court of attorneys' fees in proceedings for termination of joint tenancy or a life estate. No request for fees for services of this character shall be included in any petition for fees in an estate matter, and if so included, will be disallowed. (7/1/99)

PETITIONS SETTING ASIDE ESTATES AND SPOUSAL PROPERTY PETITIONS

8.97 Petition to Set Aside Under Probate Code §6600-§6613 or For Letters

A petition to set aside under Prob.Code §6600, et seq. may be filed as a separate petition or may be worded in the alternative, i.e., the petition may pray for admission of the will and for letters testamentary or for letters of administration if the petition to set aside should be denied. If a petition to set aside is filed separately and concurrently with a petition for admission of the will or for letters of administration, the petitions should be set for hearing at the same time. (7/1/99)

8.98 Spousal Property Petition-Probate Code §13650

A. The petition must list, on separate schedules, the decedent's interest and the surviving spouse's interest in the property. For example, if it is alleged the decedent and surviving spouse owned as community property a piece of real property, the decedent's undivided one-half (1/2) interest in such property should be listed on one schedule and the surviving spouse's one-half (1/2) interest in the same property listed on another schedule.

B. In addition to the allegations required by law, a petition to determine and/or confirm community property should contain as many of the following allegations as are relevant:

1. Date and place of marriage to surviving spouse.

2. Whether or not decedent owned any real or personal property on date of marriage, and if so, descriptions and appropriate values.

3. Decedent's net worth at time of marriage.

4. Whether decedent received any property after date of marriage by gift, bequest, devise, descent, proceeds of life insurance or joint tenancy survivorship, and if so, descriptions, approximate value and date of receipts.

5. Whether any property so received by decedent under (d) above is still a part of this estate, and if so, identification of such property.

6. Date decedent first came to California after marriage.

7. Any additional facts upon which claim of community property is based. If the claim of community property is based on any document, a copy thereof

(preferably a copy showing signatures) should be included as an exhibit in support of the petition. (7/1/99, 7/1/21)

8. When the petition involves real property, a copy of a deed demonstrating current title shall be attached as an exhibit in support of the petition. (7/1/21)

8.99 Petition to Succeed to Personal Residence Probate Code § 13150

A. If the distribution requested in the petition is pursuant to the decedent's will, a proof of subscribing witness shall be filed in the proceedings.

B. When the petition involves real property, a copy of a deed demonstrating current title shall be attached as an exhibit in support of the petition.

(Rule 8.99 [7/1/99, 7/1/21] amended January 1, 2026)

INDEPENDENT ADMINISTRATION

8.100 Notice and Publication Requirements

A. If the request for authority to administer the estate under the Independent Administration of Estates Act (IAEA) is made by separate petition, notice must be given for the period and in the manner applicable to the petition for appointment. (Prob. Code § 10451).

B. If notice of proposed action is required prior to performance of an act under IAEA authority, the original of the Notice of Proposed Action, with attached affidavit of mailing, shall be filed with the Court. (7/1/99)

TRUSTS

8.101 (RESERVED FOR FUTURE USE) (8.101 Repealed 7/1/21)

8.101.1 Special Needs Trust Accountings

When rendering an accounting in a Special Needs Trust, notice must be given to the California State Department of Health Care Services, State Department of State Hospitals, and the State Department of Developmental Services. (7/1/09, 7/1/23)

8.102 (RESERVED FOR FUTURE USE) (8.102 Repealed 7/1/21)

8.103 (RESERVED FOR FUTURE USE) (8.103 Repealed 7/1/21)

8.104 (RESERVED FOR FUTURE USE) (8.104 Repealed 7/1/21)

8.105 (RESERVED FOR FUTURE USE) (8.105 Repealed 7/1/21)

GUARDIANSHIPS

8.106 Consolidation of Adoption and Guardianship Proceedings
See Family Law Rules, Rule 7.27. (7/1//21)

8.107 Appointment of Temporary Guardian
See Family Law Rules, Rule 7.27. (7/1//21)

8.108 Reconsideration of Temporary Guardianships
See Family Law Rules, Rule 7.27. (7/1//21)

8.109 Appointment of General Guardian
See Family Law Rules, Rule 7.27. (7/1//21)

8.110 Notice of Hearing
See Family Law Rules, Rule 7.27. (7/1//21)

8.111 Investigation Fees re: Guardian
See Family Law Rules, Rule 7.27. (7/1//21)

8.112 Guardianship of the Person-Documents to Court Investigator
See Family Law Rules, Rule 7.27. (7/1//21)

8.113 Mediation of Guardianship
See Family Law Rules, Rule 7.27. (7/1//21)

CONSERVATORSHIPS

8.114 Appointment of Temporary Conservator

A. If a Temporary Conservatorship is needed, a Petition for Appointment of a Temporary Conservator must be filed concurrently with, or subsequent to, the filing of a petition for appointment of a general conservator. Notice of an ex parte application is required to be given pursuant to Prob. Code § 2250(e).

B. Prior to the date set for the ex parte hearing, all petitions and documents pertinent to the temporary application shall be reviewed by the Court Investigator and the Probate Examiner. The petition shall state the facts giving rise to the need for the temporary conservatorship.

A petition will go to the judge only if it is procedurally correct and if the required notice has been given or dispensed with.

Unless some degree of urgency is present, the Court ordinarily will not entertain an ex parte application for appointment of temporary conservator.

If no opposition is presented and the matter appears appropriate, the Court may grant the petition. (7/1/13)

8.115 Appointment of General Conservator

Petitions for appointment of general conservators are set on calendar for hearing at 8:30 a.m. Tuesday through Thursday.

A. Ex parte hearings before the Judge are set as directed by the Court. (7/1/21)

B. Subpoenas for long cause matters set out 30 days or more must be personally served on the applicable Court Investigator 30 days prior to the hearing along with the required $275.00 payable to the Stanislaus County Superior Court. The Court finds that 30 days is a reasonable period of time as required by statute.

Petitions for appointment of a conservator shall be set for hearing at least **forty-five (45)** days after the date of filing. Although only a **fifteen (15)** day notice is required by the Probate Code, the additional time is necessary to insure that the proceeding is not delayed because the Court Investigator did not have sufficient time to complete the investigation. (7/1/13, 7/1/21)

8.116 Investigation Fees re: Conservator

When a petition requests appointment of a conservator of the person or estate, a conservatorship investigation fee must be paid to the clerk in addition to the regular filing fee. Counsel and parties are advised to contact the Clerk's Office for the amount of the current investigation fee. If it appears that the payment of the fee would cause a hardship, the fee may be waived upon application to the Court. (7/1/99)

8.117 Conservator's Handbook

Each proposed conservator (including proposed temporary conservators) must purchase the Conservator's Handbook from the Probate Division of the Clerk's Office before the Court will consider the person's petition for appointment.

The Public Guardian, corporate fiduciaries, banks and other entities authorized to conduct the business of a trust company are exempt from this requirement. All other proposed conservators, including private professional conservators, must meet this requirement once. (7/1/13)

8.118 Proceedings for a Proposed Transaction Probate Code § 3100 et. seq.

Before a petition for an order authorizing a proposed transaction can be granted, the Court must make several findings, including those listed in Probate Code § 3144, and specifically that one spouse lacks the legal capacity to complete the transaction and that the other spouse either has legal capacity or has a conservator. The petition and order shall include a request for those findings.

In order for the Court to make a finding that a spouse lacks legal capacity, there must be presented with Petition a declaration from a doctor or medical practitioner that complies with Probate Code § 810, 811 and 812. The declaration must specifically state that the person lacks the capacity to make a decision or perform the specific act required to complete the transaction. (1/1/02)

8.119 Substituted Judgment – Special Needs Trust Probate Code § 2580

Any party filing a petition for substituted judgment must use due diligence to fully inform the Court of all relevant circumstances. The petitioning party must use due diligence to inform the Court of everything a reasonable person in the conservatee's position would have wanted to know before deciding whether or not a proposed action should be taken.

The Court may appoint counsel for the conservatee. If the matter is contested, the Court may also order the Court Investigator to investigate and report to the Court.

If the Court grants a petition for the exercise of substituted judgment, the order after hearing shall contain the findings required by Probate Code § 2582.

If a trust is established pursuant to the substituted judgment statutes for a conservatee, the Court will require annual accountings of all trust assets and the trust shall remain under the jurisdiction of the Probate Court. (7/1/99, 7/1/21)

GUARDIANSHIPS AND CONSERVATORSHIPS

8.120 Independent Powers

The Court may, on the petition of the conservator or guardian, either at the time of appointment or later, grant additional independent powers to the conservator or guardian as authorized by Probate Code §§ 2590 and 2591. Additional independent powers are not lightly granted. The petition must state for each Probate Code § 2591 power requested, the facts and reasons which justify the independent exercise of the power. Additionally, if the power to sell or encumber a conservatee's present or former personal residence is requested, the information required under Probate Code § 2540(b) must be included in the petition by way of a declaration the first time the conservator seeks authority to encumber, list or sell the conservatee's present or former personal residence. The Court will grant only those independent powers necessary or proper under the specific circumstances of each case. Any powers so granted must be set forth at length in the order and in the letters of conservatorship.

Where the power is granted to sell real property (thereby eliminating the need to publish notice of sale), the Court requires the sale to be confirmed by the Court. (7/1/99)

8.121 (RESERVED FOR FUTURE USE) (8.121 Repealed 7/1/21)

8.122 (RESERVED FOR FUTURE USE) (8.122 Repealed 7/1/21)

8.123 Inventory and Appraisement

An inventory and appraisal of the estate, as of the day of appointment, shall be filed by the guardian/conservator with the Clerk of the Court within ninety (90) days after the appointment unless the Court has granted a petition for further time for filing (Prob. Code § 2610). (1/1/04, 7/1/21)

8.124 (RESERVED FOR FUTURE USE) (8.124 Repealed 7/1/21)

8.125 Accounts – Matter to Be Included

All accounts must include the information required by Prob. Code §§2620 and 1060 et. seq.

Market values for assets without a ready market shown on the schedule of estimated market values required pursuant to Prob. Code § 1063(a) should not reflect changes from carry value unless the method of evaluation is fully explained. If there is no reasonable method of valuation that complies with Prob. Code § 1063(a), but there has been a

significant event that affects the value of the asset, such as a flood or other damage, the event should be disclosed in footnote to the schedule.

Where there are multiple wards joined in a single guardianship proceeding an account shall reflect a separate accounting for each of the respective wards.

A copy of the bank statements which include the ending date of the accounting period for each bank account, mutual fund account, brokerage account or other investment account shall be attached to every accounting filed.

Final accounts for deceased wards or conservatees shall include separate accounts for transactions before the date of death and transactions after the date of death in accordance with Prob. Code § 2620. If the distribution upon termination of guardianship or conservatorship of the estate is to be made to a fiduciary appointed in another Court action, such as a probate estate, a certified copy of the Letters of Appointment shall be filed with the account. If distribution is to be made pursuant to Prob. Code § 13100, the affidavit or declaration required therein shall be filed with the report. (1/1/08, 7/1/21)

8.126 Report by Court Investigator

The Court Investigator shall file a report with the Court in respect to each accounting filed unless the conservatee is deceased. In addition to those requirements set forth in Prob. Code §§ 1513, 1826, 1894, 1951 and 2684, the Investigator shall review the account to ascertain that it is in compliance with Prob. Code § 1060 et. seq. and whether the disbursements are appropriate. (1/1/08, 7/1/21)

8.127 Dispense with Account – When Permitted

A. The Court will consider dispensing with accounts so long as the estate of the ward or conservatee meet the requirements of Prob. Code § 2628. In certain circumstances, the Court may approve an order dispensing with accounts on an ex parte basis. In order to avoid additional expense to the estate, a party may make such an application using optional Local Form PR-002 "Ex parte Petition to Dispense with Accounts and Orders Thereon". This form is available on the Court's website at https://www.stanislaus.courts.ca.gov/. (Click on the "Divisions" tab, then choose "Probate" from the drop-down menu and click on "Probate Forms" in the "Related Links" section.)

Final Accounts of guardianship estates will not ordinarily be waived unless all funds are in a blocked account. Final accounts will not be waived in guardianship or conservatorship estates where a bond has not been posted.

B. In the instance of funds being placed in a blocked account, the Court may dispense with accounts upon verification from the bank that the account is blocked. (7/1/99, 7/1/21)

8.128 (RESERVED FOR FUTURE USE) (8.128 Repealed 7/1/21)

8.129 (RESERVED FOR FUTURE USE) (8.129 Repealed 7/1/21)

8.130 (RESERVED FOR FUTURE USE) (8.130 Repealed 7/1/21)

8.131 (RESERVED FOR FUTURE USE) (8.131 Repealed 7/1/21)

FUNDS BELONGING TO MINORS

8.132 (RESERVED FOR FUTURE USE) (8.132 Repealed 7/1/21)

8.133 (RESERVED FOR FUTURE USE) (8.133 Repealed 7/1/21)

8.134 (RESERVED FOR FUTURE USE) (8.134 Repealed 7/1/21)

8.135 (RESERVED FOR FUTURE USE) (8.135 Repealed 7/1/21)

8.136 (RESERVED FOR FUTURE USE) (8.136 Repealed 7/1/21)

OTHER PROTECTIVE PROCEEDINGS

8.137 Appointment of Counsel for Respondents in CARE Act Proceedings

A. Purpose and Scope

This rule sets forth the procedures to be followed by the Stanislaus Superior Court for the appointment of counsel for respondents as mandated by California Rules of Court Rule 7.2230.

B. Initial Determination

Upon the court's determination that a petitioner has made a prima facie showing that the respondent is or may be a person described by section 5972, the court shall initiate the process for the appointment of counsel for the respondent in accordance with the procedures set forth in this rule.

C. Appointment Procedure

1. The court shall first seek to appoint a qualified legal services project to represent the respondent. The clerk of the court shall maintain a list of qualified legal services projects that have agreed to accept CARE Act appointments from the court.

2. If no qualified legal services project is available or has agreed to accept CARE Act appointments from the court:

    (a) The court shall appoint the Stanislaus County Public Defender (Public Defender) to represent the respondent. The Public Defender shall notify the court within two (2) Court days of receiving notice of appointment that the appointment creates a conflict of interest.

    (b) If the Public Defender declares a conflict and is unable to represent the respondent, the court shall appoint the Stanislaus County Alternate Defender (Alternate Defender).

E. Duration of Representation

The appointed counsel's representation of the respondent shall continue until the conclusion of the proceedings unless otherwise ordered by the court or substituted by other counsel.

F. Training and Qualification

All attorneys appointed under this rule must meet any training and qualification requirements established by the California Judicial Council or by other applicable law or rule.

(Rule 8.137 adopted January 1, 2024)

8.138 (RESERVED FOR FUTURE USE) (8.138 Repealed 7/1/21)

8.139 (RESERVED FOR FUTURE USE) (8.139 Repealed 7/1/21)

8.140 (RESERVED FOR FUTURE USE) (8.140 Repealed 7/1/21)

ADOPTIONS AND RELATED MATTERS

8.141 General

Upon the filing of any adoption petition or adoption-related matter (including termination of parental rights and freedom from custody and control), the clerk of the Court will send notice of pendency of action to the appropriate investigating agencies. Petitioners are responsible for submitting all moving papers, the appropriate fees, and all additional information required, to the investigating agency. (1/1/04)

8.142 Finalization

Adoptions may not be set for finalization hearing until all of the following have been completed:

A. The written consents of both birth parents, if living, have been filed with the Court by the Petitioners or by the adoption agency, or all birth parents' rights have been terminated and the appeal period has expired on the order terminating parental rights (an exception is required by termination cases filed under Family Code § 8604). Termination of parental rights is required prior to adoption finalization in every case where a living parent does not consent, even if the identity or location of the non-consenting parent is unknown. (7/1/21)

B. The adoption agency or investigating agency has filed with the Court its written report to recommend granting or denying the petition, and the agency has also filed with the Court the completed and signed Court Report of Adoption (State Form VS-44).

C. Petitioners have submitted to the adoption clerk an unsigned Consent and Agreement to Adoption; the proposed Decree of Adoption; and a Request for Default or Uncontested Hearing (Stanislaus County Local Form). (7/1/99)

8.143 Independent Adoptions

Within thirty (30) days of filing, Petitioners shall be responsible for forwarding a file marked copy of the adoption petition to the appropriate District Office of the State Department of Social Services. For Stanislaus County residents, this is: SDSS Adoptions Branch, Oakland Regional Office, 1515 Clay Street, Suite 1204, Oakland, CA 94612; tel: (510) 622-2650. (7/1/99, 7/1/21)

8.144 Agency Adoptions

Within **thirty (30)** days of filing, Petitioners are responsible for forwarding a file marked copy of the Petition to the adoption agency which placed the child in Petitioner's custody. (7/1/99)

8.145 Step-Parent Adoptions

Within **thirty (30)** days of filing, Petitioners are responsible for forwarding a file marked copy of the Petition to the agency designated by the county to perform step-parent adoption investigations: Stanislaus County Community Services Agency, Child Welfare Section, P.O. Box 42, Modesto, CA 95353-0042, Attn: Step-Parent Adoption Worker. Petitioners must also forward all documentation required by the agency and must pay the investigation fee within **one (1)** year of filing the petition. The Court may, on its own motion or on the motion of the investigating agency, dismiss any petition which petitioners have failed to finalize within **eighteen (18)** months of the original filing date, unless Petitioners can demonstrate good cause for the delay. (7/1/99)

8.146 Kinship Adoption Agreements

Upon request of either party or on its own motion, the Court may refer the parties private mediation for the purpose of working out the terms of a potential Kinship Adoption Agreement. (7/1/99)

TERMINATION OF PARENTAL RIGHTS, FREEDOM FROM CUSTODY AND CONTROL OF PARENTS, AND DECLARATION TO DISPENSE WITH CONSENT OF BIRTH PARENT

8.147 General

Upon filing of a petition for termination of parental rights or to free a minor from the custody and control of a parent, the Clerk of the Court will send a notice of pendency of action to the appropriate investigating agency. However, petitioners are responsible for forwarding all moving papers and other required documentation to the investigating agency within **ten (10)** days of the filing date. Petitioners must provide the investigating agency with contact information, including phone numbers and addresses, for themselves, the minor(s), and the birth parents (to the extent known). (7/1/99)

8.148 Termination of Parental Rights Pursuant to Family Code § 7660 et. seq.

Investigation under Family Code § 7663

Prior to the hearing on termination parental rights pursuant to these sections, the Court must receive and review the investigation report mandated by Family Code § 7663. It is Petitioners' responsibility to forward a file marked copy of the petition to the appropriate investigating agency within **ten (10)** days of filing, and to cooperate as necessary for the agency to complete that investigation. Petitioners will be expected to provide the investigating agency with all possible information regarding the identity and whereabouts of the alleged father. (7/1/21)

A. If the termination action is filed pursuant to an agency adoption, the adoption agency is responsible for filing the report.

B. If the termination action is filed pursuant to an independent adoption, the Oakland District Office of the State Department of Social Services, Adoptions Branch, is responsible for filing the report.

C. If the action is filed pursuant to a step-parent adoption, the Stanislaus County Community Services Agency, Child Welfare Section, or their designee is responsible for filing the report.

D. Notice to Alleged Fathers --Petitioners who are unable to locate or identify alleged fathers may request the Court to dispense with notice of the hearing by filing with the Court a sworn written statement specifically describing the attempts to identify and locate the alleged father. Petitioners may then submit the matter to the Clerk's Office for ex parte consideration by the Court to dispense with notice under Family Code § 7666 and terminate the parental rights. Petitioners must use due diligence in

attempting to locate and serve alleged fathers with notice of the action to terminate parental rights, unless the alleged father has signed a Waiver of Notice (State Form #AD590) or Denial of Paternity (State Form #AD588). Due diligence will normally include, but is not limited to, checking telephone listings, searching on the Internet, conducting postal and voter registration records searches, and contacting known relatives, friends, and former employers of the alleged father for information. Refer also to Local Rule 8.14(B). (7/1/00, 7/1/21)

8.149 Freedom From Parental Custody and Control

A. Investigation Pursuant to Section 7851

Prior to ruling on the petition, the Court must receive and review the investigation report required by Family Code § 7851. Petitioners must pay the investigation fee of $380 at the time the petition is filed. Within **ten (10)** days of filing, Petitioners must forward a file marked copy of the petition to the Office of the Family Court Investigator, located in the Courthouse. Petitioners must also provide the Investigator with contact information such as telephone numbers and addresses, for themselves, the minor(s), and the birth parents (to the extent known).

B. Notice to Parent

At least **ten (10)** days prior to the hearing, Petitioners must complete personal service of the citation on the parent(s) from whom the child is being freed from custody. If the whereabouts of a parent is unknown, Petitioners may submit an ex parte application to the Court for an order permitting service by publication in a newspaper of general circulation in the area of the parent's last known residence. In accordance with Family Code § 7882, this application will only be granted if it is supported by a declaration from Petitioners and other persons with knowledge as to the efforts made with due diligence to locate the absent parent. Due diligence will normally include, but is not limited to, checking telephone listings, searching on the Internet, conducting postal and voter registration records searches, and contacting known relatives, friends, and former employers of the alleged father for information. Once publication has been ordered, the hearing on the Petition will normally be set approximately **seventy-five (75)** days from the date of filing, to permit sufficient time for publication and return of the proof of publication to the Court file. (7/1/99)

LIST OF RULES AND EFFECTIVE DATES

RULE	EFFECTIVE DATE	AMENDED DATE
RULE 1		
1.00	7/1/99	
1.01	1/1/19	1/1/25
1.02	1/1/19	1/1/21, 7/1/21, 1/1/22
1.03	1/1/19	1/1/25
1.04	1/1/19	1/1/21, 1/1/22
1.05	7/1/99	7/1/23, 7/1/24
1.06	7/1/99	1/1/21, 7/1/23
1.07	7/1/99	7/1/23
1.08	7/1/03	1/1/22, 1/1/24
1.09	1/1/19	1/1/25
1.10	7/1/08	1/1/24
1.11	1/1/19	1/1/22, 7/1/23, 7/1/24
1.12	7/1/08	
1.13	1/1/17	7/1/19, 1/1/24
1.14	1/1/19	1/1/20, 1/1/22, 7/1/23, 1/1/23, 7/1/24, 1/1/26
1.14.1	7/1/24	
1.15	1/1/19	
RULE 2		
2.00	7/1/07	
2.01	1/1/08	1/1/24, 7/1/24
2.02	7/1/07	7/1/23
2.03	7/1/14	1/1/24
2.04	7/1/99	
2.05	1/1/19	1/1/24
2.06	7/1/17	7/1/24

RULE	EFFECTIVE DATE	AMENDED DATE
RULE 3		
3.00	1/1/19	7/1/20
3.00.1	1/1/19	7/1/23
3.01	1/1/19	1/1/20, 7/1/20, 1/1/22, 9/1/22, 7/1/23, 1/1/24
3.01.1	1/1/18	7/1/23, 7/1/24
3.02	1/1/19	1/1/20, 7/1/20, 1/1/21, 7/1/23, 1/1/24, 1/1/25
3.03	1/1/12	1/1/20
3.04	1/1/19	
3.05	1/1/19	7/1/20, 1/1/25
3.06	1/1/19	7/1/20, 1/1/24, 7/1/24, 1/1/25, 7/1/25
3.06.01	7/1/25	
3.06.02	7/1/25	
3.07	1/1/12	1/1/23, 1/1/25, 7/1/25
3.08	1/1/13	
3.09	1/1/12	1/1/24
3.10	1/1/12	
3.11	1/1/17	7/1/24
3.11.1	7/1/24	7/1/25
3.12	1/1/19	1/1/20, 7/1/20, 1/1/21, 1/1/22, 7/1/22, 7/1/24
3.13	1/1/12	
3.14	1/1/12	
3.15	1/1/19	1/1/22, 1/1/23, 7/1/23, 1/1/24
3.16	7/1/15	7/1/21, 7/1/23, 1/1/24
3.17	1/1/11	
3.18	1/1/11	7/1/21, 7/1/23
3.19	1/1/19	7/1/24
3.20	1/1/11	7/1/21

RULE	EFFECTIVE DATE	AMENDED DATE
RULE 3		
3.21	7/1/16	7/1/21
3.22	7/1/10	1/1/20, 7/1/21
3.23	1/1/19	7/1/21, 7/1/22, 7/1/23
RULE 4		
4.00	1/1/07	7/1/24
4.01	1/1/07	1/1/20
4.02	1/1/18	1/1/22
4.03	1/1/05	
4.04	7/1/13	
4.05	1/1/05	
4.06	7/1/16	
4.07	1/1/05	
4.08	7/1/07	7/1/24
4.09	1/1/08	7/1/24
4.10	1/1/05	
4.11	1/1/18	1/1/21, 1/1/22, 7/1/22
4.12	7/1/16	
4.13	1/1/23	1/23/22
4.14	1/1/05	1/1/22, 7/1/22
4.15	7/1/07	
4.16	1/1/05	7/1/19
4.17	1/1/05	
4.18	1/1/05	
4.19	1/1/05	7/1/21, 7/1/24
4.20	1/1/05	7/1/22, 1/1/23
4.21	1/1/05	7/1/19
4.22	1/1/17	7/1/24
4.23	7/1/16	7/1/19, 7/1/22
4.24	1/1/05	1/1/21, 7/1/24, 1/1/25, 7/1/25
4.25	7/1/07	1/1/25
4.26	1/1/05	, 7/1/24, 1/1/25
4.27	1/1/05	7/1/20, 1/1/21, 1/1/23, 1/1/24, 7/1/24, 1/1/25

RULE	EFFECTIVE DATE	AMENDED DATE
RULE 4		
4.28	1/1/05	7/1/20, 1/1/23, 1/1/25
4.30	7/1/14	7/1/20, 1/1/23, 1/1/24, 7/1/24, 1/1/25, 7/1/25
4.31	7/1/20	1/1/21, 1/1/23, 1/1/24, 7/1/24, 1/1/25, 7/1/25
4.32	7/1/07	7/1/24
RULE 5		
5.00	7/1/17	1/1/22, 7/1/24
5.01	7/1/17	1/1/22, 7/1/24
5.02	7/1/17	1/1/22, 7/1/24
5.03	7/1/17	1/1/22, 7/1/24
5.04	1/1/19	1/1/22
5.04.1	1/1/19	1/1/20, 1/1/22, 7/1/24
5.05	1/1/19	1/1/22, 7/1/24
5.06	7/1/17	1/1/22, 7/1/24
5.07	7/1/17	1/1/22
5.08	7/1/03	1/1/22
5.09	1/1/05	1/1/22, 7/1/24
5.10	7/1/03	7/1/24
5.11	7/1/03	
5.12	7/1/03	
5.13	7/1/03	1/1/22
5.14	7/1/03	
5.15	7/1/03	7/1/24
5.16	7/1/09	1/1/22
5.17	1/1/09	1/1/22, 7/1/24
5.18	1/1/09	1/1/22
5.19	1/1/19	1/1/22, 7/1/24
5.20	7/1/20	1/1/22, 7/1/24
RULE 6		
6.00	7/1/08	1/1/21
6.01	7/1/09	1/1/21, 7/1/22
6.02	7/1/09	1/1/21, 7/1/23, 1/1/25
6.03	7/1/09	1/1/21

RULE	EFFECTIVE DATE	AMENDED DATE
RULE 6		
6.04	7/1/09	1/1/21
6.05	1/1/18	1/1/21
6.06	7/1/17	1/1/21
6.07	7/1/07	1/1/21
6.08	7/1/03	1/1/21
6.09	7/1/09	1/1/21
6.10	7/1/24	
RULE 7		
7.00	1/1/13	7/1/20
7.01	1/1/09	7/1/20
7.02	1/1/18	7/1/20, 7/1/24
7.03	7/1/17	7/1/20, 7/1/24
7.04	1/1/19	7/1/20, 1/1/21, 1/1/22, 7/1/24
7.05	7/1/16	7/1/20, 1/1/21, 7/1/24
7.05.1	1/1/19	7/1/19, 1/1/20, 7/1/20
7.05.2	7/1/17	7/1/20
7.06	1/1/05	7/1/20, 1/1/21, 7/1/24
7.07	1/1/13	7/1/20, 7/1/23, 7/1/24
7.08	7/1/14	7/1/20, 1/1/21, 7/1/24, 7/1/25
7.09	7/1/17	7/1/20, 7/1/24
7.10	1/1/19	7/1/20, 1/1/21
7.11	1/1/16	7/1/20, 1/1/21
7.12	1/1/05	7/1/20, 1/1/21, 7/1/24
7.13	1/1/05	7/1/20, 7/1/24
7.14	7/1/14	7/1/20
7.15	1/1/18	7/1/20, 1/1/21
7.16	7/1/11	7/1/20, 1/1/21, 7/1/24
7.17	7/1/16	7/1/20, 1/1/21
7.18	7/1/17	7/1/20, 1/1/21, 7/1/24

RULE	EFFECTIVE DATE	AMENDED DATE
RULE 7		
7.19	1/1/05	7/1/20, 1/1/21, 7/1/24
7.20	1/1/13	7/1/20, 7/1/24
7.21	1/1/05	7/1/20, 1/1/21, 7/1/24
7.22	1/1/05	7/1/20, 1/1/21, 7/1/24
7.23	1/1/05	7/1/20, 7/1/24
7.24	1/1/05	7/1/20, 7/1/24
7.25	1/1/07	7/1/20, 1/1/21, 7/1/24
7.26	1/1/05	7/1/20, 1/1/21, 1/1/22, 7/1/22, 7/1/24
7.27	7/1/14	7/1/20, 1/1/21
7.28	1/1/18	7/1/20
7.29	7/1/09	7/1/20
7.30	1/1/05	7/1/20
7.31	1/1/05	7/1/20
7.32	1/1/05	7/1/20
7.32.1	1/1/07	7/1/20
7.33	7/1/16	7/1/20
7.34	1/1/07	7/1/20
7.35	1/1/05	7/1/20
7.36	1/1/05	7/1/20
7.37	1/1/13	7/1/20
7.38	1/1/05	7/1/20
7.39	1/1/05	7/1/20
7.40	1/1/05	7/1/20
7.41	1/1/05	
7.42	1/1/05	
7.43	1/1/05	
7.44	1/1/05	
7.45	1/1/05	
7.46	1/1/05	
7.47	7/1/07	
7.48	1/1/05	
7.49	1/1/05	
7.50	7/1/06	

RULE	EFFECTIVE DATE	AMENDED DATE
RULE 7		
7.51	7/1/11	
7.52	1/1/05	
7.53	1/1/05	
7.54	1/1/18	
7.55	1/1/05	
7.56	1/1/05	
7.57	7/1/12	
7.58	1/1/05	
7.59	1/1/19	
7.60	1/1/05	
7.60.1	7/1/12	
7.61	1/1/05	
7.62	1/1/05	
7.63	7/1/07	
7.64	1/1/05	
7.65	1/1/05	
7.66	1/1/05	
7.67	1/1/05	
7.68	1/1/05	
7.69	1/1/13	
7.70	1/1/05	
7.71	7/1/14	
7.71.1	1/1/19	
7.71.2	1/1/18	
7.71.3	1/1/19	
7.72	1/1/05	
7.73	1/1/19	
7.74	1/1/06	
7.75	7/1/08	
7.76	1/1/14	
7.77	1/1/14	
7.78	1/1/08	
7.79	1/1/14	
7.80	1/1/06	

RULE	EFFECTIVE DATE	AMENDED DATE
RULE 8		
8.00	7/1/14	7/1/21
8.01	7/1/13	7/1/21
8.02	7/1/13	1/1/20, 7/1/21
8.03	7/1/07	7/1/21, 1/1/24
8.04	07/1/06	7/1/21, 7/1/23
8.05	7/1/06	7/1/21
8.06	7/1/99	7/1/21, 1/1/25
8.07	7/1/99	7/1/21, 1/1/26
8.08	7/1/99	7/1/21
8.09	7/1/99	7/1/21
8.10	7/1/99	7/1/21
8.11	7/1/99	7/1/21
8.12	7/1/06	7/1/21
8.13	7/1/99	7/1/21
8.14	7/1/99	7/1/21
8.15	7/1/99	7/1/21
8.16	7/1/99	7/1/21
8.17	7/1/99	
8.18	7/1/99	
8.19	7/1/99	7/1/21
8.20	7/1/99	7/1/21
8.21	7/1/99	7/1/21
8.22	7/1/99	7/1/21
8.23	1/1/12	7/1/21
8.24	1/1/04	7/1/21
8.25	7/1/99	7/1/21
8.26	1/1/10	7/1/21
8.27	7/1/99	7/1/21
8.28	7/1/99	7/1/21
8.29	7/1/99	7/1/21
8.30	7/1/99	7/1/21
8.31	7/1/99	7/1/21
8.32	7/1/99	7/1/21
8.33	1/1/06	
8.34	7/1/99	7/1/21
8.35	7/1/99	7/1/21, 7/1/25
8.36	7/1/99	7/1/21
8.37	7/1/99	7/1/21

RULE	EFFECTIVE DATE	AMENDED DATE
RULE 8		
8.38	7/1/99	7/1/21
8.39	7/1/99	7/1/21
8.40	7/1/99	7/1/21
8.41	7/1/08	7/1/21
8.42	7/1/99	7/1/21
8.43	7/1/99	7/1/21
8.44	7/1/99	7/1/21
8.45	7/1/99	7/1/21
8.46	7/1/99	7/1/21
8.47	7/1/99	7/1/21
8.48	7/1/99	7/1/21
8.49	7/1/99	7/1/21
8.50	7/1/99	7/1/21
8.51	7/1/99	7/1/21
8.52	7/1/99	7/1/21
8.53	7/1/99	7/1/24
8.54	7/1/99	7/1/21
8.55	7/1/09	7/1/21
8.56	7/1/99	7/1/21
8.57	7/1/99	
8.58	1/1/02	
8.59	7/1/99	7/1/21
8.60	7/1/99	
8.61	7/1/99	7/1/21
8.62	7/1/99	7/1/21
8.63	7/1/99	
8.64	7/1/99	
8.65	1/1/08	1/1/22
8.66	7/1/99	
8.67	7/1/99	
8.68	1/1/10	1/1/25
8.69	7/1/08	1/1/26
8.70	7/1/99	
8.71	7/1/99	
8.72	7/1/99	7/1/21
8.73	7/1/99	7/1/21
8.74	7/1/99	7/1/21
8.75	7/1/99	7/1/21

RULE	EFFECTIVE DATE	AMENDED DATE
RULE 8		
8.76	7/1/99	7/1/21
8.77	7/1/99	7/1/21
8.78	7/1/99	7/1/21
8.79	7/1/99	7/1/21
8.80	7/1/99	7/1/21
8.81	7/1/99	7/1/21
8.82	1/1/08	7/1/21
8.83	1/1/09	7/1/21, 1/1/23
8.84	1/1/04	7/1/21
8.85	7/1/99	7/1/21
8.86	7/1/99	7/1/21
8.86.1	1/1/09	
8.87	7/1/99	
8.88	7/1/99	
8.89	7/1/99	7/1/21
8.90	7/1/99	7/1/21
8.91	7/1/99	7/1/21
8.92	1/1/11	7/1/21, 1/1/25
8.93	7/1/99	
8.94	7/1/99	
8.95	7/1/99	
8.96	7/1/99	
8.97	7/1/99	
8.98	7/1/99	7/1/21
8.99	7/1/99	7/1/21, 1/1/26
8.100	7/1/99	1/1/22
8.101	7/1/99	7/1/21
8.101.1	7/1/99	7/1/23
8.102	7/1/99	7/1/21
8.103	7/1/99	7/1/21
8.104	7/1/99	7/1/21
8.105	7/1/99	7/1/21
8.106	1/1/08	7/1/21
8.107	1/1/08	7/1/21
8.108	1/1/08	7/1/21
8.109	1/1/08	7/1/21
8.110	1/1/08	7/1/21

RULE	EFFECTIVE DATE	AMENDED DATE
RULE 8		
8.111	1/1/08	7/1/21
8.112	1/1/08	7/1/21
8.113	1/1/08	7/1/21
8.114	7/1/13	
8.115	7/1/13	7/1/21
8.116	7/1/99	
8.117	7/1/13	
8.118	1/1/02	
8.119	7/1/99	7/1/21
8.120	7/1/99	
8.121	7/1/99	7/1/21
8.122	7/1/99	7/1/21
8.123	1/1/04	7/1/21
8.124	7/1/99	7/1/21
8.125	1/1/08	7/1/21, 7/1/24
8.126	1/1/08	7/1/21
8.127	7/1/99	7/1/21, 7/1/24
8.128	1/1/08	7/1/21
8.129	7/1/99	7/1/21
8.130	7/1/99	7/1/21
8.131	7/1/99	7/1/21
8.132	7/1/99	7/1/21
8.133	7/1/99	7/1/21
8.134	7/1/99	7/1/21
8.135	7/1/99	7/1/21
8.136	7/1/99	7/1/21
8.137	7/1/99	7/1/21, 1/1/24
8.138	7/1/99	7/1/21
8.139	7/1/99	7/1/21
8.140	7/1/99	7/1/21
8.141	1/1/04	
8.142	7/1/99	
8.143	7/1/99	7/1/21
8.144	7/1/99	
8.145	7/1/99	7/1/24
8.146	7/1/99	
8.147	7/1/99	
8.148	7/1/00	7/1/21, 7/1/24

RULE	EFFECTIVE DATE	AMENDED DATE
RULE 8		
8.149	7/1/99	7/1/24

ALPHABETICAL LOCAL FORMS LIST

TYPE	FORM #	FORM NAME	MANDATORY/ OPTIONAL
CRIMINAL	CR001	1203.4/17B Notice of Hearing	Optional
CRIMINAL	CR03	Notice of Motion to Continue Hearing	Mandatory
TRAFFIC	PKT	Advisement and Acknowledgement of Rights; Entry of Guilty or No Contest Plea; Request for Reduction of Fine & Order	Mandatory
TRAFFIC	TR001	Advisement and Waiver of Rights, and Plea (English/Spanish)	Mandatory
PROBATE	None	Affidavit for Collection of Personal Property per Probate Code §13100-13116	Optional
PROBATE	PR005	Annual Certification of Court Appointed Counsel	Mandatory
PROBATE	PR004	Application for Eligibility for Appointment as Counsel	Mandatory
FAMLAW	FL011	Application for Order Granting Permission for Minor to Marry	Optional
CIVIL	CV012	Bench Warrant Civil	Mandatory
TURLOCK	CV016	Bench Warrant Civil-Turlock	Mandatory
CIVIL	CV001	Case Management Conference Waiver	Mandatory
GENERAL	G003	Certificate of Authentication	Optional

PROBATE	GC-010	Certification of Attorney re Qualifications GC-010	Mandatory
GUARDIANSHIP	GR003	Confidential Dec. Re: Temp. Guardianship/Custody Order	Mandatory
FAMLAW	FL003	Confidential Declaration	Mandatory
FAMLAW	FL012	Consent for Issuance of Marriage License	Mandatory
TRAFFIC	None	Consent to Appear by Remote Technology (PC 1428.5)	Mandatory
CONSERVATOR	CON02	Conservatorship Questionnaire	Mandatory
JUVENILE	JV002	Court Calendar Request	Mandatory
PROBATE	None	Cover sheet for lodging wills	Mandatory
JUVENILE	JV001	Dec. in Support of Access to Juvenile Records	Mandatory
SM. CLAIMS	SC002	Declaration of Judgment Debtor	Optional
FAMLAW	FL004	Declaration RE: Notice Upon ExParte Application for Order	Mandatory
TRAFFIC	PKT	Defendant's Request for Order Packet	Mandatory
GUARDIANSHIP	GR005	Disclosure by Proposed Guardian	Mandatory
PROBATE	PKT	Emancipation of Minor	Mandatory
GUARDIANSHIP	GR008	Ex Parte Application re: Temporary Guardianship/Custody Order	Mandatory
PROBATE	Judicial Cnsl form	Ex Parte Petition for Final Discharge and Order Judicial Council #DE295/GC-395	Mandatory

PROBATE	PR002	Ex Parte Petition to Dispense with Accounts	Optional
CIVIL	CV013	Failure to Appear Notice	Optional
FAMLAW	FL005	Family Law Case Management Conference Statement	Mandatory
FAMLAW	FL008	Family Law Settlement Conference Statement	Mandatory
PROBATE	PR003	Graduated Filing Fee Adjustment Form	Optional
PROBATE	PKT	Guardianship Packet	Mandatory
GUARDIANSHIP	GR001	Guardianship Questionnaire	Mandatory
PROBATE	GR001	Guardianship Questionnaire	Mandatory
CIVIL	CV006	Judgment After Trial by Court	Optional
CIVIL	CV005	Judgment After Trial by Court in UD	Optional
CIVIL	CV007	Judgment by Default by Clerk	Optional
CIVIL	CV008	Judgment by Default by Court	Optional
CIVIL	CV009	Judgment by Default by Court UD	Optional
CIVIL	CV010	Judgment by Default by Court UD (Premises)	Optional
FAMLAW	FL013	Marriage Counselor's Report	Mandatory
CIVIL	CV021	Mediator's Report	Optional
CIVIL	CV019	Notice of Assignment of Mediator	Optional
CIVIL	CV003	Notice of Case Management Conference	Mandatory
CIVIL	CV020	Notice of Date, Time, and Place of Mediation	Optional

FAMLAW	FL007	Notice of Family Law Case Management Conference	Mandatory
SM. CLAIMS	SC001	Notice to Small Claim Litigants	Mandatory
CIVIL	CV011	Notice of Review Courts Motion Re: Dismissal	Mandatory
CIVIL	CV014	Notice Re Civil Assessment	Optional
FAMLAW	FL001	Notice to Department of Child Support Services (DCSS)	Optional
CONSERVATOR	CON01	Notice to Parties of Application for Temp. Conservatorship	Optional
GUARDIANSHIP	GR002	Notice to Parties of Application for Temp. Guardianship	Optional
FAMLAW	FL014	Order on Application for Permission for Minor to Marry	Optional
TRAFFIC	TR003	Payment Plan Contract (NCR) (English/Spanish)	Mandatory
FAMLAW	FL015	Petition for Grandparent Visitation	Optional
GUARDIANSHIP	GR007	Petition for Modification of Visitation in Guardianship	Mandatory
JUVENILE	JV-007	Petition to Examine Confidential or Sealed Records	Mandatory
PROBATE	None	Pleading paper	Optional
CIVIL	CV023	Post Temporary Assigned Judges Civil Mediation Program Questionnaire (Attorneys)	Optional

CIVIL	CV022	Post Temporary Assigned Judges Civil Mediation Program Questionnaire (Litigants)	Optional
FAMLAW	FL002	Prehearing Statement	Optional
GENERAL	G004	Proof of Personal Service (Guardianship)	Mandatory
GENERAL	G007	Recapitulation Family/Probate Fee Claim	Mandatory
GENERAL	G007A	Recapitulation Juvenile Fee Claim	Mandatory
EVIDENCE/SUBPOENAS	EC001	Receipt of Subpoenaed Record - Criminal, Traffic	Mandatory
EVIDENCE/SUBPOENAS	EC002	Receipt of Subpoenaed Records - Civil, Family Law	Mandatory
EVIDENCE/SUBPOENAS	EC004	Receipt of Subpoenaed Records - Juvenile Dependency	Mandatory
EVIDENCE/SUBPOENAS	EC003	Receipt of Subpoenaed Records - Juvenile Justice	Mandatory
EVIDENCE/SUBPOENAS	EC005	Receipt of Subpoenaed Records - LPS	Mandatory
EVIDENCE/SUBPOENAS	EC006	Receipt of Subpoenaed Records - Mental Health	Mandatory
EVIDENCE/SUBPOENAS	EC007	Receipt of Subpoenaed Records - Turlock	Mandatory
FamLaw	FL022	Release of Therapeutic Treatment Notes for Litigation Purposes	Mandatory
PROBATE	None	Removal of Probate Referee Without Cause	Mandatory
FAMLAW	FL006	Request for Family Law Case Management Conference	Mandatory

FAMLAW	FL020	Request for Informal Discovery Conference	Mandatory
GENERAL	G005	Request to be Placed on Calendar	Not allocated
GENERAL	G002	Request to Set Hearing	Mandatory
FAMLAW	FL021	Response to Request for Informal Discovery Conference	Mandatory
JUVENILE	JV003	Standard Motion	Mandatory
CIVIL	CV018	Stipulation to Temporary Assigned Judges Civil Mediation Program	Optional
FAMLAW	FL019	Supplemental Declaration	Optional
GUARDIANSHIP	GR004	Supporting Dec. Attachment to Temp. Guardianship Petition	Mandatory
PROBATE	PKT	Temporary Guardianship Packet	Mandatory
PROBATE	PKT	Termination of Guardianship Packet	Mandatory
PROBATE	State Bar form	Transfer of Estate Planning Documents	Mandatory
GUARDIANSHIP	GR006	Waiver of Account and Release of Guardian	Optional
PROBATE	PKT	Withdrawal of Funds from Blocked Account	Mandatory
TRAFFIC	TR002	Written Not Guilty Plea and Request for Trial by Written Dec.	Mandatory

NUMERICAL LOCAL FORMS LIST

Type	Form #	Form Name	Mandatory/Optional
Conservator	CON01	Notice to Parties of Application for Temp. Conservatorship	Optional
Conservator	CON02	Conservatorship Questionnaire	Mandatory
Criminal	CR001	1203.4/17B Notice of Hearing	Optional
Criminal	CR03	Notice of Motion to Continue Hearing	Mandatory
Civil	CV001	Case Management Conference Waiver	Mandatory
Civil	CV003	Notice of Case Management Conference	Mandatory
Civil	CV005	Judgment After Trial by Court in UD	Optional
Civil	CV006	Judgment After Trial by Court	Optional
Civil	CV007	Judgment by Default by Clerk	Optional
Civil	CV008	Judgment by Default by Court	Optional
Civil	CV009	Judgment by Default by Court UD	Optional
Civil	CV010	Judgment by Default by Court UD (Premises)	Optional
Civil	CV011	Notice of Review Courts Motion Re: Dismissal	Mandatory
Civil	CV012	Bench Warrant Civil	Mandatory
Civil	CV013	Failure to Appear Notice	Optional
Civil	CV014	Notice Re Civil Assessment	Optional
Turlock	CV016	Bench Warrant Civil-Turlock	Mandatory

Civil	CV018	Stipulation to Temporary Assigned Judges Civil Mediation Program	Optional
Civil	CV019	Notice of Assignment of Mediator	Optional
Civil	CV020	Notice of Date, Time, and Place of Mediation	Optional
Civil	CV021	Mediator's Report	Optional
Civil	CV022	Post Temporary Assigned Judges Civil Mediation Program Questionnaire (Litigants)	Optional
Civil	CV023	Post Temporary Assigned Judges Civil Mediation Program Questionnaire (Attorneys)	Optional
Evidence/Subpoenas	EC001	Receipt of Subpoenaed Record - Criminal, Traffic	Mandatory
Evidence/Subpoenas	EC002	Receipt of Subpoenaed Records - Civil, Family Law	Mandatory
Evidence/Subpoenas	EC003	Receipt of Subpoenaed Records - Juvenile Justice	Mandatory
Evidence/Subpoenas	EC004	Receipt of Subpoenaed Records - Juvenile Dependency	Mandatory
Evidence/Subpoenas	EC005	Receipt of Subpoenaed Records - LPS	Mandatory
Evidence/Subpoenas	EC006	Receipt of Subpoenaed Records - Mental Health	Mandatory
Evidence/Subpoenas	EC007	Receipt of Subpoenaed Records - Turlock	Mandatory
FamLaw	FL001	Notice to Department of Child Support Services (DCSS)	Optional
FamLaw	FL002	Prehearing Statement	Optional

FamLaw	FL003	Confidential Declaration	Mandatory
FamLaw	FL004	Declaration RE: Notice Upon ExParte Application for Order	Mandatory
FamLaw	FL005	Family Law Case Management Conference Statement	Mandatory
FamLaw	FL006	Request for Family Law Case Management Conference	Mandatory
FamLaw	FL007	Notice of Family Law Case Management Conference	Mandatory
FamLaw	FL008	Family Law Settlement Conference Statement	Mandatory
FamLaw	FL011	Application for Order Granting Permission for Minor to Marry	Optional
FamLaw	FL012	Consent for Issuance of Marriage License	Mandatory
FamLaw	FL013	Marriage Counselor's Report	Mandatory
FamLaw	FL014	Order on Application for Permission for Minor to Marry	Optional
FamLaw	FL015	Petition for Grandparent Visitation	Optional
FamLaw	FL019	Supplemental Declaration	Optional
FamLaw	FL020	Request for Informal Discovery Conference	Mandatory
FamLaw	FL021	Response to Request for Informal Discovery Conference	Mandatory
FamLaw	FL022	Release of Therapeutic Treatment Notes for Litigation Purposes	Mandatory

General	G002	Request to Set Hearing	Mandatory
General	G003	Certificate of Authentication	Optional
General	G004	Proof of Personal Service (Guardianship)	Mandatory
General	G005	Request to be Placed on Calendar	Not allocated
General	G007	Recapitulation Family/Probate Fee Claim	Mandatory
General	G007A	Recapitulation Juvenile Fee Claim	Mandatory
Probate	GC-010	Certification of Attorney re Qualifications GC-010	Mandatory
Guardianship	GR001	Guardianship Questionnaire	Mandatory
Probate	GR001	Guardianship Questionnaire	Mandatory
Guardianship	GR002	Notice to Parties of Application for Temp. Guardianship	Optional
Guardianship	GR003	Confidential Dec. Re: Temp. Guardianship/Custody Order	Mandatory
Guardianship	GR004	Supporting Dec. Attachment to Temp. Guardianship Petition	Mandatory
Guardianship	GR005	Disclosure by Proposed Guardian	Mandatory
Guardianship	GR006	Waiver of Account and Release of Guardian	Optional
Guardianship	GR007	Petition for Modification of Visitation in Guardianship	Mandatory

Guardianship	GR008	Ex Parte Application re: Temporary Guardianship/Custody Order	Mandatory
Probate	Judicial Cnsl form	Ex Parte Petition for Final Discharge and Order Judicial Council #DE295/GC-395	Mandatory
Juvenile	JV001	Dec. in Support of Access to Juvenile Records	Mandatory
Juvenile	JV002	Court Calendar Request	Mandatory
Juvenile	JV003	Standard Motion	Mandatory
Juvenile	JV007	Petition to Examine Confidential or Sealed Records	Mandatory
Probate	None	Affidavit for Collection of Personal Property per Probate Code §13100-13116	Optional
Probate	None	Cover sheet for lodging wills	Mandatory
Probate	None	Pleading paper	Optional
Probate	None	Removal of Probate Referee Without Cause	Mandatory
Traffic	None	Consent to Appear by Remote Technology (PC 1428.5)	Mandatory
Traffic	PKT	Advisement and Acknowledgement of Rights; Entry of Guilty or No Contest Plea; Request for Reduction of Fine & Order	Mandatory
Traffic	PKT	Defendant's Request for Order Packet	Mandatory
Probate	PKT	Emancipation of Minor	Mandatory
Probate	PKT	Guardianship Packet	Mandatory

Probate	PKT	Temporary Guardianship Packet	Mandatory
Probate	PKT	Termination of Guardianship Packet	Mandatory
Probate	PKT	Withdrawal of Funds from Blocked Account	Mandatory
Probate	PR002	Ex Parte Petition to Dispense with Accounts	Optional
Probate	PR003	Graduated Filing Fee Adjustment Form	Optional
Probate	PR004	Application for Eligibility for Appointment as Counsel	Mandatory
Probate	PR005	Annual Certification of Court Appointed Counsel	Mandatory
Sm. Claims	SC001	Notice to Small Claim Litigants	Mandatory
Sm. Claims	SC002	Declaration of Judgment Debtor	Optional
Probate	State Bar form	Transfer of Estate Planning Documents	Mandatory
Traffic	TR001	Advisement and Waiver of Rights, and Plea (English/Spanish)	Mandatory
Traffic	TR002	Written Not Guilty Plea and Request for Trial by Written Dec.	Mandatory
Traffic	TR003	Payment Plan Contract (NCR) (English/Spanish)	Mandatory

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