Superior Court of California, County of San Joaquin

LOCAL RULES – Eff. July 1, 2025

Judges of the Superior Court

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Stephanie Bohrer, Court Executive Officer and Jury Commissioner

SUPERIOR COURT OF CALIFORNIA, for the COUNTY OF SAN JOAQUIN

180 E. Weber Avenue

Phone: (209) 992-5695

Stockton, CA 95202

Effective July 1, 2025

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RULE 1 GENERAL

1-100. EFFECT OF RULES, CITATION OF RULES AND CONSTRUCTION (Eff. 01/01/21)

A. These rules shall be known and cited as “Local Rules of the Superior Court of California, for the County of San Joaquin” and shall at all times be supplementary to and subject to any and all rules adopted by the Judicial Council of the State of California. These rules shall become effective January 1, 2021, and these new rules shall have no retroactive effect or application whatsoever. These rules shall, on the date when they become effective, supersede all rules previously adopted by this court and all previously adopted rules are repealed.

B. Unless otherwise provided in these rules, all rules set forth herein are applicable in all judicial districts in this county. (Eff.01/01/21)

1-101. COURT CALENDARS (Eff. 07/01/98)

The court's business is distributed in accordance with its latest "General Calendar," which sets forth the time, place, and any special requirements adopted by the court for hearing the various types of court business. Before applying or noticing any matter for hearing or for trial, the moving party should ascertain the latest calendar requirements from the Clerk of the Superior Court. (Eff. 07/01/98)

1-102. SELECTION AND IMPANELMENT OF JURORS (Eff. 07/01/17)

A. Source Lists: As authorized in Code of Civil Procedure section 197(b), the juror source list used by the Jury Commissioner shall be a list consisting of the combination of the list of registered voters in San Joaquin County and the Department of Motor Vehicles lists of licensed drivers and California identification cardholders who are 18 years old or older who reside in San Joaquin County.

1. Prospective jurors shall be summoned for jury service for limited and unlimited jurisdiction cases heard in the Stockton Courthouse from the countywide master list. Prospective jurors summoned for trials transferred from Stockton to the Lodi, Manteca, or Tracy branches shall also be summoned from the countywide master list. Prospective jurors summoned for limited jurisdiction trials and misdemeanors trials transferred from Stockton to the Lodi, Manteca, or Tracy Branches shall be summoned from the master

list for the area served by the court to which the case is transferred.

2. Prospective jurors shall be summoned for jury service for limited jurisdiction cases heard in the Lodi branch from a master list consisting of residents who live in the area served by that court. The area served by that court is defined by the following zip codes: 95220, 95227, 95237, 95240, 95241, 95242, 95253, 95254, 95258, 95632 and 95686.

3. Prospective jurors shall be summoned for jury service for limited jurisdiction cases heard in either the Manteca or Tracy branches from a master list consisting of residents who live in the area served by both of those courts. The areas served by those courts are defined by the following zip codes: 95231, 95320, 95330, 95336, 95337, 95361, 95366, 95367, 95304, 95376, 95377, 95378, 95385 and 95391.

B. Deferral of Jurors Who Appear Pursuant to Summon: When a summoned juror appears for jury service and advises the trial court of a circumstance that amounts to a temporary or marginal hardship, the juror shall be deferred instead of excused. Except when necessary to avoid a temporary or marginal hardship deferrals should be granted for no longer than 90 days. Hardships that warrant deferral under this section include:

1. A temporary illness of the juror or temporary illness of a person for whom the juror renders care;

2. A medical appointment that cannot be rescheduled or postponed;

3. A scheduled vacation which involves prepaid commitments, involves the scheduled vacation of the juror's family, or a vacation that cannot otherwise be conveniently rescheduled.

4. A work hardship or important business demand such as the temporary unavailability of someone to take the place of the juror, a training program the juror is scheduled to attend, or some other work demand of a nonrecurring nature which cannot be conveniently rescheduled;

5. Seasonal employment;

6. Jury service would jeopardize the academic standing of a prospective juror who is a student or set the prospective juror back in completing an academic program; and

7. Any other legitimate temporary or marginal hardship not expressly defined that, in the opinion of the trial court, would justify a deferral. (Eff. 07/01/17)

1-103. "RESERVED FOR FUTURE USE" (Eff. 07/01/15)

1-104. INTERPRETERS (Eff. 07/01/15)

A. Parties must provide the court with a minimum of five (5) business days' notice (for all languages, including American Sign) to ensure that an interpreter will be available. The court may waive this requirement in extenuating circumstances.

B. Requests to the court for interpreter services shall be submitted on the Interpreter Request Form available on the court's public website.

C. Where it is later determined that the interpreter is not needed, the party or counsel shall provide notice to the court at least two business days before the hearing. If such notice is not provided and the court incurs costs of the interpreter, the court may bill the requesting party for such costs. (Eff. 07/01/15)

1-105. TRANSFER OF ADMINISTRATIVE PROCEDURES (Eff. 01/01/99)

A majority of the judges may appoint an Executive Officer of the Superior Court pursuant to Government Code section 68114.6to serve as the chief administrative officer of the court, who shall also act as Clerk of the Superior Court and perform the duties of Jury Commissioner of the County. His or her duties are those contained in his or her job description, in California Rules of Court, Rule 207, and as further assigned by the Presiding Judge. (Eff. 01/01/99).

1-106. FIREARMS (Eff. 07/01/17)

A. Except as specified below, no person shall bring any firearm into:

B. The Stockton Courthouse at 180 E. Weber Avenue in Stockton, California;

C. The court wing of Dept. L1 located at 230 W. Elm Street, Lodi, California;

D. The building which houses Department L2 located at 315 W. Elm Street, Lodi, California;

E. The main lobby entrance or courtrooms of Departments M1 and M2 located at 315 E. Center Street, Manteca, California;

F. The main lobby entrance or courtrooms of Departments T1 and T2 located at 475 E. Tenth Street, Tracy, California;

G. The court wing beginning at the door entry to the metal detectors of the building that houses Departments J1, J2, and J3 located at 535 W. Matthews Road in French Camp; or

H. Any courtroom located anywhere in the county.

The following persons are exempt from the above rule:

I. A duly appointed peace officer of this state, or of another state or the federal government who is carrying out official duties while in California, who is on official business and not a litigant in any matter for which they are present. No peace officer, or any other person, shall carry a firearm into a courtroom when they are a litigant in any matter for which they are present.

J. A peace officer as described above, attorney in a matter, or investigator who is not a litigant and has a firearm that is evidence in the matter in that courtroom. Such individual must notify the bailiff of the presence of the firearm and provide the firearm to the bailiff for inspection prior to entry into the courtroom or immediately thereafter.

Failure to abide by this rule will be punishable as contempt of court. (Eff. 07/01/17)

1-107. MEDIA COVERAGE (Eff. 01/01/18)

A. This rule is established under the authority recognized in subdivision (e)(4) of California Rules of Court, Rule 1.150 to supplement Rule 1.150. The words and phrases used in this rule have the same meanings as in Rule 1.150. Nothing in this rule changes or affects the procedures established in the California Rules of Court regarding the coverage of court proceedings by electronic media.

B. Knowledge of the Rule

California Rules of Court, Rule 1.150, subdivision (e)(4) requires that each media agency is responsible for ensuring that all of its personnel who cover court proceedings know and follow Rule 1.150. Each media agency shall also be responsible for ensuring that its personnel know and follow this rule.

C. Media Requests

1. The approved Judicial Council form must be submitted to the court's Public Information Office. This shall be done at least 5 court days before the hearing unless the request involves a new case, advanced hearing, or there is other good cause for submitting the form fewer than 5 court days before the hearing.

2. Media personnel, representatives of media agencies, and attorneys for media agencies shall not communicate with the assigned judge or presiding judge concerning a request to modify an order issued under California Rules of Court, Rule 1.150 or this local rule other than by the approved Judicial Council form, written application noticed to the litigants, or at a public hearing. Any media agency aggrieved by the provisions of this local rule or aggrieved by an order made pursuant to this local rule concerning areas outside a courtroom may apply to the presiding judge to modify the application of the rule or order or to be exempted from it. A written application to the presiding judge shall be submitted to the Public Information Office, but shall first be served upon the parties in any litigation that is the subject of the media request. An oral application may only be made at a hearing and only when any affected parties in the subject litigation have been given notice of the hearing. Media personnel, representatives of media agencies, and attorneys for media agencies shall not make ex-parte contact with the presiding judge when applying for a modification or exemption. The hearing shall be scheduled by contacting the Public Information Office.

D. Coverage Inside of the Courthouse

1. Purpose

Metal detection and other security measures are installed at the entrance of the court's courthouses. Prospective and sworn jurors, witnesses, spectators, litigants, and their children often congregate in common areas of the Courthouse including hallways, lobbies,

and entry areas. Often these common areas are quite congested. The Lodi, Manteca, Tracy, and Juvenile Justice Center have lobby areas where prospective and sworn jurors, witnesses, spectators, litigants, and children congregate. Photographing, videotaping, filming, broadcasting in these areas may interfere with those activities, including security operations.

Accordingly, this subdivision is established to:

(a) Protect the privacy rights of prospective jurors, seated jurors, witnesses, victims, and court spectators as contemplated by subdivisions (e)(3)(E) and (e)(6)(D) of California Rules of Court, Rule 1.150.

(b) Preserve the security of the court and the safety of people in the courthouse as contemplated by subdivision (e)(3)(O) of Rule 1.150.

(c) Preserve the dignity of the court and prevent interference with the orderly conduct of proceedings in courtrooms as contemplated in subdivisions (e)(3)(O), (R), and (Q) of Rule 1.150 which could be affected by disruptions in the hallways outside of courtrooms.

2. Jurors

Photographing, videotaping, filming, broadcasting, and electronic recording of jurors in the courtroom is prohibited by subdivision (e)(6)(D) of California Rules of Court, Rule 1.150. Except as provided below, the photographing, videotaping, filming, broadcasting, and electronic recording of anyone wearing a juror badge, whether intentional or inadvertent, in any courtroom or courthouse of the San Joaquin Superior Court is also prohibited. The photographing, videotaping, filming, broadcasting, and electronic recording of anyone standing in line going into the Jury Assembly Room at the Stockton Courthouse is prohibited. The faces of anyone wearing juror badges or anyone standing in line going into the Jury Assembly Room at the Stockton Courthouse inadvertently depicted in the background of any photograph or videotape must be blurred or digitized beyond recognition before being published or broadcasted. Photographing, videotaping, filming, broadcasting, and electronic recording of prospective jurors who have been discharged from service, seated jurors who

have been discharged from service or alternates who have been discharged from service is permitted in the courthouse only when that person consents.

3. Spectators

(a) Photographing, videotaping, filming, broadcasting, and electronic recording of courtroom spectators is prohibited by subdivision (e)(6)(D) of Rule 1.150. This prohibition shall apply to the photographing or videotaping of any person while seated in any San Joaquin Superior Court courtroom audience, regardless of whether that person participated in the case or is scheduled to participate in the case as a witness or any other capacity. The faces of spectators depicted in the background of any photograph or videotape must be blurred or digitized beyond recognition before being published or broadcasted. When courtroom photography or videotaping is permitted, the court will work with the media to situate photographers in positions where spectators are not likely to be depicted in the background.

(b) The prohibition against photographing, videotaping, filming, broadcasting, or electronic recording of spectators shall not apply to any person situated in the audience who becomes disruptive or who addresses the court if Rule 1.150 authorization has previously been granted for those proceedings. However, the judge who authorizes a Rule 1.150 request may prohibit in advance the photographing, videotaping, filming, broadcasting, or electronic recording of spectators who become disruptive or who address the court when granting the Rule 1.150 request.

4. Stockton Courthouse

Unless approved by written order of the presiding judge of this court or a judicial officer designated by the presiding judge, photographing, videotaping, filming, broadcasting, and electronic recording of any kind, other than handheld recording devices used for personal note taking, is prohibited in the following parts of the Stockton Courthouse:

(a) In any hallway by a photographer who is situated within a 10-foot radius of the doors to any courtroom.

Photographers must situate themselves outside the 10-foot radius so as to not inhibit or obstruct entry into or exit from the courtroom. Unless there is consent, photographers and media personnel shall not inhibit or obstruct any person's movements anywhere in the courthouse.

(b) Through a door window or open courtroom door from the hallway outside of any courtroom into that courtroom unless authorized by order of the judge presiding in that courtroom.

(c) In the Jury Assembly Room, from the hallway into the Jury Assembly Room, or in any jury deliberation room.

5. Stockton Courthouse – Hallways and Lobby

(a) Sheriff's court security staff has the authority to order members of the public, including members of the media, to move out of the way in hallways and other public areas in the courthouse.

(b) Members of the public, including members of the media, shall not obstruct or compromise the security operations in the lobby or elsewhere in the courthouse. Sheriff's court security staff has the authority to determine when security operations are compromised or obstructed by persons in the lobby or elsewhere. Members of the media must comply whenever a sheriff's court security supervisor or supervisor of weapons screening determines that security operations are compromised or obstructed by the media presence and orders them to move out of the lobby or elsewhere.

(c) Members of the media shall not obstruct the movements of any individual walking anywhere in the courthouse without that person's consent.

6. Juvenile Justice Center

Unless approved by written order of the presiding juvenile judge or a judicial officer designated by the presiding juvenile judge, photographing, videotaping, filming, broadcasting, and electronic recording of any kind other than handheld recording devices used for personal note taking is prohibited anywhere in the Juvenile

Justice Center branch. Cameras and recording devices shall be turned off while being transported in any area within this branch.

7. Handheld Audio Recording Equipment

Other than in the courtrooms, the use of handheld audio recording equipment for note-taking purposes is not prohibited in the courthouse.

8. Obstructions Outside of the Courthouse

Photographing, videotaping, filming, broadcasting, and electronic recording outside a courthouse, but on San Joaquin Superior Court property is not prohibited. However, such media coverage shall not obstruct pedestrian traffic or compromise security.

9. Additional Orders

On occasion, the media interest in a given court proceeding may be so intensive that additional prohibitions are warranted to satisfy the concerns listed in this local rule. Accordingly, when such is the case or when other circumstances warrant, the presiding judge or judicial officer designated by the presiding judge shall make whatever orders are necessary governing photographing, videotaping, audio recording, and broadcasting in the hallways, stairwells, elevators and other areas within any of the courthouse branches.

10. Media Coverage in Courtrooms

Photographing, videotaping, filming, broadcasting inside of courtrooms shall continue to be governed by California Rules of Court, Rule1.150 and any other rules established by the California Judicial Council.

E. Rule Violations

Violations of this local rule or any orders of the court may be addressed in the ways listed in subdivision (f) of California Rules of Court, Rule1.150. Additionally, any media agency that violates any provision in Rule 1.150 or this local rule may be prohibited from photography, videotaping, filming, broadcasting or electronic recording of future court proceedings inside courtrooms. (Eff. 01/01/18)

1-108. USE OF CAMERA PHONES, OTHER PHOTOGRAPHIC EQUIPMENT AND AUDIO RECORDING EQUIPMENT (Eff. 01/01/23)

A. This local rule covers the use of any photographic, video and audio recording or transmission equipment by people not working in a media capacity. For purposes of this rule, photographic equipment includes, but is not limited to: cameras, camera phones, and video recording cameras.

B. The use of photographic equipment and audio recording or transmission equipment in any courtroom, through a courtroom door window into any Superior Court of California for the County of San Joaquin 16 courtroom, or from an entryway into a courtroom is prohibited without the advance permission of the judge.

C. The use of photographic equipment or audio recording or transmission equipment in any jury assembly room or juror deliberation room, through a window into such rooms, or into any such rooms from any vantage point outside of such rooms is prohibited without advance permission of the Presiding Judge, Jury Commissioner, or their designees.

D. Photographing, videotaping, filming, and electronic recording of anyone wearing a juror badge anywhere inside a courthouse is prohibited. Photographing, videotaping, filming, and electronic recording of anyone standing in line awaiting entry into a jury assembly room is also prohibited.

E. Photographing, videotaping, filming, and electronic recording of anyone involved in any case, including litigants, witnesses, and spectators, anywhere inside a courthouse is prohibited.

F. Unless approved by written order of the presiding juvenile judge or a judicial officer designated by the presiding juvenile judge, photographing, videotaping, filming, broadcasting, and electronic recording is prohibited anywhere in the Juvenile Justice Center.

G. The prohibitions against photographing, videotaping, filming, and electronic recording outside of a courtroom any persons listed in this rule do not apply if such person consents. Nothing in this rule shall be read to prohibit photography associated with weddings as long as persons who are prohibited from being photographed in this rule are not depicted in such photos.

H. The use of any device to photograph, videotape, film, or electronic record to copy, reproduce, or transmit official Court records and exhibits in the Clerk's Office is prohibited. No one may use a device with the ability to photograph,

videotape, film, or electronic record to copy, reproduce, or transmit Court records and exhibits without prior written approval from the Presiding Judge, Judicial Officer, Court Executive Officer or designee. Violation of this rule may result in the confiscation of the device, and the Court Clerk or designee may request that the recording/photograph on the device be erased by the owner.

I. Photography, video and electronic recording equipment used in violation of this rule is subject to confiscation. Any person who is a party, witness, or attorney of a party and who violates this rule is subject to punishment under Code of Civil Procedure section 177.5. Any other person who violates this rule is subject to punishment for contempt of court. (Eff. 07/01/05)

1-109. COMMISSIONERS JUVENILE COURT REFEREES APPOINTED JUDGE PRO TEMPORE Eff. 07/01/19)

Commissioners and Juvenile Court Referees of the San Joaquin Superior Court are appointed Judge Pro Tempore in all matters calendared, or otherwise assigned, to them. They are granted full judicial power until a final determination of the matter. (Eff. 07/01/19)

1-110. DANGEROUS, LARGE OR BULKY EXHIBITS (Eff. 07/01/05)

A. Permission from the judge assigned to the hearing or trial must be obtained before a party may bring dangerous, large or bulky exhibits into the courthouse. If possible, the party should substitute a photograph, technical report, or dummy object for proposed exhibits which are either:

1. Inherently dangerous, such as:

a. Firearms;

b. Any type of explosive powder;

c. Explosive chemicals, toluene, ethane;

d. Explosive devices, such as gasoline, kerosene, lighter fluid, paint thinner, ethyl ether;

e. Flammable liquids such as gasoline, kerosene, lighter fluid, paint thinner, ethyl ether;

f. Canisters containing tear gas, mace;

g. Rags which have been soaked with flammable liquids;

h. Liquid drugs such as phencyclidine (PCP), methamphetamine, corrosive liquids, pyramiding, morphine, or piper dine;

i. Samples of any bodily fluids, liquid or dried; or

j. Controlled or toxic substances.

2. Large and cumbersome, such as a ladder, sewer pipe, or automobile chassis.

If a party believes the exhibit should be brought into the courtroom without substitution, an application for permission must be made in writing and describe the materials to be brought into the courtroom and the reason a substitution should not be made. The option of viewing the materials at another location may be considered by the court.

B. Evidence received in any case shall be limited to those items required in the case and shall be retained by the court for the minimum time required by law, unless good cause is shown to retain the evidence longer.

C. No exhibits shall be accepted by the clerk or exhibits custodian unless:

1. All containers of controlled or toxic substances are securely sealed to safeguard court personnel, so that the contents cannot be spilled and odors cannot be emitted;

2. All containers of liquid substances, including bodily fluids, are securely sealed to safeguard court personnel, so personnel are not exposed to the contents and odors cannot be emitted;

3. All objects containing bodily fluids or dangerous, controlled or toxic substances (e.g., bloody shirt, gasoline-soaked rag, etc.) are placed in securely sealed containers so that odors cannot be emitted and court personnel are safeguarded.

4. All firearms are secured by a nylon tie or trigger guard, and have been examined by the bailiff to determine that they have been rendered inoperable;

5. All sharp objects, such as hypodermic needles, knives, and glass are placed in securely sealed containers which will safeguard personnel;

6. All containers with liquid substances are clearly marked and identified as to type and amount;

7. All containers of controlled substances are clearly marked, identified, weighed and sealed;

8. All cash is specifically identified, whether individually or packaged, as to the total amount and number of each denomination.

D. All exhibits must be individually tagged with the proper exhibit tag, properly completed and securely attached to the exhibit. Any exhibit improperly tagged, marked, weighed, or identified will not be accepted by the court. Unless otherwise ordered, unidentified or improperly identified liquids, containers, controlled substances, or other suspect substances shall be returned to the party offering them.

E. When a dangerous, large or bulky exhibit that has been marked and identified or received in evidence poses a security, storage or safety problem, on recommendation of the clerk of the court or any party or the court's own motion, the court may order that all or a portion of it be returned to the party that offered it. In the case of exhibits offered by the prosecutor in a criminal case, the court may order that the exhibit be returned to the law enforcement agency involved. The order shall require that a full and complete photographic record of the exhibit or the portion returned by substituted for the exhibit. The party who offered the exhibit shall provide the photographic record. The party or agency to whom the exhibit is returned shall be responsible for maintaining and preserving the exhibit until there is a final disposition of the action or proceeding. All exhibit tags and other identifying markings or information concerning each exhibit shall remain in place and shall not be disturbed. Each exhibit shall be maintained intact and in the same condition as during trial. In the event further proceedings of any court having jurisdiction of the matter require the presence of the exhibit, the party or agency to whom it was returned shall promptly deliver the exhibit to the court, with notice to all parties.

EXHIBITS

A. Exhibits submitted by plaintiff, petitioner or the People should be marked consecutively with numbers. Exhibits submitted by defendant or respondent should be marked consecutively with letters.

B. All exhibits must be individually tagged with the proper exhibit tag. Each exhibit tag must be properly completed and security attached to the exhibit. Any exhibit improperly tagged will not be accepted by the court. Original photographs or 8 1/2 x 11-inch copies shall be substituted for any photographically enlarged or oversized exhibits.

C. Prior to the final determination of an action or proceeding, only attorneys of record, self-represented parties and court employees may view the exhibits. All other interested persons must obtain an order of the court to view the exhibits. Viewings shall take place in the presence of an exhibit custodian. Exhibits may not be altered or taken apart, except by court order.

D. Any party to the action may seek temporary release of exhibits for copying or laboratory testing. An order for temporary release may be obtained by stipulation of the parties or by noticed motion. The party seeking the release may be obtained by stipulation of the parties or by noticed motion. The party seeking the release must present the original signed order and one copy to the exhibit custodian. The order must include the case number, names of the parties, name and telephone number of the person to whom the exhibits are to be released, a description of the exhibits, and the date the exhibits are to be returned. The party seeking release may be required to provide a full and complete photographic record of the exhibit before it will be released.

E. Exhibits received in a criminal matter may be used in a civil action, upon stipulation signed by the prosecutor and criminal defense counsel (including appellate counsel, if applicable) or on noticed motion, with notice being given to all parties in the civil and criminal cases. The stipulation or motion shall bear the criminal case caption and number, be filed in the criminal case, and reference the civil case by name and number.

F. On order of the court, at the conclusion of the trial or hearing, any exhibit that has been marked for identification but not introduced or received in evidence at trial, may be returned to the party that offered it. Counsel

must preserve and maintain all returned exhibits until the time for appeal has passed.

G. Exhibits received in evidence at the trial or a hearing in a criminal case may be returned by the court to the party who offered them, in accordance with Penal Code §§ 1417.2, 1417.3 and 1417.5. Exhibits received in evidence at the trial or a hearing in a civil case may be returned by the court to the party who offered them, in accordance with Code of Civil Procedure §§ 1952(a) and 1952.2. (Eff. 07/01/05)

1-111. JUDICIAL VACATION DAY DEFINED (Eff. 07/01/08)

Time away from the court for more than one-half day for vacation purposes shall be deemed as a full day of vacation. (Eff. 07/01/08)

1-112. SELECTION OF COURT COMMISSIONERS (Eff. 07/01/10)

The following procedure for the hiring of court commissioners is adopted by the judges of San Joaquin County:

1. Initial applications for commissioner positions shall be screened by the Human Resources Department to ensure applicants meet the minimum qualifications required for the position.

2. The presiding judge, with the advice of the Executive Committee, shall establish two committees for the purpose of first reviewing and selecting the most qualified applications and then interviewing candidates for the commissioner position. For each committee, the presiding judge shall select among judges who volunteer for the committees and shall choose at least one representative from those judges with a current criminal assignment, one with a current civil assignment and one judge who was formerly a commissioner. In the event the opening is for a 1058 commissioner, then the committees shall include a judge with family law experience. The number of judges who serve on each committee shall be at the discretion of the presiding judge.

   a. The first committee shall review the qualified applications and select the applicants that the committee deems most qualified.

   b. The second committee shall interview the applicants chosen by the first committee. This committee shall determine which of these applicants shall make a presentation to the entire bench.

3. The bench shall choose the most qualified candidate following a presentation by each of the applicants chosen by the second committee. (Eff. 07/01/10)

1-113. ELECTRONIC RECORDING OF COURT PROCEEDINGS (Eff. 1/1/2023)

A. Pursuant to Government Code §69957, in limited civil actions and criminal misdemeanor and infraction proceedings, if an official reporter or an official reporter pro tempore is unavailable to report an action or proceeding in a court, the court may utilize electronic recording as a means of generating a record of proceedings, including all the testimony, the objections made, the ruling of the court, the exceptions taken, all arraignments, pleas, and sentences of defendants in criminal cases, the arguments of the attorneys to the jury, and all statements and remarks made and oral instructions given by the judge. In these instances, a transcript derived from the electronic recording shall be utilized whenever a transcript of court proceedings is required. To obtain a transcript derived from the electronica recording, the parties to such proceeding may contact the Records Management Division. The requesting party will be responsible for all associated fees and costs to obtain the transcript of the electronic recording.

B. An electronic recording may also be made for the purpose of monitoring subordinate judicial officer performance. In these instances, the electronic recording shall not be used for any other purpose and shall not be made publicly available. In accordance with Government Code §69957, the court will post notice outside of a courtroom where proceedings are being recorded.

RULE 2 CRIMINAL

2-100. DISCOVERY IN CRIMINAL CASES (Eff. 07/01/98)

A. Discovery in criminal cases is governed by Penal Code Section 1054, et. seq. It is the order of this court that all parties comply with the obligations set forth in those provisions. This order shall be in effect in all criminal cases and there shall be no need to seek a further order of the court prior to seeking enforcement of this order as long as the party seeking enforcement has made the 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 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:

i. contempt;

ii. delaying or precluding the testimony or evidence;

iii. continuance;

iv. jury instruction commenting on the party's failure to comply with their discovery obligations;

v. dismissal where required by the United States Constitution;

vi. imposition of monetary sanctions on counsel. (Eff.07/01/98)

2-101. PRE-TRIAL MOTIONS (Eff. 07/01/98)

A. Felony Cases

Except for good cause, all pre-trial motions shall be filed and served within sufficient time to be heard and determined prior to the date of the first readiness conference.

B. Misdemeanor Cases

Except for good cause, all pre-trial motions shall be noticed by the parties or scheduled by the court for no later than a day in the week prior to the readiness conference. (Eff. 07/01/98)

2-101.1. MOTIONS TO STRIKE PRIOR CONVICTIONS (Eff. 01/01/99)

To the extent that a motion to strike prior convictions based upon the validity of those convictions is authorized by statutory or decisional law, such a

motion must be made pretrial within the time prescribed in Rule 2-101(a). (Eff. 01/01/99)

2-102. MEMORANDUM OF POINTS AND AUTHORITIES (Eff. 07/01/98)

A. Facts and Issues

A memorandum of points and authorities must include a statement of the case and/or a statement of facts setting forth any procedural or factual matters relevant to the issues presented. The memorandum must clearly specify the precise factual and legal issues raised in the motion and the specific legal authority relied upon for the motion. If reference is made in the memorandum of points and authorities to the transcript of the preliminary hearing, the specific page and line number of the transcript shall be cited. If reference is made to the transcript of a hearing other than the preliminary hearing, a copy of the relevant excerpt of that hearing shall be attached to the memorandum of points and authorities.

B. Citations

Citations to California cases must be by reference to the official reports and should indicate the year of the decision, the volume number, the first page of the case, and the specific page or pages on which the pertinent matters appear. New California cases not yet published in the advance sheets may be cited by reference to the Daily Appellate Report. Copies of cases cited in the Daily Appellate Report must be attached to the memorandum of points and authorities.

If authorities other than California cases, United States Supreme Court cases, and Witkin are cited in the memorandum of points and authorities, a copy of such authorities must be attached thereto.

C. Previous Motions at the Preliminary Hearing

The moving party's memorandum of points and authorities shall state whether the motion was heard at the preliminary examination. If so, the moving party's memorandum of points and authorities shall specify the factual findings and legal conclusions made by the court.

D. 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. (Eff. 07/01/98)

2-102.1. MOTIONS UNDER SECTION 1538.5 OF THE PENAL CODE (Eff. 07/01/98)

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 rules 2-101, 2-102 and 1538.5 PC. The following requirements apply in addition to those specified in those rules:

1. 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.

2. 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.

3. 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.

4. 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 paper.

5. 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 to the admission of the transcript into evidence. (Eff. 07/01/98)

2-102.2. DEMURRERS, MOTIONS TO DISMISS, MOTIONS TO STRIKE (Eff. 07/01/98)

In addition to the above requirements, defendants shall attach a copy of the current complaint, information, or indictment to the memorandum of points and authorities filed in support of any demurrer, motion to dismiss based upon the pleadings, or motion to strike. In addition, demurrers, motions to dismiss, and motions to strike shall specify in the notice whether the defendant seeks to dismiss or strike the entire complaint, information, or indictment. If the defendant does not seek to dismiss or strike the entire complaint, information, or indictment, the defendant shall set forth in the notice of motion the count, enhancements, allegations, special circumstances, or other aspects of the pleading defendant seeks to dismiss or strike. (Eff. 07/01/98)

2-103. MOTIONS AT TRIAL (Eff. 01/01/98)

A. Felony Cases

In felony cases, all motions in limine, any extraordinary or complex 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 one week before the first trial assignment date.

B. Misdemeanor Cases

In misdemeanor cases, all motions in limine requiring live testimony shall be made in writing with a supporting memorandum of points and authorities. In limine motions requiring live testimony shall be served on opposing counsel and filed with the court no later than one week before the first trial assignment date. Any other in limine motions in

misdemeanor cases may be made orally or in writing after assignment to the trial department. If other such motions are made in writing, the moving party must serve the opposing party no later than the first appearance in the trial department.

C. All evidentiary in limine motions necessitating testimony must be clearly labeled: LIVE TESTIMONY NECESSARY.

D. 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.

3. Points and authorities as described in 2-102.

E. All motions 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. (Eff. 01/01/08)

2-104. SANCTIONS (Eff. 07/01/98)

In the event of a failure to comply with 2-101, 2-102,2-102.1, 2-102.2, or 2-103, the court may impose sanctions including a monetary fine, a refusal to hear the motion, continuance, exclusion of evidence, issue preclusion, or any other relief or sanctions the court deems appropriate. (Eff. 07/01/98)

2-105. PRE-TRIAL CONFERENCES (Eff. 01/01/98)

A. Preparation of Attorneys
In felony and misdemeanor cases, the attorneys appearing at the conference shall be familiar with the case including but not limited to investigative reports, preliminary hearing testimony, possible defenses and rap sheets of key witnesses and the defendant.

B. Felony Cases – Pretrial Statement
In felony cases the People shall file with the court, and serve on opposing counsel, a pretrial statement two (2) court days prior to the scheduled pretrial conference. The pretrial statement shall include a brief statement of the case, the maximum exposure the defendant faces, and the pretrial offer.

2-106. JURY INSTRUCTIONS (Eff. 07/01/14)

All requested instructions, including special instructions or modified CALCRIM instructions, shall be presented to the trial court and served on opposing counsel at a time deemed appropriate by the trial court. Unless otherwise ordered by the trial court, all requested instructions shall be presented in their entirety and not simply referred to by CALCRIM numbers. All special instructions shall be labeled People's Special Instruction or Defendant's Special Instruction and numbered sequentially. All proposed jury instructions shall comply with the California Rules of Court. (Eff. 07/01/14)

2-107. MATTERS IMPROPERLY SET FOR HOLIDAYS AND NON-JUDICIAL HOLIDAYS (Eff. 07/01/98)

A matter that is improperly set for a time other than as specified by these rules or as allowed by law will be automatically set for the next court day (unless that date would exceed the legal time limit) and then shall be continued by the court as is appropriate. (Eff. 07/01/98)

2-108. MOTION TO BE RELIEVED AS COUNSEL - RETAINED COUNSEL (Eff. 01/01/99)

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 Rule of Court 376. 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. (Eff. 01/01/99)

2-109. "RESERVED FOR FUTURE USE" (Eff. 01/01/23)

2-110. ATTORNEY FEES IN CRIMINAL AND JUVENILE MATTERS (Eff. 07/01/99)

Payment to court appointed counsel in criminal and juvenile matters will be made in such amount and manner set forth in the "Payment Policy and Fee Schedule" of the Lawyer Referral Service, available from that office. (Eff. 07/01/99)

2-111. REQUESTS TO MODIFY JUDGMENT (Eff. 01/01/03)

Requests to modify judgment must be by a noticed motion, specifying the order sought and the support for it, filed with the clerk of the court not less than five (5) days in advance of the hearing date. Notwithstanding the foregoing, a noticed motion is not required for non-substantive modifications, for example, jail report date, fine due date, manner of fine payment, authorization to complete a commitment in another county. (Eff. 01/01/03)

2-112. CRIMINAL APPLICATIONS FOR TEMPORARY ORDERS FOR RELEASE OF INMATE DUE TO MEDICAL, DENTAL, FUNERAL AND OTHER APPLICABLE APPOINTMENTS (Eff. 07/01/17)

No application for an order allowing release from jail for medical, dental, funeral or other appointments shall be made ex-parte. All requests for release shall be made to the presiding criminal judge or a judge assigned by the presiding criminal judge. The applicant must show by declaration that notice was given to the District Attorney's Office and the custodial institution.

A hearing date and time for the application and order must be made 24 hours in advance or within less time upon good cause by contacting the judge's courtroom clerk. (Eff. 07/01/17)

2-113. BAIL SCHEDULE RULE (Eff. 01/01/10)

Pursuant to Penal Code section 1269b, subdivision (d), the Court's Bail Committee is authorized to prepare, adopt and annually revise the Uniform County Bail Schedule as required by Penal Code section 1269b, subdivision (c). (Eff. 01/01/10)

2-114. SUBMISSION OF DOCTOR REPORTS TO DETERMINE MENTAL HEALTH COMPETENCY PER PC 1368 (Eff. 01/10/20)

A. Doctor reports regarding mental health competency under PC 1368 must be filed with the court by 5:00 p.m. no later than the last court day prior to the hearing either by:

1. Filing the original signed document with the Clerk's Office in person, which includes the drop box, or by mail; or,

2. Electronically filing the signed document pursuant to local rule number 6.

If the doctor is not able to file the report, the doctor shall submit for filing a written request for an extension. Such a request must be filed with the court by 5:00 p.m. no later than the last court day prior to the hearing and shall be submitted as described in subsections 1 or 2 above. (Eff. 01/01/20)

2-115. ABILITY TO PAY: CLERK DETERMINATIONS (Eff. 07/01/23)

A. The clerk of the court may make ability-to-pay determinations in the Superior Court of California for the County of San Joaquin as authorized in Government Code 68645.3(e) when the following criteria have been met:

a. The litigant submits that they receive public benefits, including those listed in subdivision (a) of Section 68632;

b. Or, the litigant submits their household income is equal to or below 250% of the federal poverty level.

B. The clerk of the court shall not modify the reduction rate recommended by the MyCitations online tool consistent with Court-established administrative settings for calculating reduction rates.

C. The defendant has the right to a review of the decision by a judicial officer in the trial court if the clerk of the court denies the reduction portion of the request.

D. Criteria for reductions made by the clerk of the court are posted on the court's website.

RULE 3 CIVIL

3-100. IMPLEMENTATION (Eff. 07/01/17)

The mandates set forth in these Local Rules are considered lawful orders of the court. Violation of any of these Local Rules may result in the imposition of sanctions pursuant to Code of Civil Procedure section 177.5 for violation of a lawful court order.

If the court finds that any party has not proceeded with due diligence or otherwise failed to comply with this rule, sanctions may be imposed pursuant to Government Code section 68608(b).

Unless otherwise required by law, the Clerk's office will conform a maximum of two (2) copies. (Eff. 07/01/17)

3-101. DIRECT CALENDARING OF CIVIL CASES (Eff. 01/01/20)

THESE RULES APPLY TO ALL CIVIL CASES (LIMITED AND UNLIMITED. EXCLUDING PROBATE) UNLESS OTHERWISE NOTED.

A. All cases described as personal injury, eminent domain, collection or other actions denominated as civil in nature shall be subject to assignment to a judicial officer for all purposes at the time of filing of the action. This section shall not apply to abandonment, adoption, mental health, petitions for approval of minors' compromises and family law cases. Nothing herein shall be construed to interfere with the Presiding Judge's authority to assign or reassign cases. This section also applies to writs.

B. Cases which are subject to direct calendaring shall be assigned to a judicial officer for all purposes, who shall thereafter handle all proceedings involving the matter, including trial, except as otherwise provided or required by law. At the time of the initial filing of any case, the Clerk's office shall, generate a Notice of Case Assignment and Notice of Hearing identifying the judicial officer who is assigned for all purposes including trial. A copy of this notice must be included with the service of the Complaint, Summons and ADR information upon all named defendants.

Time limits for peremptory challenges of judges, commissioners and referees are governed by CCP Section 170.6. (Eff. 05/28/20)

3-102. ADMINISTRATION OF GENERAL CIVIL LITIGATION (Eff. 01/01/20)

NOT APPLICABLE TO LIMITED CIVIL CASES

A. Policy:

It is the policy of the San Joaquin Superior Court:

1. To manage all cases except civil petitions, probate, mental health, domestic and paternity actions from the time of filing the first document invoking court jurisdiction through final disposition.

2. The time frame for unlimited civil cases is 75% within 12 months, 85% within 18 months and 100% within 24 months.

3. To use these rules as outside limits in the management of civil cases. Parties are encouraged to proceed at a more accelerated pace, especially in those cases involving promissory notes, simple breach of contract, money due and other cases susceptible to early disposition. In such cases, a party may file its own at-issue memorandum prior to case management conference to secure an early trial date.

4. Nothing in this section shall prevent the court from issuing an exception order based on a specific finding that the interest of justice requires a modification of the routine processes as prescribed.

5. Uninsured motorist (California Insurance Code Section 11580.2) and eminent domain cases shall be deemed exempt from this rule upon the filing by plaintiff of a Declaration of Exemption (Form Sup. Ct.56). The Case Management Conference for these matters will be scheduled 180 days out at case initiation. If the Declaration of Exemption is filed after case initiation, the CMC date will be vacated and rescheduled for 180 days out from the filing date of the declaration. (CRC 3.712.) Plaintiff is required to file a dismissal within ten (10) days after receipt of monies or 60 days after the arbitration hearing in all uninsured motorist cases.

6. All civil cases filed which are statutorily limited civil cases shall remain subject to the “Economic Litigation Rules” (CCP Section

90, et seq.) regardless of which department or commissioner handles such case.

B. Procedure

1. Any party seeking a change of hearing date set under this section must file a written application containing a showing of good cause together with a proposed order five (5) court days in advance of the hearing.

2. Order to show cause hearings for violations of these rules will be held by the assigned judge approximately 20 days from the mailing of the order to show cause.

3. Written response to orders to show cause must be filed at least five (5) calendar days before the hearing.

4. All stipulations for request to continue any proceeding shall be signed by all attorneys involved in the case.

C. Responsive Pleadings

1. If a Certificate of Inability to Respond is timely filed the court will conduct a hearing to determine a date on which a response must be filed.

2. If the responsive pleading is a demurrer and the demurrer is overruled, the court shall fix the time for filing a further response. If a demurrer is sustained with leave to amend, the court shall fix the time for filing an amended pleading and may fix the time for filing a response.

   Pursuant to C.R.C 3.110(g), if a responsive pleading is not served within the applicable time limits, and no extension of time has been granted, the plaintiff is required, within 10 days after the time for services has elapsed, to file a request for entry of default.

D. Stays of Action/Alternative Dispute Resolution Requirements

1. To stay any action pending any type of alternative dispute resolution (ADR), stipulations and proposed orders must provide that the ADR shall be binding and that a dismissal of the entire action will be filed.

2. The stay provided by 11 U.S.C. Section 362 shall not affect this section.

E. Extensions by the Court

1. The court may extend any time standard set forth in these rules upon a showing of good cause on noticed motion or ex-parte appointment with the assigned judge.

   "Good cause" includes the existence of those conditions stated in C.C.P. section 583.240. When applying to the court to extend time for service of process based on the conditions stated in C.C.P. section 583.240, plaintiff shall suggest to the court the earliest time within which the impediment to service may reasonably be eliminated so that the court is able to continue its supervision of the case on a date certain.

2. Further, in all civil actions, "good cause" for an extension of time to serve the defendant with process is established where plaintiff's declaration affirmatively shows that defendant's insurance carrier or other authorized representative has been advised that an action has been filed and that settlement negotiations are in progress which could resolve the case without further litigation. Upon such showing, it is the policy of the court to extend the time for service of the complaint to a date certain, within which time it appears reasonable that negotiations can be concluded.

F. Case Management Conference (CMC)

1. Upon filing a complaint, the plaintiff shall receive the following from the clerk:

   (a) Summons and complaint,

   (b) Notice and date of the first case management conference (the first conference will be set within 180 days of the filing date or within 180 days after an Answer is filed in collection cases governed by California Rule of Court 3.740), and

   (c) A blank Case Management Conference Statement (CMCS).

   Any cross-complainant naming new parties will also receive a notice of case management conference and a blank CMCS.

If a case is transferred from another jurisdiction after a responsive pleading has been filed, the first status conference will be set within 45 days from the order of transfer. If no responsive pleading has been filed, the first case management conference will be set within 90 days from the Order of Transfer. In all other particulars, the plaintiff in a transfer case will receive the same information and items as described above.

2. At the time of serving the summons and complaint (and a cross-complaint upon a new party) the responding party shall be served with the notice of the case management conference and a blank CMCS by the plaintiff.

3. Each appearing party shall file and serve the completed Case Management Conference Statement at least fifteen (15) calendar days prior to the hearing.

4. The assigned judge shall conduct the case management conference, at which each trial attorney, or attorney familiar with the case, and each self-represented party must appear. At the CMC, the court may make all orders it deems appropriate, including but not limited to any one or more of the following:

   (a) A preliminary determination regarding judicial arbitration or Alternative Dispute Resolution (ADR);

   (b) Transfer to another court;

   (c) Designating the case as "complex litigation";

   (d) Order an early settlement conference;

   (e) Order a trial setting conference; or

   (f) Order the setting of a "short cause" court trial.

5. If none of the parties object to the court referring the matter to arbitration (and therefore without limit) and both sides have initiated discovery, no appearances will be required at the case management conference.

6. If a case is not ordered to judicial arbitration, the court will order a trial setting conference date.

7. Any attorney may appear at the case management conference telephonically and, when this occurs, local attorneys have the same option.

8. The court will consider those factors outlined in Judicial Council Rule 2106 in evaluating a management plan for each individual case.

G. Complex Litigation

1. A complex case is one which involves complex issues, difficult legal questions or unusual proof problems.

2. The court, on its own motion, may at any time declare an action a complex case, or may do so pursuant to motion by a party.

3. Once a case is designated as complex by the court, it shall be assigned to a judge for all purposes, including trial.

H. Arbitration Determination

1. Cases are ordered to arbitration at the case management conference.

2. Parties shall be noticed with a trial setting conference date once a request for trial de novo has been filed. The trial setting conference will be held approximately 21 days from the request for trial de novo.

I. Trial Setting Conference

1. If a case is not ordered to arbitration at the case management conference, the assigned judge will set the case for a trial setting conference.

2. Each trial attorney or attorney familiar with the case and self-represented party must attend, at which time the assigned judge will set any final deadlines for completion of discovery. A trial date shall be assigned with a mandatory settlement conference being set 15 to 30 days prior to trial. Settlement conferences will be governed by Rule 3-104.

3. All trial attorneys or attorneys familiar with the case and self-represented parties shall attend trial setting conference, unless a Declaration in Lieu of Personal Appearance has been filed. Said declaration must be filed with the Court Clerk's Office at least ten (10) days prior to the trial setting conference.

J. Non-Availability of Official Court Reporting Services in Civil Departments

San Joaquin Superior Court's Official Court Reporters are "not available" within the meaning of California Rules of Court, Rule 2.956, for court reporting of civil cases. As provided in Rule 2.956(e)(1), the term "civil cases" includes all matters other than criminal and juvenile matters. This non-availability extends to all civil cases hearings or proceedings of any kind or nature, including but not limited to law and motion hearings, ex parte applications, long-cause hearings and trials. Effective July 31, 2017, the departments which normally hear civil cases are Departments 10A, 10B, 10C, 10D, and 11B.

As provided in Rule 2.956(c), parties may arrange for the presence of a certified shorthand reporter to serve as an official pro tempore reporter. It is the party's responsibility to pay the reporter's fee for attendance at the proceedings, but the expense may be recoverable as part of the costs, as provided by law.

If a party arranges and pays for the attendance of the certified shorthand reporter, none of the parties will be charged the reporter's attendance fee provided for in Government Code section 68086, subdivisions (a)(1) or (b)(1).

The stenographic notes of the certified shorthand reporter are the official records of the court and shall be secured by the court in either paper and/or electronic format in accordance with Government Code section 69955(a), (b), (c) and (d).

In all cases, the plaintiff shall serve "Notice of "Non-Availability of Official Court Reporting Services in Civil Departments" ("Notice") with the complaint. Likewise, the cross-complainant must serve the Notice on any new parties to the action. The service information must be included on the Proof of Service of Summons. In addition, parties that file motions must serve the Notice on all parties in the case. The service information must be included on the Proof of Services by Mail. (Rev 1/1/2022)

3-103. REMOTE APPEARANCES (Eff. 01/01/22)

A. This Local Rule is adopted pursuant to Civil Code of Procedure section 367.75 and California Rule of Court, rule 3.672. Notice requirements are set forth in rule 3.672 and below.

B. For Case Management Conferences, Law and Motion hearings, and Ex Parte hearings, parties may appear remotely pursuant to Civil Code of Procedure section 367.75 and California Rule of Court, rule 3.672.

a) Parties may stipulate either orally or in writing to waive notice of other participants' appearing remotely for Case Management Conferences, Law and Motion hearings, and Ex Parte hearings.

b) This Court waives notice of parties appearing remotely for Case Management Conferences, Law and Motion hearings, and Ex Parte hearings.

c) Nothing limits the discretion of the judicial officer to require parties to appear in person for Case Management Conferences, Law and Motion hearings, and Ex Parte hearings.

d) A remote appearance for Case Management Conferences, Law and Motion hearings, and Ex Parte hearings will not be permitted if the tentative ruling posted for the hearing states that an in-person appearance is required, or the court advises the person requesting to appear remotely that the judicial officer has determined that an in-person appearance is necessary.

C. For Case Management Conferences, Law and Motion hearings, and Ex parte hearings, the Court has a telephone Bridge Conference Line platform that supports audio only.

1. The Bridge Conference Line call in numbers are listed on the Court's website.

2. At the discretion of the Judicial Officer, a Zoom video platform may be provided for the parties to appear. The Court will provide the video access meeting link, or require a party to provide notice of the video access meeting link.

c. Any recording, reproduction, or re-broadcasting of a court ` proceeding held remotely, including screenshots or other visual or audio copying of a hearing, is prohibited.

D. For Evidentiary Hearings, Settlement Conferences, Bench or Court Trials, Jury Trials, and hearings on Orders to Show Cause, parties must appear

in person, unless the party or attorney requests and receives express written authorization to appear remotely by the judicial officer.

a. A party may request to appear remotely by filing and serving a Notice of Remote Appearance Form RA-010 with the Court no later than10 court days before the Evidentiary Hearing, Settlement Conference, Bench or Court Trial, Jury Trial, or Order to Show Cause.

b. In response to notice of remote appearance, any party may file and serve an Opposition to Remote Proceedings Form RA-015 no later than 5 court days before the hearing in question.

c. A party must deliver a copy of any written Notice or Opposition under (a) or (b) to the department in which the proceeding is to be held.

E. Even when a remote appearance is authorized and commences, the judicial officer may terminate a remote appearance and continue the matter so that an in-person appearance can occur if technology or audibility issues interfere with the judicial officer's ability to make a determination required by the hearing, the in-person appearance is necessary to assist in the determination of the specific hearing, the court reporter's ability to make an accurate record is in question, counsel's ability to provide effective representation is in question, an interpreter's ability to provide language access is in question, or for any other reason which constitutes good cause under the circumstances.

3-104. SETTLEMENT CONFERENCE PROCEDURES (Eff. 07/01/17)

Section 1: Settlement Conference Statements

Each party must file with the court and serve all other parties with a Settlement Conference Statement at least ten (10) calendar days prior to the hearing. In addition to the items required by California Rules of Court, Rule 3.1380(c), the Settlement Conference Statement shall contain a concise summary of the case, a description of the matters agreed upon and the matters in dispute, and the factual and legal contentions as to the matters in dispute. In a personal injury action, the statements shall set forth the medical condition of the party(s), medical treatment received and by whom, a listing of the medical bills, the amount of the general damages claimed and supporting documentation, offers and counter offers of settlement and all other information which will assist the court in settling the case.

Section 2: Necessary Preparation

All discovery should be completed prior to the hearing. If there is a dispute which requires an accounting, the accounting should be completed. If there is a material dispute as to the value of property, appraisals must be completed. If there is a substantial dispute as to medical condition of a party, all medical examinations should be completed.

Section 3: Materials to be Brought to Conference

In a personal injury case, copies of medical reports, copies of medical bills, and if loss of earnings are claimed, documentation therefore is to be brought to the conference. If economists are to be used to support loss of earnings, a copy of the economists' reports and all other material necessary to substantiate general and specific damages will be required. In other cases, copies of accountings, appraisals and other documentation will be required.

Section 4: Duties of Attorneys and Parties Attending Settlement Conferences

(a) Each party claiming damages shall furnish to all other parties at least ten (10) days before the settlement conference, the amount of general damages claimed, an itemized list of special damages and medical billings, and in a personal injury or wrongful death case, a settlement offering.

(b) The trial attorneys shall attend the conference. If this is not possible, the attorney attending the conference shall have a thorough knowledge of the case and shall be prepared to have the authority to negotiate settlement. All parties, and when a party is insured, a representative of the insurance company who has authority to settle a case, shall attend the conference. The court may excuse the attendance of a party or insurance company representative for good cause, such as excessive distance, if the person excused agrees to be immediately available by telephone at all times during the conference.

(c) Each attorney shall have read, considered, and be ready to respond to the Settlement Conference Checklist, set forth in Rule 3-104, Section 5, immediately following.

Section 5: Settlement Conference Checklist

(a) Upon notification of a settlement conference date, recheck:

1. California Rules of Court

   Rule 3.1380 - Mandatory Settlement Conferences

Rule 3.1385 - Duty to Notify Court of Disposition

2. San Joaquin Unified Court Local Rules, Rule 3-104.

(b) Review and evaluate liability (what a jury is likely to do).

1. Consider and itemize strong liability points.
2. Consider and itemize weak liability points.
3. Consider facts which depend on conflicting testimony.
4. Consider facts which depend on testimony of witnesses weak on credibility.
5. Are there factual contentions on your side which will be difficult to prove?
6. Are there factual contentions of your opponent which will be difficult to prove?
7. Have you discussed your factual contentions with opposing counsel and considered his/hers?
8. Consider law applicable to liability.
   a. Is there a dispute as to law re liability?
   b. Have you discussed your legal contentions with opposing counsel and considered his/hers?
9. Take into consideration liability factors for the type of case.
10. Rate liability on a scale of 0% liability to 100%.

(c) Review and evaluate damages (what a jury is likely to do.)

1. Have current medical reports on all claims of injury and all medical reports prepared by any doctor.
2. Itemize special damages and total. Attach copies of each bill or originals. If there are liens, counsel should include all available information pertinent thereto.
3. Itemize possible future special damages and total. Attach report and other data showing basis of claim of future special damages as to dollar amount.

4. Supply opposing counsel with copies of all medical reports and your itemization of special damages to date and future special damages at least ten (10) days before settlement conference.

5. Itemization of claimed injuries and evaluation of extent of each injury:

   a. Temporary or permanent

   b. Disabling or non-disabling

   c. Disfiguring or not

6. Consideration of whether future medical care of time will improve physical condition.

7. Your range of estimation of verdict range assuming liability.

8. Your reduction of verdict range for:

   a. Comparative negligence

   b. Problems of proof of injuries claimed

   c. Reduction for your liability rating

9. Consider verdict range for the injuries in this case.

10. Give opposing counsel, in writing, your settlement figure at least ten (10) days before settlement conference.

11. Have you discussed your settlement figure with opposing counsel and considered his/hers?

12. Have you discussed your settlement figure with your client within one (1) week of the settlement conference?

(d) Counsel should be prepared to respond to questions by the court as to matters referred to in this Settlement Conference Check sheet. (Eff. 07/01/17)

3-105. PROPOSED FINDING, ORDER, JUDGMENT OR DECREE (Eff. 01/01/14)

Unless otherwise ordered by the court, the preparation of the order of finding, order, judgment or decree shall be in accordance with Rule 3.1312 of the California Rules of Court. (Eff. 01/01/14)

3-106. EX PARTE APPLICATIONS AND ORDERS (Eff. 01/01/18)

Except as provided in this rule and in Rule 3.1204 of the California Rules of Court, no application for an order shall be made ex parte unless the applicant shows by written declaration under oath either that a reasonable effort has been made to give notice to the adverse party or attorney, that notice would be inappropriate or impractical or would result in irreparable injury, or that the order would not result in a significant direct burden or inconvenience to the adverse party.

Ex parte matters must be approved and scheduled by the Law and Motion Judge by his or her clerk prior to filing documents in the clerk's office. The courtroom phone numbers are listed on the public website at www.sjcourts.org. The party shall file the moving papers and any applicable filing fee due no later than 24 hours prior to the requested hearing date and time. Proof of Service must be on file with the Superior Court Clerk's Office prior to the scheduled hearing.

Every application for an order made ex parte shall be accompanied by a written declaration under oath, made by a person with knowledge of the facts, stating the facts for determining the amount of a bond and any facts supporting any requested waiver of a bond. The declaration shall state the maximum loss, including any attorney fees, which is likely to occur from the granting of the order. (Eff. 01/01/18)

3-107. PETITION AND ORDER FOR APPOINTMENT OF GUARDIAN AD LITEM (Eff. 01/01/09)

In cases where a minor, or other person for whom guardian ad litem will be necessary, is the plaintiff, the Petition to Appoint Guardian Ad Litem shall be filed simultaneously with the complaint and the summons to be issued. The summons shall not be issued until the Order Appointing Guardian Ad Litem has been signed. (Eff. 01/01/09)

3-108. PLEADINGS AND RECORDS IN EMINENT DOMAIN PROCEEDINGS (Eff. 01/01/14)

A. Proceeding involving more than one parcel of property.

1. Pleadings- In proceedings involving more than one parcel of property, the complaint shall set forth in addition to the matters required by Code of Civil Procedure, section 1250.310, numbers or symbols identifying each parcel of property. An answer,

demurrer, disclaimer, written appearance, or other pleading shall set forth, in the space below the number of the case and in parentheses, the parcel numbers or symbols that identify the property claimed by that defendant.

2. Waiver of Requirements - The court may, for good cause shown, order any paper to be filed without a parcel number or symbol.

B. Application for final order of condemnation.

An application for final order of condemnation shall be made upon notice to all parties appearing in the action who have not been previously dismissed therefrom, or upon the stipulation of such parties, and it shall include, in addition to the requirements of Code of Civil Procedure section 1268.030, a copy of the final judgment and an acknowledgment of receipt by the affected defendant(s) of the amount specified in the final judgment, or other evidence satisfactory to the court that the judgment has been satisfied. (Eff. 01/01/14)

3-109. DEATH OF A PARTY (Eff. 07/01/98)

When a party to an action dies, the attorney for that party shall forthwith serve and file a notice of death and pendency of probate proceeding, if any. (Eff. 07/01/98)

3-110. PETITION FOR APPROVAL OF COMPRISE OF CLAIM OR ACTION FOR MINOR OR PERSON WITH DISABILITY (Eff. 07/01/2024)

A. Except as in subsections (b) and (c), a Petition for Approval of Compromise of Claim or Action for Minor or Person with a Disability may be filed and heard in the civil department in which the case is pending. The Petition may be filed under the same civil case number.

B. If there is no pending civil case, the Petition for Approval of Compromise of Claim or Action for Minor or Person with a Disability must be filed and heard in the probate department, with the procedures set forth in these rules in Part Eight of the Probate Rules, commencing with 4-801, applying.

C. If a Petition for Approval of Compromise of Claim or Action for Minor or Person with a Disability proposes to have the settlement funds distributable to the minor or person with a disability administered under a guardianship, conservatorship, discretionary trust or special needs trust, the Petition must be filed and heard in the probate department with the procedures set forth in these rules in Part Eight of the Probate Rules, commencing with 4-801, applying.

3-111. ATTORNEY FEES IN ACTIONS ON PROMISSORY NOTES, CONTRACTS PROVIDING FOR PAYMENT OF ATTORNEY FEES, AND FORECLOSURES (Eff. 07/01/20)

The following attorney fees shall, under normal circumstances, be awarded in actions on promissory notes, contracts providing for the payment of attorney's fees, and foreclosures:

A. Default Action on Note or Contract- Exclusive of costs:

25% of first $1,000 with minimum fee of $150

20% of next $4,000

15% of next $5,000

10% of next $10,000

5% of next $30,000

2% of the amount over $50,000

In an action upon contract providing for an attorney fee, the Clerk shall include in the judgment an attorney fee in accordance with this schedule.

B. Contract Based Upon a Book Account

Reasonable attorney fees awarded pursuant to Civil Code section 1717.5 to the prevailing party bringing the action on the book account shall not exceed the lesser of: 1) NINE HUNDRED SIXTY DOLLARS ($960) for book accounts based upon an obligation owing by a natural personal for goods, moneys, or services which were primarily for personal, family or household purposes; and ONE THOUSAND TWO HUNDRED DOLLARS ($1200) for all other book accounts to which Civil Code section 1717.5 applies, or 2) 25% of the principal obligation owing under the contract.

Whenever the obligation sued upon provides for the recovery of reasonable attorney fees, the fees may be set according to the schedules above in default judgment cases and may be looked to as a guide to reasonable attorney fees in contested matters. In any case where the attorney feels he or she is entitled to fees in excess of the schedule, he or she may apply to the court and the fees shall be fixed in accordance with the proof.

C. Contested Action on Note or Contract

The same amount as computed under subdivision A., increased by such reasonable compensation computed on an hourly or per-day basis for any additional research, general preparation, trial, or other services as may be allowed by the court.

D. Foreclosure of Mortgage or Trust Deed

The same amount is computed under subdivision A. or B. increased by 10 percent.

E. Foreclosure of Assessment or Bond Lien Relating to a Public Improvement

The same amount as computed under subdivision A. or B. except that the minimum fee shall be $75.00 in an action involving one assessment or bond, and an additional $40.00 for each additional assessment or bond being foreclosed in the same action.

F. Attorney fees in Unlawful Detainer cases

In any unlawful detainer action involving residential premises, except for property governed by Civil Code section 798 through 798.88 (regarding Mobile Home Residency Law), where judgment is obtained following entry of default and no hearing has been calendared, the clerk may enter attorney's fees not to exceed three hundred dollars ($300.00). (Eff. 07/01/20)

3-112. ORDERS SHORTENING TIME (Eff. 01/01/02)

The court will not shorten time for service of orders to show cause and notices of motion except upon a written declaration or affidavit clearly showing the necessity therefor through an ex parte hearing or by stipulation. (Eff. 01/01/02)

3-113. CIVIL LAW AND MOTION Eff. 01/01/20)

A. Except where there is an order setting the date, the moving party may schedule the Law and Motion hearing in the Superior Court Clerk's office when the moving papers are filed (subject to mandatory time provisions of statutes and Rules of Court). Motions are heard Tuesdays through Fridays at 9:00 a.m. When submitting the moving papers for filing, please have at least three (3) dates (within the proper time

provisions) for the clerk to check for availability. Proof of service must be on file with the Superior Court Clerk's office prior to the scheduled hearing.

(STOCKTON COURTHOUSE ONLY)

B. Matters not requiring more than fifteen (15) minutes may be set for the 9:00 a.m. calendar on Tuesdays through Fridays. Special settings may be made by the courtroom clerk with prior approval.

C. Other than in contempt matters or where allowed by statute, evidence shall be presented by matters of which the court may or must take judicial notice, affidavits, and declarations, unless prior arrangements are made with the court for the taking of oral testimony.

(STOCKTON COURTHOUSE ONLY)

D. Judges assigned to civil law and motion matters will prepare a tentative ruling for each matter on calendar and a ruling will be available to counsel and litigants on the first court day before the scheduled hearing. If the tentative ruling is satisfactory to counsel, he or she need not appear and the tentative ruling will become final. If counsel or self-represented litigants (SRL) wish to appear, he or she may do so only after appropriately notifying the court and other counsel or SRL of that intent.

The tentative ruling shall become the ruling of the court unless there is opposition by counsel or SRL. Counsel or self-represented litigants is responsible for reviewing the tentative ruling and notifying the superior court, by calling (209) 992-5714, and all other counsel and self-represented litigants no later than 4:00 p.m. on the day preceding the scheduled hearing of his or her intent to appear to argue.

The tentative rulings will be posted to the court's website: www.sjcourts.org. Counsel or self-represented litigants may access the court's website beginning at 1:30 p.m. on the court day immediately preceding the date for which a matter is calendared.

Matters may be continued by filing a stipulation up to five court days before the hearing date. To prevent the judges from unnecessarily preparing matters to be continued, court approval will be required before a continuance will be allowed when the request for continuance is made within five court days of the scheduled hearing.

(LODI BRANCH ONLY)

E. The same will apply as listed in Rule 3-113 (D) for the Stockton Courthouse with the exception that the Lodi Branch Civil phone number for calling in by 4:00 p.m. on the day preceding the scheduled hearing of his or her intent to appear to argue is (209) 992-5522. (Subd. (E) amended January 1, 2018); previously amended (deleted) effective July 1, 2015. (Eff. 01/01/20) (Subd (F) amended (deleted) effective July 1, 2015.

3-114. CHAMBERS CONFERENCES AND EX PARTE MATTERS (Eff. 01/01/18)

A. Chambers conferences and hearings regarding ex-parte matters should be scheduled only with the approval of the Law and Motion Judge or his or her clerk. The courtroom phone numbers are listed on the public website at www.sjcourts.org. (See Rule No. 3-106.)

B. When ex-parte relief, other than that involving attachments, is sought, opposing counsel (or if unknown, opposing parties) should be given reasonable notice, orally or in writing, of the time and place that such application will be made, unless there is good cause for proceeding without notice, so that an informal hearing or conference may take place. Applicant's counsel should be prepared to explain to the court the efforts which have been made to give this informal notice, or the reasons supporting a claim that notice should not be required.

C. Orders staying a Department of Motor Vehicles suspension or revocation will not be considered unless the petitioner's driving record is made available to the court.

D. Declarations should be submitted setting forth facts bearing on the amount of probable damage, upon which the court may determine the amount of probable damage, and in turn, the amount of bond, in any case where a bond may be considered or required. (Eff. 01/01/18)

3-115. Title [Repealed] (Eff. 07/0/15)

(Rule 3-115 repealed 07/01/15); previously amended effective January 1, 2014.

3-116. JURY FEES AND EXPENSES (Eff. 01/01/14)

A. Jury fee deposits are non-transferrable. See Code of Civil Procedure section 631 for the rules governing jury fee deposits.

B. Reimbursement for voir dire jurors - The party who has demanded a jury in a civil case shall reimburse the county for the fees and mileage incurred for jurors. No fees or mileage reimbursement will be required for jurors on the first day of jury service, except for those who are sworn to hear the trial. Reimbursement will be made for all jurors serving more than one day. (Eff. 01/01/14)

3-117. "COURTESY COPIES" OF BRIEFS AND PAPERS (Eff. 01/01/21)

All briefs and papers filed in support of any motion or application, whether made on notice or ex parte, must be filed with the Clerk of the Court.

Courtesy copies are required for all substantive motions, all trial documents, and additionally on a case-by-case basis per the assigned judge's request. Such courtesy copies shall be stamped with "Courtesy Copy" and shall be delivered directly to the Courtesy Copy Drop Box on the 10th floor or 11th floor. If the box is unavailable, please follow the instructions on the notice posted on the box. (Rev. 1/1/2022)

3-118. "RESERVED FOR FUTURE USE" (Eff. 07/01/05)

3-119. "RESERVED FOR FUTURE USE" (Eff. 07/01/05)

3-120. SUBSTITUTE SERVICE (Eff. 07/01/05)

If service is at a party's residence, one attempt of serve must be at a time other than usual business hours, i.e., other than between 9:00 a.m. and 5:00 p.m. The substituted service could then be executed on a new calendar day following the second attempted personal service (Eff. 07/01/05).

3-121. ALTERNATIVE DISPUTE RESOLUTION (Eff. 07/01/17)

San Joaquin Superior Court strongly supports the use of Alternative Dispute Resolution in civil cases. Many cases can be resolved to the satisfaction of all parties without the necessity of engaging in litigation, which can be costly, time consuming, and stressful. The court encourages litigants to utilize some form of ADR as an alternative to litigation in addition to the mandatory settlement conference set in each case.

A. ADR Options

Litigants may choose one or more methods of ADR, including but not limited to the following:

Mediation

a. Court Mediation Program or Private (CCP §§1775-1175.15; CRC 3.890-3.898)

b. Non-binding Judicial Arbitration (CCP §§1141.10-1141.31; CRC 3.810-3.830)

c. Binding Arbitration (CCP §§1280-1294.2; CRC 3.1330)

d. Neutral Evaluation

e. Trial by Reference (CCP §§638-645.2)

f. Expedited Jury Trial (CCP §§630.01-630.12); concerning EJT's, please see Rule 3-127, below, for additional information.

B. ADR Information

Attorneys shall provide their clients with a copy of San Joaquin Superior Court ADR Information packet at the earliest available opportunity and prior to the initial Case Management Conference. Self-represented litigants and all litigants need to review and consider the available ADR choices. Plaintiffs and cross-complainants shall serve a copy of San Joaquin Superior Court ADR Information packet on each defendant or cross-defendant at the time the complaint or cross-complaint is served as required by California Rule of Court 3.221.

C. ADR Participation

Participation in any ADR program offered by the Court or as agreed upon by the parties is strongly encouraged. Parties may request ADR by selecting an ADR option on the Case Management Conference Statement (Judicial Council Form CM-110) and/or completing a Stipulation and Order to Participate in Alternative Dispute Resolution (Sup. Ct. Form 441).

D. ADR Assessment at Case Management Conferences

Parties are to assess and consider an ADR option prior to and at Case Management Conferences. Case Management Conferences will assist the parties to select the most effective and appropriate ADR method to resolve the case. At the discretion of the court, an appropriate amount of time will be permitted for ADR to be completed

prior to the date set for a Further Case Management or Trial Setting Conference.

E. ADR Neutral Panels

The Court maintains current lists of arbitrator and mediator panels to assist parties and their counsel in selecting a neutral provider to preside over ADR proceedings. Eligibility criteria for appointment to the court's arbitration or mediation panels are set forth in CRC 10.781, CRC 3.810, et seq., and such other criteria as may be established by the court. The Court's panel of available neutrals can be assessed through the court's website at www.sjcourts.org under civil mediation.

F. Notice of Settlement

If a case that has been set for judicial arbitration or court mediation settles, plaintiff must immediately serve a copy of written Notice of Settlement or other disposition on the ADR neutral provider appointed in the case and file the Notice of Settlement with the court. (Eff. 07/01/17)

3-122. JUDICIAL ARBITRATION (Local Rule 3-121, revised) (Eff. 01/01/14)

A. Judicial Arbitration

Any civil case shall be submitted to judicial arbitration pursuant to this rule upon order of the court, stipulation of counsel or plaintiff's election, where, in the opinion of the court, the amount in controversy does not exceed twenty-five thousand dollars ($25,000) for each plaintiff in limited civil case or fifty thousand dollars ($50,000) for each plaintiff in an unlimited civil case. The parties may stipulate or plaintiff may elect judicial arbitration where the amount in controversy exceeds fifty thousand dollars ($50,000) for each plaintiff in an unlimited civil case. The Judicial Arbitration program is administered by the court under the provisions of Code of Civil Procedure §§1140.10 through 1141.31 and California Rules of Court 3.810-3.830.

The provisions of this rule shall not apply to cases exempt from arbitration pursuant to CRC 3.811(b) and based upon the discretion of the court.

A case may be ordered to arbitration at a Case Management Conference from information submitted on the Case Management Conference questionnaire. Long cause cases not ordered to judicial

arbitration at Case Management Conferences shall be set for trial. If a referral to the Case Management Conference is desired prior to the first management conference, the party may so request in the Case Management Conference Statement and the case may be ordered to judicial arbitration from the information submitted thereon.

B. Continuance of Matters Ordered to Arbitration (Local Rule 3-122, revised)

The continuance of arbitration hearings once scheduled is disfavored. Keeping within the provisions of CRC 3.818(c), the parties may stipulate with the consent of the arbitrator or the arbitrator may grant a continuance based on good cause and not to exceed ninety (90) days from the date of assignment to the arbitrator. A further continuance, however, cannot be granted except by motion to the court, with good cause shown.

C. Setting Trial After Request for Trial de Novo (Local Rule 3-123, revised)

When a request for a trial de novo has been timely filed, the court will promptly schedule a Case Management Conference to set the case for trial.

D. Payment of Arbitrators (Local Rule 3-124, revised)

The arbitrator's award or a Notice of Settlement must be timely filed with the Arbitration Administrator before a fee may be paid. The arbitrator shall receive the sum of $150 for each case as a fee for services. If the arbitration hearing extends beyond one day, the arbitrator is entitled to $150 per day for each additional day or portion thereof. At the court's discretion, payment of fees for all arbitrators may be suspended and arbitrators may volunteer their time and effort. (Eff. 01/01/14)

3-123. CIVIL MEDIATION PROGRAM (Local Rule 3-125, renumbered) (Eff. 07/01/17)

A. Civil Mediation Program

The Civil Mediation Program is a court-connected program designed to deliver high-quality affordable mediation services to attorneys and litigants in general civil cases. Mediation gives litigants a voice in settlement decisions and thereby allows them to play a more direct role

in managing the outcomes of their own cases. The Superior Court of California, for the County of San Joaquin, is pleased to offer this important and valuable option for resolution of litigation.

B. Eligibility

All types of general civil cases are eligible to participate in the Civil Mediation Program. Please see California Rules of Court, Rule 1.6(4) for the definition of "general civil cases".

C. Stipulation to Mediation

1. Parties at any time may stipulate to participate in mediation. All parties stipulating to mediation must complete a Stipulation and Order to Participate in ADR form and file it at the Clerk's Office. An original and a copy for the court's use shall be submitted to the Clerk's Office. The form can be downloaded at www.sjcourts.org under "Civil Mediation".

   There is no filing fee for the filing of the Stipulation. An incomplete Stipulation will be returned to the parties by the Clerk's Office. All Stipulations must include the following:

   a. Original signatures for one attorney for each party or by the self-represented litigant;

   b. The Name of the mediator;

   c. Date of the mediation session; and

   d. Service list (counsel need not serve the Stipulation on parties.

   Parties are to mutually agree on a mediator and schedule the mediation session directly with the mediator.

2. Filing the Stipulation Prior to an Initial Case Management Conference

   To stipulate to mediation prior to the initial Case Management Conference, parties must file a completed stipulation at least ten (10) days before the scheduled Case Management Conference. The clerk will send notice of a new Case Management Conference date approximately one hundred and twenty (120)

days from the current date to allow time for the mediation process to be completed.

3. Filing the Stipulation Following a Case Management Conference

When parties come to an agreement at a Case Management Conference to utilize mediation, the parties have 21 days from the date of the Case Management Conference to file a Stipulation and Order to ADR with the court. If the Stipulation and Order to ADR is not filed with the court within the time allowed, the clerk will send out an Order to Show Cause to have the parties appear in court and explain why the Stipulation and Order to ADR has not been filed.

D. Selection of Mediator

Parties are to choose a mediator who is mutually agreeable based on the mediator's experience, market rate, and other information listed on the Mediator Panel List. Parties are not, however, limited to choosing a mediator from the court's panel and may select a mediator based on their own research.

E. Mediator Qualifications

1. Court panel mediators appointed to the Court Panel must meet specific requirements related to basic training and experience. The following are the requirements needed to qualify to become a Court Panel mediator:

a. Track A: An attorney in good standing with the California Bar Association AND have completed Pepperdine University School of Law's Straus Institute for Dispute Resolution 42-hour training program organized through San Joaquin Superior Court.

b. Track B: An attorney in good standing with the California Bar Association AND have completed at least five (5) days (40 hours) of continuous, participatory education or training, including role playing in mediation AND have participated as a mediator or co-mediator in at least five (5) mediations.

c. Track C: An attorney in good standing with the California Bar Association AND have completed at least two (2) days (16 hours) of continuous participatory education or training,

including role playing in mediation AND have participated as a mediator or co-mediator in at least fifteen (15) mediations.

d. Track D: Provide other satisfactory evidence of mediation skills and experience.

2. All mediators must:

a. Comply with California Rules of Court §§3.850-3.860 and 10.780-10.782;

b. Agree to conform to the Court's Ethical Standards of Professional Conduct (California Code of Judicial Ethics); and

c. Comply with the court's rules and procedures for the Civil Mediation Program.

F. Mediation Fees

The Civil Mediation Program is a party-pay fee for service system. Parties pay the market rate set by their selected mediator. Mediators serving on the court's panel have their rates published on the Panel List.

G. Confidentiality

Except as provided below, court-connected mediation shall be confidential and subject to the mediation privilege set forth in Evidence Code sections 703.5 and 1115-1128. Except as provided below, no communications made in connection with mediation, including the evaluation, may be disclosed to the assigned judge or to anyone else not involved in the mediation, unless otherwise agreed to by all parties.

This rule does not prohibit:

1. Disclosures as may be stipulated by all parties and the mediator;

2. a report to or inquiry by the ADR Administrator concerning a complaint against a mediator;

3. any participant or the mediator from responding to an appropriate request for information made by persons authorized by the ADR Committee to monitor or evaluate the court's ADR program; and

4. Disclosures as are otherwise required by law.

   The mediator shall require the parties and all persons attending the mediation session to sign a confidentiality agreement on a form provided by the court.

H. Post-Mediation Evaluations and Forms

All Post-Mediation Evaluations will NOT be filed in the court's file. The information collected will be used to assess the impact of the program on the court to track quality to provide feedback to mediators and to inform the court's decisions regarding redesign of program procedures. This information will be aggregated for blind statistical reports to the Judicial Council, the court and the community. Additionally, information collected in the Evaluation will not be shared with the involved parties.

1. Mediators: All mediators shall complete and submit a Mediator Post-Mediation Evaluation AND Statement of Agreement or Non-agreement form (Judicial Council Form ADR 100) within ten (10) days of the mediation sessions regardless of the outcome of the case mediated. The Statement of Agreement or Non-agreement shall be filed in the court's file. This form must be used by mediators in court-connected ADR programs.

2. Attorneys: All attorneys shall complete and submit an Attorney Post-Mediation Evaluation within ten (10) days of the mediation session regardless of the outcome of the case mediated.

3. Parties: All parties shall complete and submit a Client Post-Mediation Evaluation within ten (10) days of the mediation session regardless of the outcome of the case mediated.

I. Modification to the Program

The court may publicize additional procedural requirements and guidelines for the San Joaquin Superior Court Civil Mediation Program, as it deems necessary for the successful implementation of the program. Such further rules and procedural requirements will be timely published by the court on the court's website: www.sjcourts.org and will be made available to attorneys at the Clerk's Office upon their publication. (Eff. 07/01/17)

3-124. BINDING ARBITRATION (Eff. 01/01/14)

Parties may voluntarily stipulate to binding arbitration or move to compel binding arbitration pursuant to an arbitration agreement. Binding arbitration proceedings are subject to the procedures set forth in Civil Procedure Code §§ 1280 to 1294.2 and Rule of Court 3.1330. (Eff. 01/01/14)

3-125. NEUTRAL EVALUATION (Eff. 01/01/14)

Parties may voluntarily agree to bring a legal action to a neutral provider for a case assessment and evaluation. Neutral evaluators with specific expertise in the subject matter of the case provide a non-binding opinion about the strength and weaknesses of each party's position, liability risk exposure, and a range of potential damages. The opinions of the neutral evaluator may be utilized by the parties to discuss settlement, participate in mediation, judicial arbitration, or binding arbitration, proceed to litigate the case and set the case for trial.

A. Neutral Evaluator Panel

The court's Mediator panel lists experienced attorneys in specific practice areas, who have the training to serve as a neutral evaluator. Parties may agree to utilize other attorneys, mediators, or retired judges who are not on the court's Mediator Panel to serve as a neutral evaluator.

B. Payment of Neutral Evaluator

The services of neutral evaluators are paid by the parties at the rate set by the neutral evaluator. Neutral providers who are on the court's Mediator Panel have their rates published on the Panel List. (Eff. 01/01/14)

3-126. TRIAL BY REFERENCE (Eff. 01/01/14)

Parties may voluntarily agree and consent to utilize a referee, who is appointed by the court, to conduct a trial on any or all of the issues in an action, including issues of law and fact, and to render a Statement of Decision. Where the parties consent to a general reference of the issues or entire action, the referee's Statement of Decision will stand as the court's decision. The procedure to conduct a trial by reference is set forth in Code of Civil Procedure §§ 638 to 645.2.

A. Trial Referee

The court's Mediator Panel lists experienced attorneys in specific practice areas, who may be willing to serve as a trial referee. Parties may agree to utilize other attorneys, mediators, or retired judges who are not on the court's Mediator Panel to serve as a trial referee.

B. Payment of Trial Referee

The services of trial referees are paid by the parties at the rate set by the trial referee. Neutral providers who are on the court's Mediator Panel have their rates published on the Panel List. (Eff. 01/01/14)

3-127. EXPEDITED JURY TRIAL (EJT) (Eff. 07/01/17)

It is the policy of the San Joaquin Superior Court to give preference to Expedited Jury Trial matters.

The parties may agree and consent to an expedited jury trial to be held by the court. To do so, the parties will execute a stipulated consent order to conduct an expedited jury trial. The procedures for an expedited one-day jury trial are set forth in Code of Civil Procedure §§ 630.01 to 630.12 and Rules of Court 3.1545 to 3.1552. (Repealed 1-1-2016, unless extended.) Upon stipulation by the parties, the court will consider modifications to the stated procedure for an expedited trial.

If the parties stipulate to EJT, they will not be required to complete other ADR prior to trial setting.

(Eff. 07/01/17)

3-128. SISTER STATE MONEY JUDGMENTS (Eff. 01/01/20)

Upon the filing of an Application for Entry of Judgment on a Sister-State Judgment pursuant to CCP 1710.15, the filing party shall also submit to the Clerk of the Court a "Clerk's Judgment on Sister-State Judgment" form (San Joaquin Superior Court local form 87-adopted for optional use), or other Judgment consistent with CCP 1710.5. (Eff. 01/01/20)

RULE 4 PROBATE

PART ONE – GENERAL PROCEDURE GUIDE

4-101. ALL PETITIONS (Eff. 01/01/20)

INTRODUCTION

A. General. The Probate Rules for San Joaquin County Superior Court set forth local policies and procedures of the probate department. These rules do not attempt to restate or summarize statutory or case law or estate administration in general. Guidance on probate law and practice may be found in publications such as California Decedent Estate Practice, California Trust Administration, and California Conservatorship Practice, which are published by CEB, Continuing Education of the Bar - California.

These rules, although binding on parties, may be departed from at the discretion of the Court.

B. Contact Information. Website: For current contact information, tentative rulings, and the online probate calendars, parties should refer to the court's website at: www.sjcourts.org. All local forms referred to in this rule are available at and can be downloaded from the court website. (Hover over the "Forms and Filing" tab on the court's home page, then "Local Forms" in the drop-down menu.)

The following may be helpful in matters presented to the Probate Court:

Clerk of the Probate Court: The physical address of the Probate Clerk is 180 E. Weber Avenue, Fourth Floor, Stockton, CA 95202. The mailing address is Superior Court of California – San Joaquin, Probate Department, 180 E Weber Avenue, Suite 416, Stockton, CA 95202.

C. Pleadings / Calendaring

1. Petitions with all supporting papers, except the Notice of Hearing and or proof of service, shall be on file thirty (30) calendar days before the hearing date. Failure to file all required paperwork in the time limits specified in this section, or sections 2 and 3 immediately below, may result in the hearing being continued.

2. Notice of Hearing and or proofs of service for the initial petition shall be filed with the Clerk at least ten (10) court days prior to the day of hearing. Any other proofs of service shall be filed with the Clerk contemporaneously with the papers to which they pertain, failure to contemporaneously file a proof of service with a document shall result in the document being rejected for filing.

3. Proofs of Publication shall be filed with the Clerk at least five (5) court days prior to the day of hearing.

4. Matters involving the Public Defender, or the Public Conservator, must be set for hearing Tuesdays or Thursdays only, unless a stipulation for another day, signed by the Public Defender and or Public Conservator is filed at the same time as the initial petition. (Eff. 01/01/20; Rev. 01/01/23; Rev. 07/01/23)

4-102. UNCONTESTED MATTERS (Eff. 01/01/20)

Evidence

At a hearing on a verified petition oral testimony will not be permitted. All evidence should be stated in the petition, or accompanying declaration. (Eff. 01/01/20)

4-103. CONTESTED MATTERS (Eff. 01/01/14)

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.

Contested matters requiring two hours or less will be heard on a date certain in the Probate Department. Contested matters estimated to take more than two hours will be set in the Probate Department and heard as scheduling permits. Caveat: The court does not mail notices of continued hearings. (Eff. 01/01/14)

4-104. WHEN PERSONAL APPEARANCE REQUIRED (Eff. 01/01/20)

A. The petitioner and the petitioner's attorney shall appear on all petitions for appointment of a guardian or conservator.

B. The attorney for a conservatee, or ward, shall appear on petitions which concern the conservatee, or ward, respectively.

C. The petitioner and or petitioner's counsel shall appear for confirmation of sale of real property.

D. Any matter which by law requires the personal appearance of any person or any matter which the Court may in its discretion require an appearance. (Eff. 01/01/20; Rev. 01/01/2023)

4-105. CONSOLIDATION WITH THE LOWEST NUMBER (Eff. 01/01/11)

Whenever it appears that actions or petitions with different numbers have been filed with reference to the same decedent or the same ward or conservatee or the same trust, the court will on its own motion consolidate all of the matters and assign the appropriate case number as the lead number. (Eff. 01/01/11)

4-106. EX PARTE APPLICATIONS (Eff. 01/01/20)

A. Ex Parte Applications shall include any petition, application, request or motion. This rule shall apply, as applicable, to Civil Mental Health.

B. Ex parte applications in Probate and Civil Mental Health are non-appearance matters and are decided on written submissions unless the court, in its discretion, sets a hearing for a later date. Specific procedures for an ex parte application can be found on the court's website and must be followed.

C. "Notice of Ex Parte Request" Local Form SJPR/MH-008 shall be filed and served with any ex parte application, unless otherwise stated.

D. The following ex parte applications are exempt from the notice requirements of this chapter, as well as from Paragraph C above:

1. Ex parte application for Withdrawal of Funds from Blocked Account;

2. Ex parte application for Appointment of Guardian Ad Litem;

3. Ex parte application to Petition for Final Discharge and Order;

E. The Probate Court will not entertain any ex parte application that does not comply with California Rules of Court 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." California Rule of Court 3.1202(c).

F. Except as provided in this rule and Rule 3.1204 of the California Rules of Court, no application for an order shall be made ex parte unless the applicant shows by written declaration under oath either that a reasonable effort has been made to give notice to the adverse party or attorney, that notice would be inappropriate or impractical or would result in irreparable injury, or that the order would not result in a significant direct burden or inconvenience to the adverse party. Mandatory Local Form SJPR-006 “DECLARATION RE NOTICE OF EX PARTE APPLICATION must be used and if needed form SJPR-006A “ATTACHMENT TO DECLARATION RE: NOTICE OF EX-PARTE APPLICATION.”

G. An ex parte order will not be granted unless accompanied by a verified ex parte application (or a sworn declaration where applicable) containing facts and law to justify granting the requested relief.

H. The Clerk may reject Ex Parte Applications that do not comply with the subsections above. (Eff. 01/01/20; Rev. 01/01/23 and 01/01/25)

4-107. LINEAL CHART / HEIR INFORMATION/PROOF OF DEATH (Eff. 07/01/21)

A. Where any petition calls for the relationship of the heirs or devisees, including but not limited to a Petition for Probate, Petition to Determine Succession to Real Property, An Affidavit re Real Property of Small Value or a petition under Probate Code section 850, a chart of lineal descent must be included. If any beneficiary named in the Will, Trust or other document has predeceased or post- deceased the testator, the fact must be stated. The information shall be provided using local form Lineal Chart A (SJPR-203), Lineal Chart B (SJPR-204) and/or Lineal Chart C (SJPR-205).

B. Where any petition calls for family members, or heirs and his or her address to be listed, the individual’s name shall be listed, the individual’s relationship to the decedent, settlor, conservatee and/or ward, and where an address would be listed “Deceased” shall be listed if the individual is deceased. In addition, proof of death is required. Proof of death can be established by, but is not limited to, a death certificate, an obituary, or a declaration. (Eff. 01/01/20; Rev. 07/01/22; Rev. 01/01/2023; Rev. 07/01/23, Rev. 1/1/2025)

4-108. ORDERS – CONTENTS, ATTACHMENTS & SIGNATURE PAGE (Eff. 01/01/14)

A. All orders and judgments in probate matters must be completed so that their general effect may be determined without reference to the petition on which they are based. All matters actually passed on by the court, including the relief granted, the names of persons and description of property (and if real property involved, the legal description and/or APN thereof), amounts of money affected, the terms of trusts, and the provisions of leases or other agreements, must be set forth with the same particularity which is required in judgments in civil matters.

B. Riders and exhibits should not be attached to an order or decree; except that an exhibit setting forth legal descriptions, a statement of trust terms, and the like may be attached if specifically incorporated in the body of the order or decree.

C. The Judge's signature shall appear at the end of the last attachment with an appropriate indication of that fact on the last page of the body of the order or decree.

The Judge's signature should not appear on a page that doesn't contain any other text.

D. Proposed Orders or Judgments should be presented to the Clerk's Office with the filing of the petition, motion, application or request. (Eff. 01/01/14; Rev. 1/1/2024, Rev. 1/1/2025)

4-109. WHEN COPY OF PETITION MUST BE INCLUDED WITH NOTICE OF HEARING

A. In the following cases a copy of the petition, as well as a copy of the Notice of Hearing, must be served on all interested parties:

1. Where the petition contains the accounting of a trustee, personal representative, conservator or guardian, or

2. Where a fiduciary or attorney is requesting extraordinary fees or commissions.

B. A courtesy copy of any petition containing an accounting shall be submitted to the Probate Clerk at the time the original is filed or within 5 court days of filing, if electronically filed, marked in red in the upper

left-hand corner "Examiner's Copy." (Eff. 01/01/20; Rev. 07/01/22; Rev. 01/01/2023 and 01/01/25)

4-110. LAW AND MOTION; TENTATIVE RULINGS

A. A tentative ruling for each law and motion matter on calendar will be available to counsel and litigants on the first court day before the scheduled hearing. The tentative rulings will be posted to the court's website and can be accessed at: https://www.sjcourts.org/online-services/probate-notes-tentative-rulings/

B. The tentative ruling shall become the ruling of the court unless there is opposition by counsel or self-represented litigants (SRL). Counsel or SRL is responsible for reviewing the tentative ruling and notifying the superior court and all other counsel and SRL no later than 4:00 p.m. on the day preceding the scheduled hearing of his or her intent to appear to argue. The procedures for noticing all parties is provided on the Court's website at https://www.sjcourts.org/online-services/probate-notes-tentative-rulings/ (Eff.01/01/2023; Rev. 07/01/23 [Former 4-110 Repealed 01/01/20)

4-111. REQUESTING A CONTINUANCE (Eff. 01/01/20)

A. Continuance of initial hearing

The first hearing on a matter may be continued to enable the petitioner to correct defective pleadings or procedural issues identified in the probate notes. The continuance can be made by the petitioner as listed below, or by the Court on its own motion, even if no request for a continuance is made.

B. Continuance or dismissal after initial hearing

All requests by the petitioner to continue subsequent hearings after the initial hearing must be done by a declaration or an appearance at the hearing, a continuance of a subsequent hearing may not be secured by a request to the clerk.

After the initial hearing, the Court may drop or dismiss the matter unless the petitioner shows good cause for a further continuance, by a filed declaration or an appearance at the hearing.

C. Contested hearings may be continued by Stipulation and Order

Before the Stipulation and Order is submitted to the court, Counsel or a self-represented party must call the courtroom clerk to obtain a new date. The Stipulation must be signed by all parties who have appeared in the matter. This is for hearings only; any continuances of a trial or mandatory settlement conference must be done by a motion and comply with California Rules of Court, Rule 3.1332.

D. Dropped or Dismissed Matters

Dropped matters must be re-noticed after it has been placed back on calendar. A matter dismissed without prejudice must be refiled and noticed anew.

E. Nothing in this rule shall excuse any party from complying with the notice requirements of the Probate Code or the California Rules of Court. (Eff. 01/01/20; Rev. 07/01/22)

4-112. CAPTION ON PLEADINGS (Eff. 01/01/20)

The caption of each pleading shall include the date, time, and the department of the hearing. If the matter has been set for trial, the date of the trial shall also be included. (Eff. 01/01/20; Rev. 07/01/22).

4-113. COURT CREATED TRUSTS (Eff. 01/01/19)

Where a trust is created in a conservatorship, guardianship, under a Probate Code section 3100 petition, or by a decree of distribution in a decedent's estate, all future proceedings relating to the trust must be filed as a new separate case. (Eff. 01/01/09)

4-114. PROBATE PETITIONS CONFIRMING PROPERTY (Eff. 01/01/20)

A. Any petitioner requesting an order concerning title to real property held in whole or in part by the decedent, conservatee, settlor or other party shall attach to the petition a copy of all deeds by which the decedent, conservatee, settlor or other party acquired title. Petitions concerning title shall include, but are not limited to Probate Code 850, Probate Code 13150 et seq. (Petition to Determine Succession to Real Property, form DE-310), or Probate Code 13650 et seq. (Spousal or Domestic Partner Property Petition, form DE-221).

B. Whenever a petition is filed under the authority of Probate Code §850, et seq, which seeks to establish the owner of an interest in property, the petition shall plead facts which establish the claimed ownership

interest, and list the person(s) to be served pursuant to Probate Code §851, including, but not limited, to the following persons:

1. Each person claiming an interest in or having title to, or possession of, the property,

2. Each known intestate heir,

3. Each known devisee whose interest in the property would be affected.

4. The list of persons to be served shall include the individual's name, relationship and address.

C. The petition shall set forth the form of record title and character of ownership at all relevant times covered by the petition.

D. If the form of record title is based on a written document, a copy of the document shall be filed with the petition. (e.g., copy of all relevant deeds, copy of bank statement(s) or stock certificate(s)/statement(s), etc.) (Eff. 01/01/20; Rev. 07/01/22)

4-115. COSTS GENERALLY NOT ALLOWED TO COUNSEL, ADMINISTRATOR, TRUSTEE, CONSERVATOR, OR GUARDIAN (Eff. 01/01/20)

Ordinarily, the court will not allow reimbursement for costs of duplication of documents, telephone calls, postage, FAX (except court charges), convenience fees, parking fees or ordinary mileage incurred by the attorney, personal representative, trustee, conservator, or guardian as these are part of overhead, and should be absorbed in fees or commissions. (Eff. 01/01/20; Rev. 07/01/22)

4-116. MEET AND CONFER REQUIREMENT (Eff. 01/01/20)

A. In the event of any contest or objection to any petition on the probate calendar, the parties or their respective attorneys shall make a reasonable and good faith attempt to informally resolve the controversy at a face-to-face conference or video conference, if possible, otherwise by telephone conference, before any hearing of the contested petition.

B. Within 30 days after service of any responsive pleading by the first respondent, and thereafter as each respondent objects and/or opposes, the parties must meet and confer as stated in A above, for the following purposes:

1. To discuss facts which are presently available to support the allegations of the pleadings filed by each party.

2. To discuss possible settlement of the action including, but not limited to, possible arbitration or mediation.

3. To exchange preliminary schedules of discovery.

C. The parties must file a joint Meet and Confer Statement (parties may use local form SJPR-002) within 45 days after service of the responsive pleading. It will be the responsibility of the petitioner to arrange the conference and to prepare the joint statement, including areas of disagreement. (Eff. 01/01/20; Rev. 07/01/22)

4-117. REMOTE APPEARANCES (Eff. 01/01/22)

A. This Local Rule is adopted pursuant to Civil Code of Procedure section 367.75 and California Rule of Court, rule 3.672. Notice requirements are set forth in rule 3.672 and below.

B. For all General hearings, Law and Motion hearings, Ex Parte hearings, and Orders to Show Cause, parties may appear remotely with no notice to the other parties or to the Court. However, when noticing any hearing, motion, application, or request in the probate department, a copy of the local form Instructions and Requirements for Remote Appearance (SJPR-001) must be attached to the Notice of Hearing or served separately and a proof of service completed. The court's preference is the Instructions and Requirements for Remote Appearance is attached to the Notice of Hearing, rather than filed separately, whenever possible.

C. For all General hearings, Law and Motion hearings, Ex Parte hearings, and Orders to Show Cause, the Court has a Zoom video platform.

   a. The Zoom video platform link and login information, as well as the rules and requirements are listed on the Court's website as well as in local form SJPR-001.
   b. Any recording, reproduction, or re-broadcasting of a court proceeding held remotely, including screenshots or other visual or audio copying of a hearing, is prohibited.
   c. Nothing in this rule limits the discretion of the judicial officer to require parties to appear in person for General hearings, Law and Motion hearings, Ex Parte hearings, and Orders to Show Cause.

D. For Evidentiary Hearings, Settlement Conferences, Bench or Court Trials, and Jury Trials, parties must appear in person, unless the party or attorney requests and receives express written authorization to appear remotely by the judicial officer.

1. A party may request to appear remotely by filing and serving a Notice of Remote Appearance (Judicial Council Form RA-010) and proposed Order Regarding Remote Appearance (Judicial Council Form RA-020) with the Court no later than ten (10) court days before the Evidentiary Hearing, Settlement Conference, Bench or Court Trial, or Jury Trial.
2. Attached to the Notice of Remote Appearance (Judicial Council Form RA-010) must be a declaration why remote appearance is being requested.
3. In response to a 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.
4. A party must deliver a courtesy copy of any written Notice or Opposition under (1) or (3) listed directly above to Department 11A.
5. If approved, a Zoom video platform will be provided for the parties to appear. The Court will provide the video access meeting link, or require a party to provide notice of the video access meeting link.
6. It is the responsibility of the party who requested the remote appearance to make sure the person(s) appearing remotely is familiar with the Zoom video platform and the rules and requirements of appearing remotely.

E. Even when a remote appearance is allowed or authorized and commences, the judicial officer may terminate a remote appearance and continue the matter so that an in-person appearance can occur if technology or audibility issues interfere with the judicial officer's ability to make a determination required by the hearing, the in-person appearance is necessary to assist in the determination of the specific hearing, the court reporter's ability to make an accurate record is in question, counsel's ability to provide effective representation is in question, an interpreter's ability to provide language access is in question, or for any other reason which constitutes good cause under the circumstances. (Eff. 01/01/22; Rev. 07/01/22; Rev. 07/01/23 and 01/01/25)

4-118. NOTICE INFORMATION

All probate petitions presented to the court, including but not limited to a petition for final distribution, petition for approval of accounting, a petition under Probate Code section 850, must include the names, relationship and address for service for all parties entitled to notice. (Rev. 07/01/22; Rev. 07/01/23)

4-119. NOTICE OF MOTION TO WITHDRAW AS ATTORNEY OF RECORD (Eff. 01/01/13)

When presenting a Motion to Withdraw as Attorney of Record, Notice shall be provided to all beneficiaries as required by Probate Code §1220 in a

Decedent's Estate where the withdrawal is being requested due to the fiduciary's failure to cooperate. (Eff. 01/01/13; Moved from 4-218)

4-120. SANCTIONS (Eff. 07/01/22)

The mandates set forth in these Local Rules are considered lawful orders of the court. Violation of any of these Local Rules may result in the imposition of sanctions pursuant to Code of Civil Procedure section 177.5 for violation of a lawful court order. (Eff. 07/01/22)

4-121. LODGING OF REQUIRED DOCUMENTS

A. All original documents submitted by fiduciaries in support of their Inventory and Appraisals or accounts as required by Local Rules 4-122 or Probate Code 2620(c), including financial account statements, original closing escrow statements, and original residential care facility or long-term care facility bills must be lodged separately from the Inventory and Appraisal or accounting as a confidential document complying with California Rules of Court, Rule 2.100 et seq.

B. The caption page for the document must be the mandated local form SJPR-007 "Financial Document(s) Cover Sheet," and must include a statement regarding the total number of pages (including the cover sheet) submitted and a declaration by the fiduciary under penalty of perjury stating the documents attached are the originals. If original documents cannot be obtained and copies are lodged in lieu of the originals, a Declaration setting forth the reason why the originals are not available shall be lodged with the copies.

C. To facilitate scanning, the documents must be loosely bound and not stapled.

D. To facilitate return of the original document(s), the fiduciary must submit, at the time of filing, a self-addressed stamped envelope for mailing the document(s) or an attorney service pick-up slip.

E. Documents scanned by the Court shall constitute the Court's permanent record of such documents. After the documents are scanned, the Clerk is directed to return the documents to the fiduciary. The Court will retain the documents in electronic form only. The fiduciary must retain the originals at least until the order approving the final account is final. (Eff. 01/01/24)

4-122. DECLARATION REGARDING ASSETS ON INVENTORY AND APPRAISAL

A. When a minor, conservatee, or decedent's estate receives an asset as the heir or beneficiary of a decedent's estate, the guardian, conservator, or personal representative who receives the asset shall file concurrent with the filing of the Inventory and Appraisal a declaration and attach a copy of the Order of Partial

or Final Distribution, Spousal or Domestic Partner Property Order, Affidavit re Real Property of Small Value, Order Determining Succession to Real Property, or Affidavit for Collection or Transfer of Personal Property from the decedent's estate.

B. When a minor or conservatee receives an asset that was the subject of an order under Probate Code 3600 et seq., the guardian or conservator who receives the asset shall file concurrent with the filing of the Inventory and Appraisal a declaration and attach a copy of the order under Probate Code 3600 et seq.

C. When a minor, conservatee, or decedent's estate receives proceeds as the beneficiary of a life insurance policy, the guardian, conservator, or personal representative who receives the asset shall file concurrent with the filing of the Inventory and Appraisal a declaration and attach a copy of the check received from the life insurance company.

D. When a minor, conservatee, or decedent's estate receives an asset as the heir or beneficiary of a deceased conservatee or ward, the guardian, conservator, or personal representative who receives the asset shall file concurrent with the filing of the Inventory and Appraisal a declaration and attach a copy of the Order that requires distribution of the asset from the estate of the deceased conservatee or ward.

E. When a conservator, guardian, or personal representative files an Inventory and Appraisal that includes property to be appraised by the guardian or conservator or personal representative pursuant to Probate Code 2610(a) and/or Probate Code 8901(c) and (d), they shall concurrently lodge in the manner provided in Local Rule 4-121 the following:
    1. For accounts at a bank or other financial institution, account statements as defined in Probate Code 2620(c)(1) for each account showing the account\ balance as of the date of appointment of the guardian or conservator or the decedent's date of death. Submitting an account statement pursuant to this rule satisfies the requirement to file the statement pursuant to Probate Code 2620(c). Any variation between the statement and the balance reflected in the inventory or account that is not otherwise readily understandable from the statement shall be explained by a declaration filed with the lodged documents.
    2. For checks, a copy of the check.

F. When a conservator, guardian, or personal representative files an Inventory and Appraisal that includes a parcel of real property in California, they shall lodge

concurrently with the filing of the Inventory and Appraisal a copy of the deed(s) by which the decedent acquired title to the property. (Eff. 01/01/24)

PART TWO – DECEDENT ESTATES

4-201. NOTICE TO NAMED CONTINGENT LEGATEES AND BENEFICIARIES (Eff. 01/01/08)

In addition to the notice required to be mailed by Probate Code Sections 8110-8113, notice shall also be mailed to all contingent devisees and beneficiaries named in the Will. (Eff. 01/01/08; Rev. 01/01/23; Rev. 07/01/23)

4-202. COPY OF TRUST REQUIRED FOR POUR-OVER WILLS (Eff. 07/01/21)

Where notice is required to be given pursuant to Probate Code section 1208(b), such as where a trust is a beneficiary of a decedent's estate, the petitioner shall file separately from the petition as a confidential document a true and correct copy of the trust, including any amendments, disclaimers, and any directions or instructions to the trustee that affect the disposition of the trust.

The confidential document shall be filed using the court's mandatory local form Confidential - Trust Documents Coversheet (SJPR-100) as the cover page. The confidential document shall not be released to any party absent a prior order of the court.

[Eff. 07/01/2021; Rev. 07/01/22; Former 4-202 Repealed 01/01/20]

4-203. NOTICE OF REFUSAL TO PROBATE REJECTED WILL OR CODICIL (Eff. 01/01/20)

A. A petitioner who files a petition for letters of administration, letters of administration with Will annexed, probate of Will and for letters testamentary, to determine succession to real property, or a spousal property petition must comply with this rule if either of the following is true:
    1. The petition requests a finding that the decedent died intestate when a Will and/or codicil has been lodged as an original with the court or a copy of a Will and/or codicil has been otherwise filed with the court.
    2. The petition requests probate of or distribution under a Will and/or codicil, and a different Will and/or codicil has been lodged as an original with the court or a copy has otherwise been filed with the court.

B. The petitioner shall serve a copy of the rejected Will and/or codicil attached to local form Notice of Refusal to Petition for Probate of Will or Codicil (SJPR-202) on all heirs of the decedent or potential beneficiaries under the document at least 15 days prior to the hearing on the petition.

C. This rule does not apply if any of the following is true:

1. The petition requests probate of or distribution under a Will that purports to have been executed after the date of rejected Will and/or codicil and that expressly revokes all prior Wills. (Eff. 01/01/20; Rev. 07/01/23)

4-204. COURT CONFIRMATION OF SALE BY REPRESENTATIVE WITH FULL AUTHORITY UNDER I.A.E.A (Eff. 01/01/09)

An executor or administrator who has been appointed with full powers under the Independent Administration of Estates but who voluntarily petitions for court confirmation of the sale of real property must meet the requirements for sale by a representative without full authority. (Eff. 01/01/09; Rev. 07/01/23)

4-205. CONTRACTS WITH BROKER OR AGENT (Eff. 01/01/20)

A. Any application for order approving an exclusive listing agreement with a real estate broker or agent shall include a completed copy of the proposed written listing as an attachment. Such application may be submitted ex parte as an “Order on Matter Not Requiring Hearing” as described in Local Rule 4-106 E.

B. Upon the confirmation of the sale of real property, justification is required for any commission in excess of six percent. (Eff. 01/01/20; Rev. 07/01/23)

4-206. APPLICATION FOR FAMILY ALLOWANCE (Eff. 01/01/11)

Any application for family allowance shall include:

1. The applicant’s income from sources outside estate;

2. An itemized list of the applicant’s assets, and a statement of the approximate value of each;

3. A general statement of the assets and of the liabilities of the estate;

4. The date of the application;

5. The date of the decedent's death; and

6. A general statement of other applications (if any) on file for allowances. (Eff. 01/01/11; Rev. 07/01/22)

4-207. PETITION FOR PRELIMINARY DISTRIBUTION (Eff. 01/01/11)

A. A petition for preliminary distribution shall not be granted unless the inventory and appraisal has been filed.

B. The petition for preliminary distribution must state:

1. The approximate value of the property remaining in the estate after the proposed distribution.

2. An estimate of the total amount of outstanding liabilities, including but not limited to unpaid taxes, unpaid claims and/or unpaid administration expenses or reimbursements.

C. If waiver of bond for any distribution is sought, the petition shall include allegations that:

1. Notice to any known and reasonably ascertainable creditors has been given;

2. The estate is solvent; and

3. The good cause, if any, why bond should not be required, including that time for filing or presenting claims against the estate has expired and that all taxes and uncontested claims have been paid or are sufficiently secured. (Eff. 01/01/11; Rev. 07/01/22; Rev. 07/01/23)

4-208. REQUEST FOR PARTIAL ALLOWANCE ON STATUTORY COMPENSATION BEFORE A PETITION FOR FINAL DISTRIBUTION (Eff. 01/01/11)

A. A petition requesting partial allowance of statutory compensation, before a petition for final distribution, must contain the following allegations:

1. That the requested sums can be paid without detriment to the estate or to any person interested in the estate or to any creditor thereof.

2. The percentage that the requested amount bears to the total statutory compensation to which the petitioner or the attorney will be entitled on the final settlement of the estate, and that (a) the same percentage, or more, of the total ordinary work required in the estate has been completed, and (b) payment of the requested allowance would leave a reserve exceeding the ordinary work remaining to be done.

3. A recital of the work actually completed. Ordinarily the last 30 percent of the statutory compensation will not be allowed prior to the approval of the final accounting

B. The attorney shall submit a declaration attesting to the truth of the allegations and serve notice of the request and the declaration. (Eff. 01/01/11; Rev. 07/01/22)

4-209. STATUS REPORTS (Eff. 01/01/20)

The status report required by Probate Code Section 12200 shall be made on local form Status Report of Administration (SJPR-201). (Eff. 01/01/20; Rev. 07/01/22; Rev. 07/01/23)

4-210. FORM OF ACCOUNT FOR INCOME AT FINAL DISTRIBUTION (Eff. 01/01/08)

A. When all or any part of the estate is to be distributed to a trustee, and income accumulated during probate is to be paid by the trustee to the trust beneficiaries, the form of account shall properly allocate receipts and disbursements between principal and income.

B. When a specifically devised or bequeathed asset has earned income and/or incurred expenses during probate administration, the form of account shall segregate such income and/or expenses from the general income and expenses of the estate. This may be done by a schedule attached to the accounts and incorporated by reference. (Eff. 01/01/08; Rev. 07/01/22))

4-211. SPOUSAL PROPERTY ELECTIONS (EFF. 07/01/23)

Any written election under Probate Code section 13502 must include a declaration under penalty of perjury by the electing surviving spouse or registered domestic partner, or by the personal representative, guardian, or conservator of their estate acknowledging the following:

1. That the alternative procedures available pursuant to Probate Code sections 13540, 13541, 13545, 13600, and 13650 have been considered; and

2. That inclusion of the property in the administration of the decedent's estate could result in probate fees, personal representative commissions, and attorney fees that are higher than if an alternative procedure was used. (Eff. 07/01/23)

4-212. FILING OF DEATH CERTIFICATE (Eff. 01/01/24)

A copy of the decedent's death certificate, with the decedent's social security number redacted, shall be filed with a Petition for Probate (Probate Code 7000 et seq), Petitioner to Determine Succession to Real Property (Probate Code 13150 et seq), Spousal Property Petition (Probate Code 13500 et seq), or the lodging of an original Will pursuant to Probate Code 8200(a)(1). (Eff. 01/01/24)

4-213. EXTRAORDINARY ATTORNEY FEES (Eff. 01/01/20)

A. Petition and Prayer

Application for extraordinary compensation will not be considered unless both the caption and the prayer of the Petition and the Notice of Hearing contain a reference to such application.

B. Notice of Hearing

In every case, notice shall be sent to all persons entitled to a share in the estate, except those whose shares will not be charged with the extraordinary compensation requested. Notice shall include a copy of the petition as set forth in Local Rule 4-109. An appearance by the attorney will normally be required.

C. Declaration Regarding Fees

The requirements of California Rule of Court 7.702 shall be set out in a declaration separate from the Petition. The Declaration shall outline all services rendered, including both statutory and extraordinary services that were provided. Statutory time is reviewed and considered for the purposes of awarding extraordinary fees only, not to reduce or alter statutory fees. The Declaration must:

1. Set forth categories of services rendered; statutory services can be lumped together in a category labeled “Statutory;”

2. Set forth in each category the date and a description of the services rendered;

3. Set forth in each category the hourly rate of each person who performed the services and the hours spent by each of them; and

4. Comply with the requirements set forth in rule 7.703(c) of the California Rules of Court if paralegals are used. (Eff. 01/01/20; Rev. 07/01/22)

4-214. FEES TO ATTORNEY AND PERSONAL REPRESENTATIVE WHO ARE ASSOCIATED (Eff. 01/01/11)

If the personal representative and the attorney for the personal representative are the same person, or have a fee sharing arrangement with respect to the estate or law practice, only the statutory commissions as personal representative will be allowed unless: the Will expressly provide otherwise, or, an order allowing statutory attorney fees has been granted by the court prior to the filing of the petition for final distribution. Such order will not be granted except in cases involving compelling circumstances.

The petition allowing statutory attorney fees must be set for hearing and fifteen (15) days notice thereof must be given to all interested persons. (Eff. 01/01/11; Rev. 07/01/22)

4-215. REQUIREMENTS FOR A PETITION FOR FINAL DISTRIBUTION (Eff. 01/01/14)

Mandatory local form SJPR-208 “REPORT OF PERSONAL REPRESENTATIVE; PETITION FOR FINAL DISTRIBUTION AND FOR PAYMENT OF STATUTORY COMPENSATION AND EXTRAORDINARY COMPENSATION” shall be used for any petition to approve an account and/or report of a personal representative and any request for preliminary and/or final distribution. A petition for final distribution shall contain the following:

A. Facts specifically showing the entitlement of each heir to the portion of the estate to be distributed to that heir, including any information concerning predeceased children.

B. If there is insufficient cash available to pay the statutory commissions, attorney fees, court costs, and any other items requested to be ordered by the Court to be paid, the Petition must include a statement setting forth the source of the funds for such payment.

C. A schedule showing the proration of fees and costs, if applicable.

When proration is required by Probate Code Section 20111, the accompanying account should include a schedule indicating the method by which the proration has been computed.

D. When applicable, the following allegations should also be included in the petition for final distribution:

1. Distribution to Minor(s)

When distribution is to be made to a minor a guardian of the estate is ordinarily required and a current certified copy of the letters of guardianship should be attached to the petition. When distribution is proposed to be made under Probate Code sections 3400 through 3402 or under section 3410, the Petition for Distribution must meet the requirements of the statute.

A decree ordering distribution to minor shall provide that the property be distributed to the fiduciary or other person approved by the court on behalf of the distributee and identify under what authority. The fiduciary or other person shall sign the distributee's s receipt and identify under what authority the fiduciary or other person acts.

2. Distribution to a Conserved Person

A decree ordering distribution to a conservatee shall provide that the property be distributed to the conservator of the estate. The conservator of the estate shall sign the distributee's receipt identified as the conservator of the estate for the distributee.

3. Distribution to Trust(s)

a. If distribution is to be made to a trust already in existence, an acknowledged statement by the trustee accepting the property under the terms of the trust must be filed with the petition for distribution. Lacking this, a declination to act must be filed, in which case it should be accompanied by a

petition by the personal representative for the appointment of a substitute trustee.

b. If distribution is to be made to a testamentary trust set up by the decedent's Will, the terms of the trust and the powers of the trustee must be set out in full in the decree of distribution, and not merely incorporated by reference. When appropriate, the language of the Will should be paraphrased in the decree to eliminate references to "my" and to substitute "the decedent's".

4. Distribution to Assignee(s)

If distribution is to be made pursuant to an assignment of interest, the assignment must be filed and the details of the consideration, if any, set forth in the petition. The assignment must be acknowledged before a notary public.

5. Distribution Pursuant to Agreement

If the distribution is sought other than as provided by the Will or by the laws of intestate succession, that fact should be alleged, and a written agreement must be filed signed by all distributes and acknowledged before a notary public.

NOTE: If a distributee is a minor or conservatee, the agreement must be signed by that party's appointed legal representative. Court approval of a fiduciary's agreement must be provided with the distribution petition or a petition for approval or the agreement may be noticed for hearing together with the petition for distribution.

E. Mandatory Local Form SJPR-208A "ORDER ON REPORT OF PERSONAL REPRESENTATIVE; PETITION FOR FINAL DISTRIBUTION AND FOR PAYMENT OF STATUTORY COMPENSATION AND EXTRAORDINARY COMPENSATION" shall be used with any petition for final distribution.

(Eff. 01/01/14; Rev. 07/01/22, 07/01/24 and 01/01/24)

4-216. ACCOUNTING FOR RESERVE

If an order for final distribution of an estate of a decedent, ward, conservatee or trust includes a reserve of more than $1,500.00, an accounting of the

reserve shall be attached to the Ex Parte Petition for Final Discharge (Judicial Council form DE-295/GC-395). (Eff. 01/01/24)

4-217. WAIVER OF ACCOUNT (Eff. 01/01/24)

For any waiver of account presented under Probate Code 10954, the person waiving the account shall complete and sign the mandatory local form SJPR-207 “Waiver of Accounting.” (Eff. 01/01/24)

4-218. "RESERVED FOR FUTURE USE" *(4-218 216* Incorporated into 4-215 07/01/22*)*

PART THREE – SPOUSAL PROPERTY AND SMALL ESTATE PROCEEDINGS

4-301. PROCEDURE WHERE WILL CONTAINS MINIMUM SURVIVAL TIME (Eff. 01/01/20)

If a Will contains a period of survival as a condition precedent to the spouse’s or beneficiary’s right to receive assets, the petition for a preliminary or final distribution cannot be heard until the survival period has expired. (Eff. 01/01/20; Rev. 7/1/2021)

4-302. WHEN PASSAGE OF TITLE TO COMMUNITY PROPERTY IS SOUGHT (Eff. 01/01/09)

In a petition for order confirming the passage of property to the surviving spouse without administration (Probate Code Sections 13650, et seq.), unless specifically devised, the ultimate facts which establish the community character of the property must be stated, including, but not limited to:

1. The date the asset was acquired and the date of the marriage.

2. The manner in which the asset was acquired, e.g., purchase, exchange, gift, or inheritance.

a. If acquired by purchase or exchange, how the source of the consideration was community property.

b. If acquired by gift or inheritance, how the asset is now community property, e.g., gift or bequest to both spouses, transmutation agreement, etc. (Eff. 01/01/09; Rev. 07/01/22)

4-303. SMALL ESTATE WITHOUT ADMINISTRATION DEPOSIT OF WILL AND/OR CODICIL (Eff. 07/01/21)

A. If a Petition to Determine Succession to Real Property (Probate Code 13150 et seq) or Spousal Property Petition (Probate Code 13500 et seq) or Affidavit for Real Property of Small Value (Probate Code 13200) is based upon the decedent's Will and/or codicil, the Will and/or codicil shall be deposited with the court prior to or concurrent with the filing of the petition.

B. An original Will and/or codicil shall be deposited with the court pursuant to Probate Code section 8200.

C. If the original Will and/or codicil has been deposited with a foreign jurisdiction, a duly authenticated copy of the Will and/or codicil shall be filed as an attachment to the petition.

D. If the original Will and/or codicil is lost, a copy of the lost Will and/or codicil, or document(s) setting forth the terms of the lost Will and/or codicil shall be filed as an attachment to the petition. The attachment shall clearly indicate that the original Will and/or codicil is lost, and shall be accompanied by a declaration addressing the presumption of revocation under Probate Code section 6124. (Eff. 07/01/2021; Rev. 07/01/22)

4-304. AFFIDAVITS FOR REAL PROPERTY SMALL VALUE (Eff 07/01/21)

When an Affidavit for Real Property of Small Value is filed pursuant to Probate Code section 13200, one of the following must be attached to the affidavit:

A. If the decedent died testate, a statement using mandatory local form Declaration in Support of Affidavit re Real Property of Small Value (SJPR-206) identifying that the decedent died testate and an executed copy of the Will; or

B. If the decedent died intestate, a statement using mandatory local form Declaration in Support of Affidavit re Real Property of Small Value (SJPR-206) identifying the relationship of the heir(s) which establishes the affiant's claim to entitlement. (Eff. 07/01/2021; Rev. 01/01/2023)

PART FOUR – TRUSTS

4-401. FEES (Eff. 01/01/20)

A. This rule applies to all trusts subject to the continuing jurisdiction of the court, to any petition for approval of trustee compensation, and to any objection to petitions for trustee compensation.

If the court has jurisdiction of the trust, no trustee or attorney fees shall be paid until there has been an order of court fixing the same or unless the fees qualify as "Advance Payments" as outlined in these Rules.

B. If the petition for trustee's or attorney's fees is part of a petition seeking other relief, the title of the petition in the caption shall include a reference to the request for fees, and shall also be referenced in the notice of hearing.

C. Trustee's Fees: In the absence of a formula in the trust for fees, trustee compensation shall generally be presumed reasonable if it does not exceed 1% (one percent) per year of the asset value of the estate on the date of the close of the account for a professional trustee or three-fourths of one percent per year for a non-professional. However, nothing in this rule limits the court's discretion to find as unreasonable a fee totaling less than or more than the percentages listed above. If the account period contains more or fewer than twelve months, the normal fee will be proportionately increased or decreased.

A trustee who seeks greater compensation than the presumed reasonable fee set out in the paragraph immediately above, must detail in a separate declaration fact that would justify the request pursuant to section 4-401F below.

D. A professional trustee shall include a licensed Private Professional Fiduciary, bank, entity authorized to transact business as a trust company or any public officer or agency of the State of California or any county within California.

E. Attorney's fees: In the absence of a formula in the trust for fees of the attorney, compensation shall be presumed reasonable if one-third of the professional trustee's normal fee, as computed in Section C, for a twelve-month period, or $1,000.00, whichever is greater. If there is a non-professional trustee, the attorney fee is presumed reasonable if equal to one-half of the trustee's normal fee, as computed in Section

C, for a twelve-month period, or $1,000.00, whichever is greater. If the account period contains more or fewer than twelve months, the normal fee will be proportionately increased or decreased.

An attorney who seeks greater compensation than the presumed reasonable fee set out in the paragraph immediately above, must detail in a separate declaration fact that would justify the request pursuant to section 4-401F below.

F. An attorney or trustee who seeks greater compensation than the presumed reasonable fees listed in Section C and or E above shall provide a detailed declaration, separate from the petition outlining the requested fees. The petition shall provide the information required in California Rules of Court 7.776 and provide information similar to CRC 7.702(1)-(6), including if more than one category of services was rendered, the services must be separately stated and the date and description of services rendered and the hourly rate of each person who performed the services and the hours spent by each of them. (Eff. 01/01/20; Rev 07/01/2021)

4-402. REPORT OF TRUSTEE, INCLUDING SPECIAL NEEDS TRUSTEE (Eff. 01/01/09)

A report shall contain:

A. A concise reference to the purpose(s) of the trust and how the purpose has been satisfied by the trustee during the period of the account.

B. The names and addresses of the beneficiaries (both present and future interests).

C. A brief summary of any distribution(s) made to or for the benefit of the beneficiaries, and, in the case of a special needs trust, a brief summary establishing that the distributions do not disqualify the beneficiary from public benefits.

D. The investment objectives and results with reference to the purpose(s) of the trust, when appropriate. This paragraph is always appropriate and required for a special needs trust.

E. A statement of the percentage rate of return on all property invested. The purpose of the report is to provide a brief summary of the account measured in terms of the specific trust objectives and requirements. It should not merely recite what has been done, but should relate the

activities reflected in the account to the purposes and persons for which the trust was created, when appropriate. This paragraph is always appropriate and required for a special needs trust.

F. In the case of a trust expected to last over a beneficiary's lifetime, a statement with sufficient detail establishing that at the current rate of return and the current rate of distribution the trust corpus will be preserved for the anticipated lifetime of the beneficiary. For a special needs trust, a statement of the expected life expectancy of the beneficiary is also required. Or if the funds will not be preserved for the anticipated lifetime of the beneficiary, an estimate of how long the funds will last, and information on what, if anything, is being done to extend the life of the trust estate. (Eff. 01/01/09, Rev. 07/01/2021; Rev. 07/01/22)

4-403. "RESERVED FOR FUTURE USE" *[Repealed 01/01/13]*

PART FIVE – CONSERVATORSHIP

4-501. APPOINTMENT OF COURT INVESTIGATOR (Eff. 01/01/20)

A. A Court Investigator of the Superior Court for the County of San Joaquin is automatically appointed to investigate all petitions for appointment of temporary or general conservator, conservatorship accountings, and reviews. In these matters no petition for appointment is necessary. To avoid automatic appointment, a petition to waive appointment must be filed concurrently with the underlying petition.

B. A courtesy copy is required for any petition that requires a report from a Count Investigator. The courtesy shall be submitted to Clerk's office, marked in red in the upper left-hand corner "Investigator's Copy," at the time the original is filed, or within 5 court days of filing if electronically filed. (Eff. 01/01/20; Rev. 07/01/2021; Rev. 07/01/22; Rev. 07/01/23)

4-502. CONFIDENTIAL CONSERVATORSHIP QUESTIONNAIRE (Eff. 07/01/2021

A. A Confidential Conservatorship Questionnaire (local form SJPR-300) shall be completed, signed under penalty of perjury, and submitted with all petitions for conservatorship. Each proposed conservator shall sign the Conservatorship Questionnaire. The Conservatorship Questionnaire is used by the court and/or by the Court Investigator to prepare reports

under Probate Code 2253 or as ordered by the court. The Conservatorship Questionnaire and the information contained on the Questionnaire are confidential. The Conservatorship Questionnaire shall not be released to any party or their attorney absent a court order. The clerk must maintain the Conservatorship Questionnaire in a manner that will protect and preserve the proposed conservator's confidentiality.

B. This rule shall apply to conservatorship cases only and not to guardianship cases. (Eff. 07/01/2021; Rev. 07/01/22; Rev. 01/01/2023; Former 4-502 Repealed 01/01/20)

4-503. TEMPORARY CONSERVATORSHIP BEFORE NOTICED HEARING (Eff. 01/01/20)

A petition for appointment of temporary conservator, made ex parte in advance of the regularly noticed hearing, must follow Local Rule 4-.106 and any procedures posted on the Court's website. (Eff. 01/01/20; Rev 01/01/25)

4-504. CONSERVATORSHIP REVIEW (Eff. 07/01/2021)

A. At least 30 days before a review hearing, or by the Due Date ordered by the Court, the conservator of the person only shall complete and return the local form Conservatee Status Report-Person Only (SJPR-301.)

B. The conservator of the person and estate or estate only shall complete and return the Conservatee Status Report-Person & Estate (local form SJPR-302.

C. This rule shall apply to conservatorship cases only and not to guardianship cases.

[Eff. 07/01/2021; Rev. 07/01/22; Rev. 01/01/2023 and 01/01/25; Former 4-504 Repealed 01/01/20]

4-505 COMPENSATION AND FEES FOR ATTORNEY OF CONSERVATEE OR MINOR (Eff. 01/01/20)

A. Fees of Attorney for a Conservatee or a Minor

1. The Conservator(s) or Guardian(s) or attorney for the Conservator(s) or Guardian(s) and the attorney for the Conservatee or Minor shall communicate with each other regarding the issue of attorney fees for the attorney for the

Conservatee or Minor. A request for fees for the attorney for the Conservatee or Minor shall be addressed in all accounts.

2. The court will ordinarily allow a sum not to exceed $1,000.00 as fees for the attorney for the Conservatee or Minor without specific itemization. The work covered by this fee includes the review of the Court Investigator's report, review of an account, if any, conferring with the Conservatee or Minor, and a report to the court, either orally or in writing.

3. If fees for the Attorney for a conservatee or minor is not addressed in the petition for accounting, an attorney for the conservatee or minor who requests attorney fees not to exceed $1,000.00 may make the request by way of Ex Parte Application as follows:

   a. The Ex Parte Application must be accompanied by a Notice of Hearing with a proof of service of mailing of the application and notice to all parties otherwise entitled to notice of a petition for fees.

   b. The Ex Parte Application must be submitted with the filing fee required by GC §70657(a)(2), as amended,

   c. The Ex Parte Application will be set for hearing on the court's Ex Parte calendar on ten (10) days' Notice. No appearance will be required at the Ex parte hearing. If there are any issues at the time of the Ex parte hearing, the court will continue the matter so that the attorney will have an opportunity to appear.

   d. An Order shall be submitted with the Ex Parte Application. If there are no Objections to the Ex Parte Application, the Court will issue the Order for Fees at the hearing. (Eff. 01/01/20; Rev. 07/01/22).

4-506. WAIVER OF ACCOUNTING—WHEN PERMITTED (Eff. 01/01/09)

Ordinarily, neither a minor nor a conserved person may waive an accounting. However, a minor who has attained majority will be permitted to waive a final accounting upon a showing of unusual circumstances, and upon personal appearance in court at the hearing on the petition for termination without an accounting. A conserved person may waive an account upon a showing of competence. (Eff. 01/01/09)

4-507. SALE OF REAL PROPERTY UNDER INDEPENDENT POWERS (Eff. 01/01/09)

A conservator or guardian who has been granted the independent power to sell real property, but who petitions the court for confirmation of sale, must meet the requirements for sale as if the independent power had not been granted. (Eff. 01/01/09; Rev. 07/01/22)

4-508. SUBSTITUTED JUDGMENT (Eff. 01/01/11)

A. Documents Which May Have Testamentary Effect

The petition shall be supported by copies of any known documents which may have testamentary effect or which purport to gift any property of the conservatee before death. Such documents may be submitted with a request and proposed order that they be kept under seal, not to be examined by anyone except the Court except upon order of the court. The court shall seal any such document for which a request is made by the party submitting the document.

B. "Community Resource Allowance" and "Minimum Monthly Maintenance Needs Allowance"

The court will not hear petitions, nor issue orders, regarding "Community Resource Allowance" or "Minimum Monthly Maintenance Needs Allowance" unless such petition is accompanied by points and authorities specifying the jurisdiction and authority of the Probate Court to hear and decide such matters.

C. The Effect upon the Conservatee

The petition shall set forth the circumstances of the conservatee should the petition be granted, including, but not limited to, assets remaining, the projected needs of the conservatee and the manner in which those needs will be met.

Where a petition seeks transfer of all, or a major portion, of a spouse's assets for the purpose of eligibility for public benefits the estate plan of the receiving spouse for those assets must be set forth for the court.

The documents may be submitted with a request and proposed order that they be kept under seal, not to be examined by anyone except the court except upon order of the court. The court shall seal any such

document for which a request is made by the party submitting the document.

D. When a trust is created under PC Section 2580 or 3100 the Order shall provide, as a condition of approval that the Trustee shall commence a separate trust proceeding with a probate case number in this county by filing an Acceptance of Trust by Trustee, with a certified copy of the Order for Substituted Judgment and the Trust attached. This shall be done within 30 days of the Order being signed. A Receipt of Assets by the Trustee shall be filed in the new case file along with the Acceptance of Trust, and the Bond, if there is a bond to be posted under the terms of the trust. (Eff. 01/01/11; Rev. 07/01/22; Rev. 01/01/2023)

4-509. ALL RULES UNDER PART ONE GENERAL PROCEDURE GUIDE AND PART FIVE – CONSERVATORSHIPS SHALL APPLY TO MENTAL HEALTH CASES REGARDING AN ESTATE *Eff. 01/01/25) (Former 4-509 Repealed 01/01/24)*

4-510. "RESERVED FOR FUTURE USE" *(4-510 Repealed 07/01/22)*

PART SIX – PARTICULAR TRANSACTIONS

4-601. PROCEEDINGS SHALL CONFORM TO SUBSTITUTED JUDGMENT (Eff. 01/01/09)

Insofar as possible, the requirements of the Probate Code in Article 10, commencing at Section 2580, and the California Rules of Court and the Court's local rules, shall be applied to Proceedings for Particular Transactions under Chapter Three of Part Six of the Probate Code, commencing with Section 3100. The requirements of the Rules for Substituted Judgment in Conservatorship shall apply to Proceedings for Particular Transactions. (Eff. 01/01/09)

PART SEVEN – GUARDIANSHIP

4-701. GUARDIANSHIP RULES (Eff. 01/01/08)

The rules for conservatorship apply to guardianship insofar as applicable by probate code or stated in the local rules. (Eff. 01/01/08; Rev. 07/01/2022)

4-702. GUARDIANSHIP QUESTIONNAIRE [Eff. 07/01/2021; Former 4-702 Repealed 01/01/20 (Incorporated into 4-703)] (Eff. 01/01/20)

RELATIVE AND NON-RELATIVE GUARDIANSHIPS OF THE PERSON AND/OR ESTATE

A. The Confidential Guardianship Questionnaire (SJPR-400) shall be completed, signed under penalty of perjury, and submitted with all petitions for probate guardianship. Each proposed guardian shall sign the Guardianship Questionnaire. The Guardianship Questionnaire is used by the court and/or by the Court Investigator to prepare reports under Probate Code 1513 or as ordered by the court. The Guardianship Questionnaire and the information contained in the Guardianship Questionnaire is confidential. The Guardianship Questionnaire shall not be released to any party or their attorney absent a court order. The clerk must maintain the Guardianship Questionnaire in a manner that will protect and preserve the proposed guardian's and the minor's confidentiality.

[Eff. 07/01/2021; Rev. 07/01/22; Rev. 01/01/2023; Former 4-702 Repealed 01/01/20 (Incorporated into 4-703)]

4-703. APPOINTMENT OF TEMPORARY GUARDIAN OF THE PERSON (Eff. 01/01/09)

A. A petition seeking the temporary appointment of a guardian before the regularly noticed hearing shall be accompanied by a declaration explaining the emergency that requires a guardian be appointed before the regularly noticed hearing.

B. All petitions seeking the temporary appointment of a guardian shall be treated as an ex parte request.

C. If the Court determines that the petition for a temporary guardianship is not necessary, the Court will issue an order and send a copy to the petitioner and/or petitioner's attorney.

D. If the court determines that a hearing on the petition for a temporary guardianship is necessary, the Court will send notice to the petitioner and/or petitioner's attorney. The attorney or petitioner must then serve a copy of the notice on those required to receive notice and file a proof of service with the court.

E. If the request for a temporary guardianship is granted ex parte, and a hearing on the permanent guardianship is more than 30 days away, a hearing to reconsider the temporary guardianship will be set by the Court and notice provided to the petitioner and/or the petitioner's attorney. The attorney or petitioner must then serve a copy of the notice on those required to receive notice and file a proof of service with the court.

F. The court does not routinely grant temporary guardianships that will result in a change of custody. Child Protective Services of the San Joaquin County Human Services Agency and peace officers have the authority to remove children in an emergency and should be contacted if an emergency exists.

(Eff. 01/01/20; Rev. 07/01/22)

4-704. GUARDIANSHIP OF PARTICULAR PROPERTY (Eff. 01/01/09)

Proposed orders and letters must specifically identify the property to which the guardianship is limited. (Eff. 01/01/09)

PART EIGHT – MINORS COMPROMISE

4-801. ATTORNEY FEES IN CASES INVOLVING MINORS OR DISABLED PERSONS (Eff. 01/01/20)

It is the duty of the attorney to assure that funds are deposited in accordance with the order approving compromise. Attorney's fees shall not be paid until a receipt, declaration and/or other documentation required by the court confirming adherence to the order approving compromise is filed with the court. (Eff. 01/01/20; Rev. 07/01/22)

4-802. SETTLEMENTS WITH AN ANNUITY (Eff. 01/01/11)

Where the settlement includes the purchase of a single premium deferred annuity, an exemplar of the proposed annuity contract and schedule of payments to be made must be attached to the petition. The annuity shall provide that the contingent beneficiary is the minor's or the disabled person's estate. The rating of the company issuing the annuity shall be disclosed in the petition. (Eff. 01/01/11)

4-803. SETTLEMENTS CREATING A TRUST (Eff. 01/01/20)

Where the settlement includes establishment of a special needs trust, or other trust:

A. In all cases where a petition to approve the compromise of a claim of a minor or person with disability filed under Probate Code section 3600 et seq. proposes to have the settlement funds distributable to the minor or person with disability administered under a special needs trust or other trust, as provided in Probate Code section 3602, 3604 or 3611, the petition to establish the special needs trust or other trust must be filed under a separate case number, for approval concurrently or before the Minors Compromise. No payment or transmittal of the proceeds of the settlement agreement or judgment distributable to the minor or person with disability shall be made to the trustee until the special needs trust or other trust has been approved for establishment.

B. The order approving the settlement shall provide, as a condition of final approval of the settlement, that the trustee shall file an Acceptance of Trust and receipt of funds within 30 days of the order being filed. (Eff. 01/01/20; Rev. 07/01/22)

4-804. ATTACHMENT LIMITS (Eff. 07/01/21)

A. The attachments to any Petition or Expedited Petition for compromise for a minor or incapacitated person shall not exceed 50 pages, without authorization from the court, or falling under Paragraph B below.

B. If the Petition requests the settlement be distributed to a special needs trust, the attachments shall not exceed 100 pages, without authorization from the court.

C. Attachments shall include any declaration and/or supplement either attached or filed separate to the Petition or Expedited Petition. Any petitions with attachments received in excess of the page limits set forth above, without authorization, shall be rejected.

D. The Petitioner may apply to the court ex parte with notice of the application to the other parties for permission to submit additional pages. The ex parte application is not required to have a memorandum of points and authorities.

E. The requested additional attachments shall not be attached to the ex parte application, any declaration or memorandum. Instead, the ex

parte application shall list and describe the requested additional attachments separately, state the exact reasons why each additional attachment is relevant and necessary, and the number of pages in the additional attachment. Without this prior approval, the court will not consider any attachments exceeding the page limits set forth in Paragraph A or B above. [Eff. 07/01/2021; Rev. 07/01/22; Rev. 01/01/2023 Former 4-804 Repealed 01/01/20]

PART NINE—CIVIL MENTAL HEALTH, INCLUDING LANTERMAN-PETRIS-SHORT (LPS) CONSERVATORSHIPS, WRITS OF HABEAS CORPUS SEEKING RELEASE FROM A MENTAL HEALTH FACILITY, AND *RIESE* HEARINGS SEEKING AN ORDER FOR INVOLNTARY MEDICATION

4-901. INTRODUCTION (Eff 01/01/25)

The Civil Mental Health Division operates in the Probate Department. All documents filed in connection with a Lanterman-Petris Short ("LPS") Conservatorship, writ of habeas corpus to be released from a facility, or a *Riese* hearing seeking an involuntary medication order shall be filed with the clerk of the court in the Probate Division. The local rules set forth in 4-101 through 4-804, however, do not apply unless otherwise specified.

4-902. USE OF FORMS (Eff 01/01/25)

The court requires that counsel and self-represented litigants use the latest version of the printed forms approved by the Judicial Council, especially if it is a "Mandatory Use Form". If a form cannot be used because it is not a "Mandatory Use Form" or otherwise does not comport with the relief requested, counsel must prepare their own forms or documents, which shall comply with California law.

4-903. LANTERMAN-PETRIS-SHORT (LPS) CONSERVATORSHIPS (Eff 01/01/25)

A. Unless the Court for good cause otherwise orders, not less than five (5) days before the appointment of a temporary LPS conservator, the Public Guardian shall personally serve notice of the proposed ex parte application and any other supporting documents seeking the appointment of a temporary LPS conservator on the Public Defender's Office. Proof of service must be on file with the Superior Court clerk's office before any request is reviewed by the Court.

B. If the LPS conservatorship is terminated, the Public Conservator shall prepare the order terminating the conservatorship and file it with the court. If the matter involves a private conservator, the private conservator shall prepare the order terminating the conservatorship and file it with the court.

C. Any proposed order submitted that grants a LPS conservatorship shall state the level of placement for the conservatee as ordered by the Court.

D. Except where there is an order setting the date, the moving party may schedule a hearing in the Superior Court clerk's office in the Probate Division when the moving papers are filed (subject to mandatory time provisions of statutes and Rules of Court). Motions, petitions, and other requests for relief in LPS matters are heard Mondays, Wednesdays, and Fridays at 8:45a.m. or 9:00a.m. When submitting the moving papers for filing, please have at least three (3) dates (within the proper time provisions) for the clerk to check for availability. Proof of service must be on file with the Superior Court Clerk's office before the scheduled hearing.

4-904. WRITS OF HABEAS CORPUS AND *RIESE* PETITIONS (Eff 01/01/25)

A. It is assumed that time is of the essence in each writ of habeas corpus and petition for a Riese hearing. The physician or treating facility shall deliver, electronically file, or fax the required documents to the court in order to calendar a hearing. The court will calendar all writs of habeas corpus and Riese hearings upon receipt and timely filing of the requisite documents.

B. Hearings on writs of habeas corpus will be conducted within two court days of the filing of the writ as follows: Petitions filed on Mondays and Tuesdays by 11:30a.m. will be heard on Wednesdays at 8:45a.m. or 9:00a.m.; Petitions filed on Wednesdays and Thursdays by 11:30a.m. will be heard on Fridays at 8:45a.m. or 9:00a.m; Petitions filed on Fridays by 11:30a.m. will be heard on Mondays at 8:45a.m. or 9:00a.m. Any hearing date that falls on a judicial holiday will be heard on the next court day.

Hearings on *Riese* petitions will, to the extent possible, follow the same schedule as set forth in 4-904 B.

Any writ of habeas corpus or *Riese* petition filed after 11:30a.m. on the days designated herein shall be treated as if they were filed on the next day and shall be calendared accordingly.

The *Riese* petition seeking an involuntary medication order must be filed with a proposed order.

C. The treating mental health facility shall notify family members or any other person designated by the patient, of the time and place of the hearing on the writ, unless the patient requests that this information not be provided as set forth in Welfare & Institutions Code Section 5276. The patient shall be advised by the facility that is treating the patient that he or she has the right to request that this information not be provided. The physician or treating facility shall notify the patient's attorney and the Court at the writ hearing that compliance with this provision has been met

4-905. REQUESTS FOR INTERPRETERS (Eff 01/01/25)

The physician or treating facility shall notify the court of the need for an interpreter when one is needed at any hearing.

RULE 5 JUVENILE

5-100. PRE-HEARING DISCOVERY IN DEPENDENCY ACTIONS (Eff. 07/01/98)

A. All discovery shall be by State Rules of Court (Rule 1420), there shall be no discovery by Code of Civil Procedure. Title III of Part IV §1985 et seq., except as provided in this rule.

B. Without further order, parties have leave to use §2020(d), the deposition subpoena, for copying of business records. This use is limited to health care providers, excluding mental health providers, without further order of the court. Notice under § 1985.3, where the consumer is the minor subject of the dependency action, shall be given to Department of Child Protective Services of the Human Service Agency of San Joaquin County in addition to the person or persons specified in §1985(b)(1).

C. Order for further use of provisions of Title III, shall be sought by motion for pre-hearing discovery, as set forth in State Rules of Court (Rule of Court 1420 § (f)).

D. Motions for pre-hearing discovery, under the State Rules of Court, shall be made upon five (5) judicial day notice to all parties and shall be heard on a Monday, Tuesday, Thursday or Friday, at 8:30 a.m., in the dependency department or other department where the otherwise next hearing is scheduled. Motions for discovery shall be in writing and shall be accompanied by a declaration affirmatively alleging,

where appropriate, (i) a timely and specific request, (ii) a specific refusal or circumstances reasonably implying a refusal al to produce, and (iii) that the moving party has met the other party and conferred in good faith. (Eff. 07/01/98)

5-200. EX PARTE APPLICATIONS

A. Except as provided in this rule, no application for an order shall be made ex-parte unless the applicant shows by written declaration, or statement under oath, that a reasonable effort has been made to give notice to all other parties, who have appeared in the matter, or that notice would be inappropriate or impractical or would result in irreparable injury, or that the order would not result in a significant direct burden or inconvenience to any other party.

B. This rule shall not apply to applications for protective custody warrants for dependent minors. (Eff. 07/01/98)

5-300. PETITIONS TO MODIFY (§388 W&I) (Eff. 07/01/98)

A. Notice of the application for modification, pursuant to rule 8-200, shall be made to all counsel of record and to any parent appearing in pro per.

B. Application shall be made to the Court in a timely manner following discovery of the circumstances alleged to support the petition to modify, and in no event, at a later time which prejudices any party. Applications requesting return of a minor to a parent shall be made not less than 20 judicial days before any previously set hearing pursuant to §366.26 W&I. Where hearing for any petition is requested within 20 judicial days, good cause must be shown in a supporting declaration.

C. Where hearing is granted:

1. Evidence for the case-in-chief of the requesting party shall be, and for any responding party may be, by declaration, or, in the case of the petitioner being the requesting party, by report of the probation officer/social service worker.

2. The hearsay statements of the declarations, or report, shall not be sufficient to support the petition unless admissible over objection in a civil action or unless the hearsay declarant is made available for cross examination. The requesting party shall produce the hearsay declarant at the hearing upon written notice by any other

party, personally served 10 days prior to hearing or within two judicial days of receipt of the declarations, whichever is later. The responding parties shall produce their hearsay declarant at the hearing upon written notice by any party, personally served five judicial days prior to the hearing or within two judicial days of receipt of declarations whichever is later.

3. The requesting party shall serve the petition, order for hearing and supporting declarations, or report, on all parties ten judicial days before the hearing, if by personal service or fifteen judicial days, if by mail. Responsive declarations, or report, shall be served five judicial days before the hearing, if personally served, or ten judicial days, if by mail. (Eff. 07/01/98)

5-400. GENERAL COMPETENCY REQUIREMENT (Eff. 07/01/98)

Every party in a dependency proceeding who is represented by an attorney is entitled to competent counsel. Because juvenile justice is a specialized area, court-appointed attorneys must meet minimum training and continuing legal education standards as a condition of their appointment in juvenile court matters. Attorneys who seek to represent or to continue to represent individuals in juvenile dependency proceedings shall obtain and comply with the competency rules promulgated by the San Joaquin County Bar Association and as set forth in Rule of Court 1438. (Eff. 07/01/98)

5-401. "RESERVED FOR FUTURE USE" [5-401 Repealed 01/01/14] (Eff. 01/01/14)

5-402. SCREENING FOR COMPETENCY (Eff. 07/01/98)

Effective July 1, 1996, all attorneys who represent parties in dependency court proceedings shall meet minimum standards of training and experience as set forth in Rule of Court 1438(b). (Eff. 07/01/98)

5-403. REPRESENTATION OF MINORS (Eff. 07/01/98)

A. Non-public agency attorneys who wish to be appointed to represent minors must comply with additional minimum requirements as promulgated by the San Joaquin County Bar Association and approved by the Juvenile Dependency Court Judge.

B. Non-public agency attorneys who wish to be appointed to represent minors must so inform the San Joaquin County Bar Association and the Juvenile Dependency Court Judge.

C. Non-public attorneys who do not wish to be appointed to represent minors need not comply with these additional requirements. (Eff. 07/01/98)

5-404. MINIMUM REQUIREMENTS NECESSARY TO CONTINUE TO RECEIVE COURT APPOINTMENTS IN JUVENILE DEPENDENCY COURT (Eff. 07/01/98)

Each attorney must complete a minimum of continuing education hours each year as set forth in Rule of Court 1438(b). (Eff. 07/01/98)

5-405. PENALTY FOR NONCOMPLIANCE WITH RULE 5-403 AND RULE 5-404 (Eff. 07/01/98)

a) If an attorney fails to comply with Rule 5-403, the Juvenile Dependency Court Judge shall no longer appoint said attorney to represent minors in Juvenile Dependency Court until the requirements set forth in Rule 5-403 have been satisfied by that attorney.

b) If an attorney fails to comply with Rule 8-404, the Juvenile Dependency Court Judge shall no longer appoint said attorney to represent parties in Juvenile Dependency Court until the requirements set forth in Rule 8-404 have been satisfied by that attorney. (Eff. 07/01/98)

5-406. TERMINATION OF PANEL MEMBERSHIP-ADDITIONAL GROUNDS (Eff. 07/01/98)

A. Lawyer Referral Service Panel attorneys must also comply with the rules and regulations of the San Joaquin County Lawyer Referral Service in order to qualify for and to maintain their current standing with said organization.

B. Lawyer Referral Service Panel attorneys receive appointments and service on the Panel at the pleasure of the Superior Court. (Eff. 07/01/98)

5-407. APPLICATION OF THESE RULES (Eff. 07/01/17)

Rules 5-400 through 5-409 apply to whatever organization, law firm or entity, whether a group or individual, which holds the contract with the San Joaquin Superior Court to represent clients in Juvenile Dependency Court. (Eff. 07/01/17)

5-408. ATTORNEY COMPLAINT PROCESS (Eff. 07/01/98)

Parties shall be informed of the process to voice a complaint about attorney performance within 30 days of their first court appearance in the Juvenile Dependency Court and when a complaint is lodged with the court, the court shall take appropriate action. (Eff. 07/01/98)

5-409. MINOR'S INTERESTS IN OTHER PROCEEDINGS (Eff. 07/01/98)

When a minor who is the subject of a Juvenile Court Dependency case has an interest in any other proceedings which may need to be protected, such interest shall be immediately brought to the attention of the Juvenile Court so that appropriate action may be taken pursuant to Rule of Court 1438(d). (Eff. 07/01/98)

5-410. THE ADVOCATE PROGRAM (Eff. 01/01/03)

When a minor who is the subject of a Juvenile Court Dependency case has an interest in any other proceedings which may need to be protected, such interest shall be immediately brought to the attention of the Juvenile Court so that appropriate action may be taken pursuant to Rule of Court 1438(d). (Eff. 07/01/98)

5-411. CHILD ADVOCATES (Eff. 01/01/03)

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 his or her 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 investigate 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 his/her services on behalf of the child to such other courts or tribunals.

B. 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 his/her 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 his/her obligation to the child and the Court in accordance with the general duties set forth in these rules.

Procedures in 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, or by the Court on its

own motion. Unless there is opposition, the referral shall be forwarded to the child advocate office for screening and assignment.

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

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

4. 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.

D. 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. (Eff. 01/01/03)

5-500. RELEASE OF INFORMATION TO ADVOCATE (Eff. 01/01/03)

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 he/she is 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 his or her identification as a Court-appointed advocate to any such record holder in support of his/her 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 per Section 11166 of the Penal Code.

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. (Eff. 01/01/03)

5-501. RIGHT TO TIMELY NOTICE (Eff. 01/01/03)

In any action concerning the child for whom the advocate has been appointed, the moving party shall provide the advocate timely notice. (Eff. 01/01/03)

5-502. CALENDAR PRIORITY (Eff. 01/01/03)

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. (Eff. 01/01/03)

5-503. VISITATION THROUGHOUT DEPENDENCY (Eff. 01/01/03)

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. (Eff. 01/01/03)

5-504. FAMILY LAW ADVOCACY (Eff. 01/01/03)

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. (Eff. 01/01/03)

5-505. RIGHT TO APPEAR (Eff. 01/01/03)

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 he/she 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. (Eff. 01/01/03)

5-506. DIRECT CALENDARING OF JUVENILE DELINQUENCY CASES (Eff. 01/01/18)

A. All matters falling within the provisions of Welfare & Institutions Codes section 602 shall be subject to direct calendaring assignment to a judicial officer for all purposes at the time of the filing of a Petition. Upon their filing, cases will be assigned randomly to one of the designated juvenile delinquency departments. Except as otherwise provided by law, the judicial officer assigned to that department will thereafter handle all proceedings involving the matter through termination of jurisdiction, unless otherwise ordered. Nothing herein shall be construed to interfere with the authority of the Presiding Judge, and/or the Presiding Judge of the Juvenile Court to assign or reassign cases as may be necessary for the prompt and efficient disposition of matters coming before the juvenile court. In cases involving alleged co-participants, the courtroom of first appearance will handle the matter through disposition of all alleged co-participants arraigned concurrently on the matter.

B. At the time of the initial filing of the Petition, the Clerk's office shall affix to the face of the Petition by stamp or other writing, the following notice:

"This case has been assigned to Judge _____ in department ___ for all purposes, including trial".

(Eff. 01/01/18)

5-507. RECIPROCAL DISCOVERY (Eff. 07/01/06)

The reciprocal discovery rules set forth in Penal Code sections 1054, et. seq., shall apply to all juvenile delinquency cases in San Joaquin County. California Rule of Court 5.546 shall also govern discovery in juvenile delinquency cases. (Eff. 07/01/06, Rev. 1/1/2025)

RULE 6 ELECTRONIC FILING

All parties filing documents electronically are referred to and shall also comply with all requirements and conditions for electronic filing (eFiling) and service as set forth in Code of Civil Procedure section 1010.6 and California Rules of Court, rules 2.250-2.261 and 3.110(f)(4), unless this court's local rules provide otherwise. This rule shall apply to all eFiling regardless of the division and/or department, unless this court's local rules provide otherwise. The filing of electronic documents must be affected using the court's electronic service provider.

1. Case Types Subject to Electronic Filing:

   A. Effective January 1, 2020, San Joaquin County Superior Court allows the electronic filing of documents for specific case types as listed on the court's website at www.sjcourts.org. Case types excluded from e-filing can also be located on the court's website.

   B. Additional case types may be phased in over time. Please refer to the court's website for current listings.

2. Documents Subject to and Excluded from Electronic Filing:

   A. Please refer to the court's website for the current list of documents permitted to be filed electronically and excluded from electronic filing. If a document is not listed as accepted or excluded, contact the Clerk of the Court in the applicable division for clarification.

   B. Documents and other materials that are not feasibly converted to electronic form by scanning or imaging shall not be electronically filed.

   C. Additional documents may be phased in over time. Please refer to the court's website for updates.

3. Format of eFiled Documents:

A. All electronic filed documents must be in electronic text searchable PDF format. There is not a limit on the number of pages a document can contain, unless prohibited by another rule.

B. Documents containing exhibits must be bookmarked. An electronic bookmark must be created for each exhibit, and between each exhibit a slip sheet must be inserted containing identification of the following exhibit. For example, a page where the words printed are “Exhibit A” or Exhibit B” or other appropriate identification.

4. Acceptance or Rejection of Filing:

A. Documents electronically submitted to the court for filing may be reviewed by the clerk for certain data elements and/or completeness. Documents are not considered “filed” until they have been accepted by the reviewing clerk.

B. If after review by the clerk, a document electronically submitted to the court is subsequently determined to be unacceptable for filing; a Notice of Rejection specifying the reason(s) will be generated and provided to the filer. After addressing the issues, it is the sole responsibility of the filer to resubmit the document(s) with payment electronically if they choose to, if the basis for rejection was not due to the document being on the exclusion list.

5. Confirmation of Submission:

A. The confirmation of submission, subsequent resubmission of rejected documents with corrections and/or fees, as well as the filing of documents with the court electronically is the sole responsibility of the filer. In the absence of confirmation of receipt and filing, there is no presumption that the court received and filed the document.

6. Sealed Documents:

A. A motion to file documents under seal may be filed electronically. However, documents lodged with the Court Conditionally Under Seal, as provided in CRC 2.551(d), shall be served and submitted to the Clerk of the Court in paper form, pending hearing on the motion to seal.

B. Documents ordered filed under seal cannot be electronically filed and must be submitted directly to the Clerk of the Court in paper form, compliant with CRC 2.551(d), if not previously lodged under seal.

7. Confidential Documents:

A. Except as provided in CRC 2.250-2.259 and 2.500-2.506, an electronically filed document is a public document at the time it is filed unless it is ordered sealed under CRC 2.551(b) or filed as a confidential document pursuant to law. (CRC 2.254(c))

B. The filer is responsible for redacting any personal identifiers, privileged or confidential information when applicable. The clerk will not review the documents for compliance.

8. Fees and Fee Waivers:

A. Electronic Service Providers may charge a reasonable fee in addition to any filing fees required by the Court. There is no service fee charged if the document does not require a filing fee. The Court will not add an administrative fee for eFiling. Refer to the information under Payment on the court's website for additional information.

B. A party who has an active fee waiver on file in a case or is granted a fee waiver from the Court is exempt from the fees and costs associated with electronic filing.

C. If a request for fee waiver is not granted, the filer will be notified and given the opportunity to submit payment. The filer will have 10 days to comply with the Order on Fee Waiver or the filing will be voided. (GC 68634(g)). (Eff. 01/01/20)

6-100. [6-100 Repealed 01/01/20]

6-101. [6-101 Repealed 01/01/20]

RULE 7 FAMILY LAW

7-100. EMERGENCY ORDERS (Eff. 07/01/18)

All parties must comply with California Rules of Court, Rule 5.151 through Rule 5.170 when submitting emergency requests. The requests shall be limited to those specified in subsection (b) of Rule 5.151 and must be in writing. The requesting party must also comply with the notice requirements set forth in California Rules of Court, Rule 5.165 and must include the Temporary Emergency (Ex Parte) Orders (form FL-305) with their pleadings. (Exhibit A is revoked effective July 1, 2018.) (Rule 7-100 amended effective

July 1, 2018; adopted as Rule 7-100 effective July 1, 1998; amended effective January 1, 2014.) (Eff. 07/01/18)

7-101. ORDER EXCLUDING A PARTY FROM THE HOME (Eff. 07/01/98)

A temporary restraining order enjoining a party from the use of the family home will not be granted unless the request is supported by a declaration setting forth a factual basis showing immediate and serious harm. Said declarations shall state, in detail and in competent evidentiary form, the time and place of the act or acts and the exact injuries suffered by the moving party. The moving party has the burden of convincing the court an ex-parte order is an appropriate alternative to an order shortening time. (Eff. 07/01/98)

7-102. NOTIFICATION TO COURT OF OTHER PROCEEDINGS (Eff. 01/01/14)

A. Any motion, petition or request for order, or response thereto involving an issue of child custody, visitation, child support or domestic violence shall contain a statement notifying the Court and parties of any action which involves the children or the parties concerned in the motion, petition or request for order which is pending in any other jurisdiction or in the juvenile court. 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.

B. 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 subsequent to the filing of the motion, petition, request for order.

C. In addition, hereto, every moving party or counsel must disclose to the Court the existence of any prior applications for relief similar to that requested in the current moving paper of which said moving party or counsel have knowledge. (Eff. 01/01/14)

7-102.5. DECLARATIONS SUPPORTING AND RESPONDING TO A REQUEST FOR ORDER (Eff. 01/01/19)

All declarations supporting and responding to a Request for Order, a Domestic Violence Restraining Order (DVRO), and an Elder Abuse Restraining Order (EARO) must comply with California Rules of Court, Rule 5.111. A party shall be permitted to file no more than one (1) declaration in support of or in response to a Request for Order, and one (1) reply declaration (in response to the responsive declaration is permitted if necessary.) No additional declarations

(surrebuttal) may be filed until the matter has been continued for a review hearing 60 days or more from the date the matter was initially heard. In such cases, declarations should raise only issues not raised in previous filings. Any evidentiary documents attached to declarations shall not exceed 10 pages in length. However, a party may apply to the court ex parte with notice of the application to the other parties for permission to submit additional pages. The requested additional pages shall not be attached to the separate ex parte application. The ex parte application shall list and describe the requested additional attachments separately, state the exact reasons why each additional attachment is relevant and necessary, and must comply with California Rules of Court, Rule 5.151. Without this prior approval, the court will not consider any attachments exceeding 10 pages or multiple declarations. Parties should not attach copies of pleadings already contained in the Court file to any new pleading. This rule shall not apply to discovery motions. (Rev 07/01/2023)

7-103. MEET AND CONFER REQUIREMENT (Eff. 01/01/14)

A. All parties and all attorneys are required to meet and confer prior to a case being heard on the family law calendar.

B. Before the parties are eligible for mediation, it is required that they meet and confer. The sole purpose in requiring them to meet and confer is to allow them an opportunity to work out a plan for the sharing of time and responsibility for the raising of their child or children, i.e., formulate their own parenting plan.

It is expected that any attorney who represents either the mother or father will meet with the other side in order to determine what issues can be resolved by agreement and what issues are really contested.

C. Attorneys must meet with the opposing side even if the other side is not represented by an attorney. A bona fide attempt must be made to settle all issues prior to mediation.

D. Parties not having attorneys must still meet and confer. If either side is not represented by an attorney, they are still required to meet with the other side in order to try to resolve the parenting plan. A party who is not represented must remember that meeting and discussing the case with the other side does not mean that they must make an agreement, they must simply make an honest attempt to settle all the issues they can and determine the issues that are contested.

E. Complete meet and confer required. In order to expedite the process, it is required that even if a complete settlement is not possible, all issues should be discussed even if only conditional agreements are made. For example, if the parties cannot agree, they should determine how holidays will be shared and what shared time they would have if they were not granted the primary custody of the child or children.

F. Parties must exchange three days prior to the hearing all documentary evidence that is to be relied upon for proof of any material fact at the hearing. This requirement does not apply to documents used primarily for rebuttal or impeachment purposes (Eff. 01/01/14)

7-104. MEDIATION (Eff. 01/01/14)

A. In any mediation pursuant to Family Code §3183, the mediator may make an oral or written recommendation as requested by the court, and at the request of a party or attorney, the mediator shall be subject to cross-examination.

B. No peremptory challenge of a mediator is permitted.

C. A party may challenge a mediator for good cause by the filing of a formal motion to disqualify a mediator. The court shall continue the date of any mediation to allow the filing of a motion to disqualify. The court shall shorten time for a hearing on a motion to disqualify a mediator upon the request of either party.

D. A mediator may decline to mediate a case in the event the mediator determines he or she cannot be unbiased or has a conflict that would prevent a meaningful mediation.

E. Ex-parte communication with Court mediators by any party or attorney to the action is prohibited, except for limited contact necessary to schedule or continue hearings, mediation sessions and/or testimony of mediators at trial or hearing.

F. The purpose of mediation is to facilitate an agreement between the parents. If counsel attends a mediation session, they shall do so in a support capacity and not to advocate for a position. The mediator may exclude either or both counsel from a mediation session if in the discretion of the mediator such exclusion will facilitate the mediation process.

G. When any request for order is filed placing custody and/or visitation at issue, the parties are required to attend an orientation session provided by Family Court Services prior to the court date on the request. Non-compliance may result in the case being continued until such time that the parties have attended the required orientation. (Eff. 01/01/14)

7-105. SUPPORT (Eff. 01/01/14)

These guidelines have been adopted to comply with the California Family Code operative January 1, 1994.

The Court will determine the appropriate amount of child support and discretionary spousal support according to the Santa Clara County guidelines and the Code.

(a) These guidelines are not intended to limit the Court's discretion concerning spousal support except as otherwise provided by the Code or other applicable case and statutory law.

(b) The Court will take all circumstances into consideration (e.g., reduced expenses because of income of a new spouse or cohabitors) to the extent permitted by the Code.

(c) Concurrently with filing, and responding to, a request for order to establish or modify child and/or spousal support, each party shall provide the other, in addition to the information and documents required by the Family Code and Rules of Court, each party's complete most recently filed tax return. (Eff. 01/01/14)

7-106. PERPETUATION OF TESTIMONY BY CUSTODY EVALUATORS (Eff. 01/01/21)

A Custody Evaluator, appointed by this Court pursuant to Evidence Code §730, shall be permitted to testify remotely in accordance with the following terms and conditions:

a) The Custody Evaluator shall have prepared a written report.

b) The proponent of the testimony shall arrange for a videoconference that shall allow the Custody Evaluator to be seen, hear the Court and Counsel, and speak to the Court and Counsel.

c) The proponent of the testimony shall pay the expense of the videoconference, and shall have a videographer present during the testimony to ensure that the videography equipment functions properly. Any and all equipment necessary to perpetuate the testimony shall be provided by the proponent.

d) Notice of intent to introduce testimony by videography must be given in writing by the proponent at least 15 days prior to the date set for hearing.

e) Any objection to videography testimony must be filed and served 10 days prior to the date set for hearing. Any reply thereto shall be filed and served 5 days before the date set for hearing.

f) Service of objections and reply shall be by fax or email. In ruling on the objections, the Court shall consider the issue of whether allowing such testimony is prejudicial to the opposing party.

g) Should the quality of the transmission be poor, the Court in its discretion may strike the testimony entirely or, may, but need not, continue the matter in its discretion.

h) In order to perpetuate testimony pursuant to this local rule, the Custody Evaluator must maintain his or her office 75 miles or more from the courthouse. (Eff. 01/01/21)

7-107. DEFAULTS (Eff. 07/01/98)

The Clerk of the Court shall not enter a default in a dissolution or legal separation unless a Declaration of Disclosure has been served at least 30 days prior to the entry of the default or unless the parties have filed a Marital Settlement Agreement. (Eff. 07/01/98)

7-108. AT-ISSUE MEMORANDUMS (Eff. 01/01/14)

Prior to the filing of an at-issue memorandum, the party requesting the trial date must have submitted a good faith settlement proposal of all issues to the opposing side and must have served a current Income and Expense Declaration and a completed Declaration of Disclosure including attachments. The at-issue memorandum must include a declaration or proof of service evidencing compliance with this section. (Eff. 01/01/14)

7-109. RESULT OF FAILURE TO COMPLY WITH RULES (Eff. 01/01/14)

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

(a) Dropping the matter from calendar.

(b) Continuance of the matter.

(c) The award of attorney's fees and costs against the non-complying party and/or the party's attorney, without the necessity of filing an Income and Expense Declaration, or any request for order, including, but not limited to, a motion under California Code of Civil Procedure section 128.5 or Family Code sections 270 through 275.

(d) The rendering of an order based solely upon the pleadings properly before the Court.

(e) Other orders as the Court deems appropriate under the circumstances. (Eff. 01/01/14)

7-110. SETTLEMENT CONFERENCES (Eff. 01/01/15)

The parties shall participate in a mandatory conference on all cases involving property or spousal support issues. Each party shall file and serve ten days prior to the mandatory settlement conference a meaningful and complete statement which shall include:

(a) Identity of community property and obligations;

(b) Identity of separate property;

(c) Proposed distribution of community property and obligations;

(d) Statement of issues and contentions;

(e) Statement of request for child and spousal support; and,

(f) Statement of request for attorney's fees pursuant to Rules of Court, Rule 5.427.

(Eff. 01/01/15)

7-110.5. PRE-TRIAL EXCHANGE OF DOCUMENTS AND INFORMATION (Eff. 01/01/21)

For all trials, including long cause hearings, the parties shall file and exchange trial briefs on all issues at least five court days prior to trial. The trial brief shall include:

(a) The information and documents required by Rules of Court, Rule 5.394;

(b) A list of all documents (excluding those intended to be used primarily for rebuttal or impeachment purposes) that are to be relied upon for proof of any material fact at trial. Documents are not to be attached or appended to the trial brief; and

(c) A list of witnesses and a brief summary of their testimony.

(Eff. 01/01/21)

7-111. FAMILY LAW TENTATIVE RULINGS (Eff. 07/01/17)

Parties are responsible for reviewing the tentative ruling and notifying the Superior Court Clerk's Office by calling (209) 992-5690 and all attorneys or parties if there are no attorneys, not later than 4:00 p.m. the day preceding the scheduled hearing of his or her intent to appear and argue. The family law tentative ruling is available on the court's website at www.sjcourts.org. Failure to call by 4:00 p.m. will preclude the court from hearing arguments the next day. It shall also result in the tentative ruling becoming the order of the court.

The issues subject to a tentative ruling are as follows:

(a) Motion to compel discovery;

(b) Motion to set aside default/judgment;

(c) Motion to withdraw as attorney of record;

(d) Motion to Quash;

(e) Motion for joinder or parties, not involving custody or visitation

(f) Motion for change of venue, not involving custody or visitation

7-112. DUTIES OF FAMILY LAW FACILITATOR (Eff. 07/01/98)

In addition to the duties set forth in Family Code section 10002 et seq., the Family Law Facilitator may perform the following:

A. Meet with pro per litigants to mediate issues of child support, spousal support, and maintenance of health insurance.

B. Draft stipulations for pro pers to include all issues agreed to by the parties, which may include issues other than those specifically set forth in Family Code section 10003.

C. Prepare formal orders after hearing consistent with the court's ruling when both parties are unrepresented.

D. Serve as a special master in contested dissolutions for the purpose of hearing pretrial settlement conferences in hopes of reducing the contested dissolution calendars.

E. Develop programs for bar and community outreach through day and evening programs, videotapes and other means that will assist unrepresented and financially disadvantaged litigants in gaining access to family court.

F. Assist the court with research and such other responsibilities as may be assigned by the court, enabling the court to be as time efficient as possible in helping litigants and reducing the family court's caseload.

G. Sit as judge pro tempore subject to the stipulation of the parties, when the Family Law Commissioner is unavailable. (Eff. 07/01/98)

7-113. JUDICIAL CAVEAT (Eff. 07/01/98)

While it is intended that the Court will follow the policies set forth, the rules do not prevent the exercise of judicial discretion when appropriate. (Eff. 07/01/98)

7-114. COURT COMMUNICATION RULES FOR DOMESTIC VIOLENCE AND CHILD CUSTODY AND/OR VISITATION ORDERS (Eff. 01/01/14)

This rule is intended to comply with the provisions of California Rules of Court, Rule 5.445 regarding communication between courts about the existence of criminal protective orders and child custody and/or visitation orders to avoid the issuance of conflicting orders.

A. Court Communication

Until the court has an operational case management system capable of automatically coordinating domestic violence orders, the court's criminal, family, and juvenile law departments shall, to the best of their abilities communicate with one another to identify families with existing orders.

B. Avoiding Conflicting Orders

No department of the family or juvenile court shall issue a protective order or custody order in conflict with an order of the criminal court. In the event such an order is issued inadvertently, the orders of the criminal law proceeding shall control.

C. Modification of Criminal Protective Order

Upon notice of an existing criminal protective order, the family or juvenile court shall refer the party's requesting custody and visitation to the Clerk's Office in the Criminal Department. At the Clerk's Office, the person restrained by a criminal protective order or protected by a criminal protective order may request a hearing to modify the criminal protective order to expand or restrict contact between the person restrained by the order and his or her children.

The family court may prepare a custody and visitation order; however, it is explained to the parties that the order cannot be enforced by law enforcement if the criminal protective order is not modified accordingly.

D. Co-Existing Criminal and Family or Juvenile Orders

A family or juvenile court order may coexist with a criminal protective order, subject to the following:

1. Any order that permits contact between the restrained person and his or her children shall provide for the safe exchange of the children and shall not contain language either printed or handwritten that violates a "no contact order" issued by a criminal court.

2. After having knowledge of an existing child custody and visitation order, the criminal court issuing a protective order shall indicate on the order that contact and visitation between the restrained

person and his or her children is pursuant to court orders previously ordered by the family or juvenile court.

3. Safety of all parties shall be the court's paramount concern. The family or juvenile court shall specify the time, day, place, and manner of transfer of the child as provided in Section 3100 of the Family Code. (Eff. 01/01/14)

7-115. VIDEO CONFERENCE APPEARANCE (Eff. 01/01/21)

A. Videoconferencing at Trial.

Videoconference appearances are disfavored and will only be granted in unusual circumstances. Approval will be made on a case-by-case basis. Considerations include risk of travel due to COVID-19. Unless otherwise prohibited by law and, subject to the judicial officer's approval, parties may appear or present testimony by videoconference at Trial. The requesting party must file and serve an Ex Parte Application for Videoconference Appearance at Trial and Order (SJ-FL-004) at least twenty (20) days prior to the date the matter is initially set for hearing or trial. Any objections to the application must be filed and served no later than five (5) days after service of the Application. Thereafter, the Court will rule on the Application or set the matter for hearing on the Application.

The application form is available online at the court's website or in the clerk's office. Videoconference appearances will be arranged through the Court's Information Technology Department. Fees will be paid by the requesting party to the Court.

B. Definitions.

1. "Remote video appearance" means a party, an attorney, or a witness may appear remotely through the use of:

(a) A desktop or laptop computer with webcam capabilities that depict the parties, attorneys, the court, witnesses, and court personnel, if any, in real time on a screen visible to the user who is at another location; and with capabilities to allow for transmitting the user's image and voice; or

(b) A smartphone with video camera capabilities that depict the parties, attorneys, the court, witnesses, and court personnel, if any, in real time on a screen visible to the user

who is at another location; and with capabilities to allow for transmitting the user's image and voice; or

(c) A tablet with video camera capabilities that depict the parties, attorneys, the court, witnesses, and court personnel, if any, in real time on a screen visible to the user who is at another location; and with capabilities to allow for transmitting the user's image and voice.

C. Application.

This rule applies to any matter to be heard in a family law department, subject to the approval of the judicial officer.

D. Procedure.

1) The court must ensure that the statements of participants are audible and/or visible to all other participants and the court staff and that the statements made by a participant are identified as being made by that participant.

2) The party, attorney, or witness must timely appear by joining the link provided by the Court and must enter his/her full name as the username.

3) The party, attorney, or witness must provide the Court with their mobile phone number and email address at the time of the hearing. A party, attorney, or witness shall register his/her email address and mobile phone number with the Court through the Online Services, Attorney Registration page on the Court's website. You do not need to be an attorney to register.

4) No child(ren) shall be present for the hearing; only the parties, their attorneys, and witnesses.

5) Parties must be dressed in appropriate attire.

6) Parties must first identify themselves whenever speaking and only one party at a time may speak.

7) Any and all documents a party/attorney wants the court to consider shall be submitted with a party's moving/opposition papers five (5) court days prior to the hearing. In the event the court requires a party/attorney to submit a document at the time

of the hearing, the party/attorney must send the document in a .pdf format to the court at familycourtclerks@sjcourts.org, and must copy all counsel of record and self-represented parties on that email. The case name, number, and hearing date must be stated in the subject line of the email and the other party or their attorney must be copied (cc'd) in the email or the court will not consider the document as it is an ex parte communication.

8) For matters heard in department #5A, any documentary evidence that the parties wish the bench officer to consider must be emailed directly to the other party or that party's attorney, if represented, and, if the matter is a DCSS matter, then to DCSS at least five days prior to the hearing, excluding any Saturday, Sunday, or holiday as provided for under Code of Civil Procedure section 135. Failure to provide at least five court days' notice of proffered documentary evidence may result in its exclusion. If no email exists for the opposing party or counsel, alternative methods of service must be used (e.g., text, mailing, or instant message). The bench officer will determine the sufficiency of any such alternative service method. The case name, number, and hearing date must be stated in the subject line of the email and the other party or their attorney must be copied (cc'd) in the email or the court will not consider the document as it is an ex parte communication.

9) Any recording of the videoconference Trial is absolutely prohibited, including, but not limited to, "screen-shots" or other visual copying or audio recording. Violation of these prohibitions may result in sanctions, including removal of court-issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the court. (Rev.01/01/2022)

7-116. REMOTE APPEARANCES (Eff. 01/01/22)

1) This Local Rule is adopted pursuant to Civil Code of Procedure section 367.75 and California Rule of Court, rule 3.672. Notice requirements are set forth in rule 3.672 and below.

2) For Law and Motion hearings, and Ex Parte hearings, parties may appear remotely by telephone pursuant to Civil Code of Procedure section 367.75 and California Rule of Court, rule 3.672.

a. Parties may stipulate either orally or in writing to waive notice of other parties' appearing remotely for Law and Motion hearings and Ex Parte hearings.

b. This Court waives notice of parties appearing remotely for Law and Motion hearings, and Ex Parte hearings.

c. Nothing limits the discretion of the judicial officer to require parties to appear in person for Law and Motion hearings and Ex Parte hearings.

d. A remote appearance for Law and Motion hearings and Ex Parte hearings will not be permitted if the tentative ruling posted for the hearing states that an in-person appearance is required, or the court advises the person requesting to appear remotely that the judicial officer has determined that an in-person appearance is necessary.

3) For Law and Motion hearings, and Ex Parte hearings the Court has a telephone Bridge Conference Line platform that supports audio only.

a. The Bridge Conference Line call in numbers are listed on the Court's website.

b. At the discretion of the Judicial Officer, a Zoom video platform may be provided for the parties to appear. The Court will provide the video access meeting link, or require a party to provide notice of the video access meeting link.

c. Any recording, reproduction, or re-broadcasting of a court proceeding held remotely, including screenshots or other visual or audio copying of a hearing, is prohibited.

4) For Evidentiary Hearings, RFOs, Mediations, Settlement Conferences, Trials, and hearings on Orders to Show Cause, parties must appear in person, unless the party or attorney requests and receives express written authorization to appear remotely by the judicial officer.

a. A party may request to appear remotely by telephone by filing and serving an Ex Parte Application for Telephonic Appearance at Hearing and Order (Form SJ-FL-005) with the Court no later than10 court days

before the Evidentiary Hearing, Mediation, Settlement Conference, Trial, or Order to Show Cause. Any objections must be filed and served no later than five (5) days after service of the Application.

5) Even when a remote appearance is authorized and commences, the judicial officer may terminate a remote appearance and continue the matter so that an in-person appearance can occur if technology or audibility issues interfere with the judicial officer's ability to make a determination required by the hearing, the in-person appearance is necessary to assist in the determination of the specific hearing, the court reporter's ability to make an accurate record is in question, counsel's ability to provide effective representation is in question, an interpreter's ability to provide language access is in question, or for any other reason which constitutes good cause under the circumstances.

A. Definitions

For purposes of this section, telephonic appearance means a landline, cell phone or tablet allowing the user to hear all other users at other locations using the court's bridge line number.

B. Application

This rule applies to any matter to be heard in a family law department, subject to the approval of the judicial officer.

C. Procedure

1) The court must ensure that the statements of participants are audible and/or visible to all other participants and the court staff and that the statements made by a participant are identified as being made by that participant.

2) The party, attorney, or witness must timely join the telephone conference hearing at least 10 minutes prior to the scheduled hearing. Do not announce your presence until the Court calls your case. Simply stay on the telephone line, even if there is only silence, until the Commissioner/Judicial Officer starts the hearings, and then continue to listen quietly until your case is called. The Commissioner/Judicial Officer will conduct a roll call and if you are not present, your matter will be dropped from the calendar or reset. Until your case is called, refrain from speaking.

3) The party, attorney, or witness must provide the Court with their mobile phone number and email address at the time of the hearing. A party, attorney, or witness shall register his/her email address and mobile phone number with the Court through the Online Services, Attorney Registration page on the Court's website. You do not need to be an attorney to register.

4) Parties must first identify themselves whenever speaking and only one party at a time may speak and must pause prior to speaking in case there is any audio lag.

5) No child(ren) or third parties shall be present for the hearing; only the parties, their attorneys, and witnesses.

6) Any and all documents a party/attorney wants the court to consider shall be submitted with a party's moving/opposition papers 5 court days prior to the hearing. In the event the court requires a party/attorney to submit a document at the time of the hearing, the party/attorney must send the document in a .pdf format to the court at familycourtclerks@sjcourts.org, and must copy all counsel of record and self-represented parties on that email. The case name, number, and hearing date must be stated in the subject line of the email and the other party or their attorney must be copied (cc'd) in the email or the court will not consider the document as it is an ex parte communication.

7) For matters heard in department #5A, parties must provide any documents they want the court to consider prior to the hearing and must provide copies to the other side. Any documentary evidence the parties wish the bench officer to consider must be emailed directly to the other party or that party's attorney, if represented, and, if the matter is a DCSS matter, then to DCSS at least five days prior to the hearing, excluding any Saturday, Sunday, or holiday as provided for under Code of Civil Procedure section 135. Failure to provide at least five court days' notice of proffered documentary evidence may result in a continuance to another court date and/or its exclusion. If no email exists for the opposing party or counsel, alternative methods of service must be used (e.g., text, mailing, or instant message). The bench officer will determine the sufficiency of any such alternative service method. If there is a document the Commissioner/Judicial Officer requires you to submit the day of the hearing, you must send the document to the court at familycourtclerks@sjcourts.org. The case name, number, and hearing date must be stated in the subject line of the email and the other party or their attorney must be copied (cc'd) in the email or the Commissioner/Judicial Officer will not consider the document as it is an ex parte communication.

8) These telephone conference hearings may be abbreviated due to the limited ability to hear evidence under these circumstances. The Commissioner/Judicial Officer may make interim orders and your case could be continued for additional consideration at a later date.

9) Any recording of the telephone conference is absolutely prohibited. Violation of these prohibitions may result in sanctions, including removal of court-issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the court.

7-117. INTERVIEW FOR MINOR TO MARRY OR ENTER DOMESTIC PARTNERSHIP (Eff. 07/01/21)

In order to properly conduct the interview required under CRC Rule 5.448(c), any minor requesting to marry or establish a domestic partnership must complete and submit the Underage Marriage or Domestic Partnership Applicant Information form, local form number SJ-FL-009, at the time of filing the initial Request of Minor to Marry or Establish a Domestic Partnership. This form will not be filed with the Court but shall be maintained in a confidential case file in accordance with CRC Rule 5.448(c)(5)(A). (Rev.01/01/2022)

7-118. ORDERS SHORTENING TIME

The Court will not shorten time for service of Requests for Order, Orders to Show Cause, or Notices of Motion except upon a written declaration or affidavit clearly showing the necessity therefor through an ex parte request or by stipulation. (Eff. 01/01/2022)

RULE 8 ADOPTION PROCEEDINGS

8-101. KINSHIP AGREEMENTS (Eff. 07/01/05)

A. Petitions to Adopt

A Petition for Adoption with Contact After Adoption shall not be filed unless the agreement contains the signature of court-appointed counsel for the minor acknowledging agreement with the terms.

B. Petitions to Enforce, Modify and Terminate

1. Notice, and the application, and any response thereto, shall be served upon all parties, including the Human Service Agency or other adoptive placement agency with which the minor had first been placed, and to appointed counsel for the minor.

2. All evidence to be submitted at the hearing of the application, whether in support or opposition, shall be presented by written offers of proof, declaration, or otherwise admissible documentation. The moving party shall serve their evidence

with the application. Any responding evidence must be served with the response.

3. On order of the court, a witness or declarant shall appear for cross examination. Upon failure of the declarant to appear and submit to examination, the offer of proof or declaration of that witness shall be stricken.

4. No application shall be filed unless accompanied by a declaration setting forth the good faith attempt to resolve the dispute. (Eff. 07/01/05)

8-201. TERMINATION OF PARENTAL RIGHTS IN ADOPTION PROCEEDINGS – CAPTION (Eff. 07/01/98)

Whenever termination of parental rights is sought in an adoption proceeding, each petition shall include in the caption the code section under which the petition is brought. This includes petitions and motions which are ancillary to the adoption or termination of rights. (Eff. 07/01/98)

8-202. TERMINATION OF PARENTAL RIGHTS IN ADOPTION PROCEEDINGS NOTICE AND CONSENT (Eff. 01/01/99)

A. Necessity of Consent by Mother or Presumed Father in an Adoption

If it is claimed that the consent of the mother or a presumed father of a child who is to be adopted is not required pursuant to section 8604(b) or 8606(c) of the Family Code, the petitioner may set a hearing to determine the request in advance of the hearing on the adoption. This “necessity of consent” hearing shall be heard on the regular adoption calendar.

The court will not consider the request unless the required adoption report is submitted and, in the case of request pursuant to section 8604(b), proof of service of the required citation is on file.

The citation pursuant to section 8604(b) shall require the parent served show cause why the court shall not find the minor to have been abandoned and the consent for adoption by the named parent not required.

B. Notice to Alleged Father in an Adoption

1. Where a petition to terminate an alleged father's rights has been filed and there is a petition, motion or other request that notice of the adoption proceeding to the alleged natural father be dispensed under section 7666(b) of the Family Code, or that rights be terminated without notice of the adoption proceeding under section 7665, the petitioner may set a hearing to determine the request in advance of the hearing on the adoption. The hearing is to be set on the regular adoption calendar. Alternatively, the petitioner may submit the request on the pleadings and the court will hear it without appearance.

   Whether set for a calendar hearing or otherwise, the court will not consider the request unless the report required under section 7663 is submitted.

   Where there is a petition, motion or other request that no further notice of the adoption proceeding to the alleged natural father is required under section 7662(b) or 7664(a) of the Family Code, the petitioner may set a hearing to determine the request in advance of the hearing on the adoption. The hearing is to be set on the regular adoption calendar. Alternatively, the petitioner may submit the request on the pleadings and the court will hear it without appearance.

2. Whether set for a calendar hearing or otherwise, the court will not grant the request unless there is evidence of a record search in the county set forth in the notice as required by subsection(c) below.

   If it is further requested that the alleged father's rights be terminated in advance of an order of adoption, the court shall grant the termination contingent on an order of adoption.

3. Notice to be given pursuant to section 7662(b) or 7664(a) of the Family Code shall set forth the title, action number and location of the court of any then pending adoption proceeding and any petition to terminate the alleged father's rights regarding the child allegedly fathered. If there is not then pending an adoption proceeding, or petition to terminate the alleged father's parental rights, the notice shall set forth the location of the court of the County wherein the person having custody of the child resides. (Eff. 01/01/99)

RULE 9 - SMALLCLAIMS ACTIONS, UNLAWFUL DETAINER CASES, AND CIVIL HARRASSMENT RESTRAINING ORDERS

9-100 [SMALL CLAIMS E-FILING [repealed (deleted) 07/01/15.]

9-101. REMOTE APPEARANCES FOR SMALL CLAIMS ACTIONS, UNLAWFUL DETAINER CASES, and CIVIL HARASSMENT RESTRAINING ORDERS (Eff. 1/1/22)

A. This Local Rule is adopted pursuant to Civil Code of Procedure section 367.75 and California Rule of Court, rule 3.672. Notice requirements are set forth in rule 3.672 and below.

B. For Small Claims Actions, Unlawful Detainer Cases, Civil Harassment Restraining Orders, and Other Evidentiary Hearings, parties must appear in person, unless the party or attorney requests and receives express written authorization to appear remotely by the judicial officer who is to hear the matter.

a. A party may request to appear remotely by filing and serving a Notice of Remote Appearance Form RA-010 with the Court no later than 5 court days before the Small Claims Actions, Unlawful Detainer Cases, Civil Harassment Restraining Orders, or Other Evidentiary Hearings.
b. In response to notice of remote appearance, any party may file and serve an Opposition to Remote Proceedings Form RA-015 no later than 3 court days before the hearing in question.
c. A party must deliver a copy of any written Notice or Opposition under (a) or (b) to the department in which the proceeding is to be held.

C. Even when a remote appearance is authorized and commences, the judicial officer may terminate a remote appearance and continue the matter so that an in-person appearance can occur if technology or audibility issues interfere with the judicial officer's ability to make a determination required by the hearing, the in-person appearance is necessary to assist in the determination of the specific hearing, the court reporter's ability to make an accurate record is in question, counsel's ability to provide effective representation is in question, an interpreter's ability to provide language access is in question, or for any other reason which constitutes good cause under the circumstances.

RULE 10 APPELLATE DIVISION

10-100. JURISDICTION (Eff. 07/01/17)

The Appellate Division of the San Joaquin Superior Court has jurisdiction over all appeals for writs, infractions, misdemeanors and limited civil cases arising out of the courts in San Joaquin County. General rules applicable to the Appellate Division proceedings are set forth in California Rules of Court, Rule 8.800, and et seq. (Eff. 07/01/17)

10-101. JUDICIAL ASSIGNMENT AND SESSIONS (Eff. 07/01/23)

A. The Presiding Judge of the Appellate Division shall supervise the business of the department. All motions, including ex parte applications for orders, shall be presented to the Presiding Appellate Judge. The Presiding Appellate Judge may act on routine matters, or may schedule a motion or other matters for hearing before the panel at his or her discretion.

B. The panel is composed of three judges, including the Presiding Appellate Judge. Two additional judges are assigned as alternate panel members.

C. Regular sessions of the Appellate Division of the Superior Court shall be set for hearing on the third Thursday of each calendar month at 4:00 p.m. in the department of the Presiding Judge of the Appellate Division. The business and operations of the Appellate Division shall be conducted pursuant to Code of Civil Procedure, section 77.

D. The appellate division sessions shall not be reported by a court reporter. (Eff. 07/01/15)

10-102. RECORD ON APPEAL (Eff. 07/01/15)

A. Under California Rules of Court, rules 8.833 in an appeal from a civil limited case, an appellant may elect to use the original trial court file as the record on appeal.

B. An appellant in an appeal in a civil limited case, electing to use the original trial court file as set out in subsection A, must file and serve the notice of election within the same time limits for designation of record set out in California Rules of Court, Rule 8.831.

C. Under California Rules of Court, Rule 8.863 in misdemeanor appeals, the court elects to use the original trial court file in lieu of a clerk's transcript.

D. Under California Rules of Court, Rule 8.914 in infraction appeals, the court elects to use the original trial court file in lieu of a clerk's transcript. (Eff. 07/01/15)

10-103. REQUESTS FOR FREE CLERK OR REPORTER'S TRANSCRIPT (Eff. 07/01/15)

A. All requests for a free clerk or reporter's transcript on appeal shall be accompanied by a current financial declaration.

B. A request for a free reporter's transcript will be granted only on a showing of a colorable need for the transcript. (Eff. 07/01/15)

10-104. USE OF OFFICIAL ELECTRONIC RECORDING (Eff. 07/01/23)

A. Under California Rules of Court, Rule 8.835(c), in a civil limited appeal, the parties, by a filed written stipulation or on order of the trial court under California Rule of Court, rule 8.837(d), may designate the original of an official electronic record of the trial court proceedings, or a copy of the electronic recording made by the court, as the record of the oral proceedings, without being transcribed, and in lieu of a reporter's transcript or settled statement.

B. Under California Rules of Court, Rule 8.868(c), in a misdemeanor appeal, the parties, by a filed written stipulation or on order of the trial court under California Rule of Court, Rule 8.869(5), may designate the original of an official electronic recording of the trial court proceedings, or a copy of the electronic recording made by the court, as the record of the oral proceedings, without being transcribed, and in lieu of a Reporter's transcript or settled statement.

C. Under California Rules of Court, Rule 8.915(a)(2), in an infraction appeal, the parties by a filed written stipulation or an order of the trial court under California Rules of Court, Rule 8.916(b), may designate the original of an official electronic recording of the trial court proceedings, or a copy of the electronic recording made by the court, as the record of the oral proceedings, without being transcribed and in lieu of a reporter's transcript or settled statement.

D. If an appellant elects to use an official electronic recording, the stipulation must be attached to the original designation. (Eff. 01/01/23)

10-105. BRIEFS (Eff. 07/01/15)

A. Each party shall present one (1) original at the time of filing. Briefs not exceeding fifteen (15) pages in length shall be prepared, served and filed as provided by Rules 8.706 and 8.204 of the California Rules of Court, except that briefs of five pages or less may omit the topical index and table of authorities required by Rule 8.205. If an appellant's opening brief pursuant to People v. Wende in adult criminal appeals is filed, the clerk will not send a notice of late filing. (Rev. 1/1/2022)

10-106. APPOINTED COUNSEL (Eff. 07/01/15)

Under California Rules of Court 8.851, in a misdemeanor appeal, if a defendant was represented by appointed counsel in the trial court and meets the standards of appointed, they are entitled to counsel once the judgment has been rendered. (Eff. 07/01/15)

10-107. [10-107 Repealed 01/01/18]

San Joaquin Superior Court – **Local Form List by Form Number**

Type	Form #	Form Name	Mandatory/ Optional	Date
Administration	INFO ONLY	Escheatment: Business Claim Checklist	INFO ONLY	No date
Administration	INFO ONLY	Escheatment: Checklist for Filing a Claim	INFO ONLY	No date
Administration	INFO ONLY	Escheatment: Claim for Money Held Form	INFO ONLY	No date
Administration	INFO ONLY	Escheatment: Unclaimed Instructions and Forms List of Unclaimed Funds	INFO ONLY	No date
Administration	INFO ONLY	Escheatment: Affirmation Form	INFO ONLY	No date
All Dept	Not a local form	Government Claim – Judicial Branch	Mandatory	No date
All Dept	Same as Name	Drop Box Payment Forms	Optional	No date
All Dept	INFO ONLY	Resources & Referrals	INFO ONLY	No date
All Dept.	SupCt-558	Stipulation and Order GC §69957	Optional	2/2023
Civil	SupCt-441	Stipulation and Order to Participate in Alternative Dispute Resolution (ADR)	Mandatory	6/2009
Civil/FamLaw	SupCt-260	Declaration re: Notice of Ex Parte Application	Mandatory	Rev 9/2020
Civil/FamLaw	SupCt -71	Request to Set Default or Uncontested Matter for Hearing	Civil Optional/FL Mandatory	7/2017
Civil/UD	SJ-100	Amendment to Complaint	Mandatory	6/1999
Civil/UD	SupCt-2	Civil Bench Warrant	Mandatory	Rev 10/2019
Civil	SupCt-56	Declaration of Exemption	Mandatory	Rev 8/2019
Civil/FamLaw	SupCt-64	List of San Joaquin County Newspapers w/General Circulation	INFO ONLY	10/2013
Civil	SupCt-3	Notice of Appeal – Parking	Mandatory	Rev 10/2019
Civil	SupCt-87	Clerk's Judgment on Sister-State Judgment	Optional	8/2019

Civil/UD	SupCt-1	Order on Request for Temporary Stay	Mandatory	Rev 8/2019
Criminal	Same as name	Motion to Terminate Probation	Optional	6/2016
Criminal	Same as name	Proof of Service	Optional	12/2017
Criminal	Not a local form	Packet for Certificate for Rehabilitation or Pardon (pages 1,2, and 3)	Optional	1/1998
Criminal	Same as name	Prop 47 – Order	Optional	11/2014
Criminal	Same as name	Prop 47 – Petition	Optional	11/2014
Criminal	Same as name	Prop 47 – Response	Optional	11/2014
Criminal	Same as name	Prop 47 – Stipulation and Order per PC 1170.18(f)	Optional	5/2016
Criminal	Same as name	Prop 64 – Petition	Optional	1/2017
Criminal	Same as name	Prop 64 – Response	Optional	1/2017
Criminal	Same as name	Prop 64 – Stipulation and Order per PC 11361.8(f)	Optional	1/2017
Criminal	CR-180/ 181	Petition for Dismissal per 1203.4 or 1203.4a (Packet) (pages 1,2,3,4)	Optional	5/2017
Criminal	SJCM CR-180	Petition for Dismissal per 1203.4	Optional	2/2023
Criminal	Same as name	Application and Order for Remote Appearance	Optional	7/2024
Criminal	Same as name	Application for Advancing Court Date	Optional	7/2024
FamLaw	SJ-AD-001	Adoption Questionnaire	Mandatory	Rev 6/2020
FamLaw	SJ-AD-002	Declaration of Custodial Parent	Mandatory	Rev 9/2020
FamLaw	SJ-AD-003	Petition to Declare Minor Free from Parental Custody	Optional	Rev 9/2020
FamLaw	SJ-AD-004	Order Declaring Minor Free from Parental Custody and Control	Optional	Rev 9/2020
FamLaw	SJ-FL-001	Client Complaint Information	INFO ONLY	Rev 9/2020

FamLaw	SJ-FL-002	Client Complaint Form	Mandatory	Rev 9/2020
FamLaw	SJ-FL-003	Ex Parte Request and Order to Vacate DV/Elder Abuse RO	Optional	Rev 9/2020
FamLaw	SJ-FL-004	Ex Parte Application for Videoconference Appearance at Trial and Order	Optional	9/2020
FamLaw	SJ-FL-004	Ex Parte Application for Video Conference Appearance at Trial and Order	Mandatory	Rev. 3/2024
FamLaw	SJ-FL-005	Ex Parte Application for Remote Appearance at Hearing and Order	Mandatory	Rev. 2/2025
FamLaw	SJ-FL-006	Petition to Obtain Unsealed Birth Certificate	Optional	Rev 3/2022
FamLaw	SJ-FL-007	Order on Petition to Obtain Unsealed Birth Certificate	Optional	2/2021
FamLaw	SJ-FL-008	Consent of Parent or Guardian for Minor to Marry	Optional	2/2021
FamLaw	SJ-FL-009	Underage Marriage or Domestic Partnership Applicant Information	Mandatory	7/2021
FamLaw	SJ-FL-010	Order Granting Alternative Service for Elder Abuse Restraining Order	Optional	4/2021
FamLaw	SJ-FL-011	Family Centered Case Resolution Conference Statement	Mandatory	No date
FamLaw	SJ-FL-012	Request for Additional Family-Centered Case Resolution Conference	Mandatory	1/2025
FamLaw	SJ-FL-013	Request to Drop/Continue Family Centered Case Resolution Conference	Mandatory	1/2025
FamLaw	SJ-FL-80	Request for Discovery Conference	Optional	4/2018
FamLaw	SJ-FL-100	Marital Settlement Agreement (Children)	Optional	7/2016
FamLaw	SJ-FL-101	Marital Settlement Agreement (No Children)	Optional	7/2016
FamLaw	SJ-FL-105	Settlement Conference Statement	Optional	12/2016
FamLaw	SJ-FL-107	Trial Brief	Optional	12/2016
FamLaw/Civil	SJ-FL-108 SJ-CV-001	Attachment – Additional Protected Persons	Optional	1/2024
FamLaw	SJ-FL-271	Ex Parte Application and Order to File Additional Documents Under Local Rule 7-102.5	Optional	5/2024
FamLaw	SupCt-43	At-Issue Memorandum	Mandatory	5/2019

FamLaw	SupCt-115	Declaration for Issuance of Writ of Execution and Order	Optional	9/1990
FamLaw	SupCt-125	Declaration of Mailing or of Inability to Ascertain Address	Optional	9/1990
FamLaw	SupCt-260	Declaration Re Notice of Ex Parte Application	Mandatory	8/2020
FamLaw	SupCt-284	Petition for Grandparent Visitation (FC3102 et seq)	Optional	Rev 9/2020
Juvenile	Same as name	Prop 64 – Juvenile Petition	Mandatory	1/2017
Mental Health	SJMH-001	Declaration of Services	Optional	7/2024
Probate	CI-12	Conservatorship – Conservatee Status Report Form	Optional	1/2011
Probate	SJPR-001	Notice of Remote Appearance	Mandatory	Rev 7/2023
Probate	SJPR-001A	Proof of Service Attachment to Notice of Remote Appearance	Optional	7/2023
Probate	SJPR-002	Meet and Confer Statement	Mandatory	2/2023
Probate	SJPR-003	Request to Continue Due Date or Request to Set Hearing Date	Mandatory	Rev 3/2023
Probate	SJPR-003A	Order Regarding Request to Continue Due Date or Request to Set Hearing Date	Mandatory	Rev 3/2023
Probate	SJPR-004	Declaration of Due Diligence	Mandatory	Rev 3/2023
Probate	SJPR-005	Petition to Increase Bond and/or Petition to Place Funds in Blocked Account(s) OR Petition to Decrease Bond	Mandatory	Rev 7/2023
Probate	SJPR-005A	Order to Increase Bond and/or Order to Place Funds in Blocked Account(s) OR Order to Decrease Bond	Mandatory	Rev 7/2023
Probate/ Mental Health	SJPR-006	Declaration Re Notice of Ex Parte Application	Mandatory	1/2024
Probate/ Mental Health	SJPR-006A	Attachment to Declaration Re Notice of Ex Parte Application	Optional	1/2024
Probate	SJPR-007	Financial Document(s) Cover Sheet	Mandatory	1/2024
Probate/ Mental Health	SJPR/MH-008	Notice of Ex Parte Request	Mandatory	10/2024
Probate/ Mental Health	SJPR/MH-009	Nunc Pro Tunc Order Correcting Order	Optional	10/2024

Probate/ Mental Health	SJPR/MH-010	Opposition to Ex Parte Application	Optional	10/2024
Probate	SJPR-100	Trust Document Cover Sheet (Confidential)	Mandatory	6/2023
Probate	INFO ONLY	Instructions for Objection to Guardianship	Info Only	No date
Probate	SJPR-201	Status Report of Administration	Mandatory	Rev 7/2023
Probate	SJPR-202	Notice of Refusal to Petition for Probate of Will or Codicil	Mandatory	1/2020
Probate	SJPR-203	Lineal Chart A	Mandatory	7/2023
Probate	SJPR-204	Lineal Chart B	Mandatory	7/2023
Probate	SJPR-205	Lineal Chart C	Mandatory	7/2023
Probate	SJPR-206	Declaration in Support of Affidavit re Real Property of Small Value	Mandatory	7/2023
Probate	SJPR-207	Waiver of Accounting	Mandatory	1/2024
Probate	SJPR-208	Report of Personal Representative: Petition for Final Distribution	Mandatory	7/2024
Probate	SJPR-208A	Order on Report of Personal Representative; Petition for Final Distribution	Mandatory	7/2024
Probate	SJPR-209	Petition for Termination of Proceedings and Discharge	Mandatory	7/2024
Probate	SJPR-209A	Order on Petition for Termination of Proceedings and Discharge	Mandatory	7/2024
Probate	SJPR-300	Confidential Conservatorship Questionnaire	Mandatory	Rev 7/2023
Probate	SJPR-301	Conservatee Status Report – Person Only	Mandatory	Rev 7/2023
Probate	SJPR-302	Conservatee Status Report – Person & Estate	Mandatory	Rev 7/2023
Probate	SJPR-303	Petition to Terminate Conservatorship	Optional	Rev 6/2021
Probate	SJPR-303A	Order Terminating Conservatorship	Optional	Rev 7/2023
Probate	SJPR-400	Confidential Guardianship Questionnaire	Mandatory	Rev 7/2023
Probate	SJPR-401	Objection to Petition for Appointment of Guardian	Optional	Rev 7/2023
Probate	SJPR-402	Petition for Visitation (Guardianship)	Optional	Rev 7/2023
Probate	SJPR-402A	Order on Petition for Visitation (Guardianship)	Optional	Rev 7/2023
Probate	SJPR-403	Objection to Petition for Visitation (Guardianship)	Optional	Rev 7/2023

Probate	SJPR-404	Petition Tendering Resignation of Guardian	Optional	Rev 7/2023
Probate	SJPR-500	Objection to Petition to Terminate Guardianship or Conservatorship	Optional	Rev 7/2023
Probate	SJPR-501	Petition to Remove Guardian or Conservator	Optional	Rev 7/2023
Probate	INFO ONLY	Newspapers for Publication	INFO ONLY	Updated 7/2023
Probate	INFO ONLY	Checking and Clearing Probate Notes Handout	INFO ONLY	8/2020
Probate	INFO ONLY	Preparing for Trial Handout	INFO ONLY	8/2020
Probate	INFO ONLY	Finding People	INFO ONLY	1/2021
Probate	INFO ONLY	Guardianship/Conservatorship Due Diligence	INFO ONLY	1/2021
Records Mgmt.	SupCt-109	Request for Records Search and Copies	Optional	No date
Small Claims	SupCt-378	Request for Certified Mail (Small Claims)	Mandatory	9/2015
Small Claims	SupCt-458	Petition of Minor Plaintiff/Defendant for Appointment of Guardian Ad Litem; Acceptance and Order of Court	Mandatory	Revised 10/2019
Small Claims	SC ODR-01	Notice of Initiation of Online Dispute Resolution	Mandatory	3/2024
Traffic	TR-001	Ex Parte Motion to Vacate Conviction/ Request for a New Trial	Mandatory	1/2023

San Joaquin Superior Court – **Local Form List by Form Name**

Type	Form Name	Form #	Mandatory/ Optional	Date
Administration	Escheatment: Business Claim Checklist	INFO ONLY	INFO ONLY	No date
Administration	Escheatment: Checklist for Filing a Claim	INFO ONLY	INFO ONLY	No date
Administration	Escheatment: Claim for Money Held Form	INFO ONLY	INFO ONLY	No date
Administration	Escheatment: Unclaimed Instructions and Forms List of Unclaimed Funds	INFO ONLY	INFO ONLY	No date
Administration	Escheatment: Affirmation Form	INFO	INFO ONLY	No date
All Dept	Government Claim – Judicial Branch	Not a local form	Mandatory	No date
All Dept	Drop Box Payment Forms	Same as Name	Optional	No date
All Dept	Resources & Referrals	INFO ONLY	INFO ONLY	No date
All Dept.	Stipulation and Order GC §69957	SupCt-558	Optional	No date
Civil/UD	Amendment to Complaint	SJ-100	Mandatory	6/1999
Civil/UD	Civil Bench Warrant	SupCt-2	Mandatory	Revised 10/2019
Civil	Clerk's Judgment on Sister-State Judgment	SupCt-87	Optional	8/2019
Civil	Declaration of Exemption	SupCt-56	Mandatory	Revised 8/2019
Civil	Declaration re: Notice of Ex Parte Application	SupCt-260	Mandatory	1/2014
Civil/FamLaw	List of San Joaquin County Newspapers w/General Circulation	SupCt-64	INFO ONLY	10/2013
Civil	Notice of Appeal – Parking	SupCt-3	Mandatory	Revised 10/2019
Civil/UD	Order on Request for Temporary Stay	SupCt-1	Mandatory	Revised 8/2019

Civil/FamLaw	Request to Set Default or Uncontested Matter for Hearing	SupCt - 71	Civil Optional/FL Mandatory	7/2017
Civil	Stipulation and Order to Participate in Alternative Dispute Resolution (ADR)	SupCt-441	Mandatory	6/2009
Criminal	Application for Advancing Court Date	Same as name	Optional	7/2024
Criminal	Application and Order for Remote Appearance	Same as name	Optional	7/2024
Criminal	Motion to Terminate Probation	Same as name	Optional	6/2016
Criminal	Proof of Service	Same as name	Optional	12/2017
Criminal	Packet for Certificate for Rehabilitation or Pardon (pages 1,2, and 3)	Not a local form	Optional	1/1998
Criminal	Prop 47 – Order	Same as name	Optional	11/2014
Criminal	Prop 47 – Petition	Same as name	Optional	11/2014
Criminal	Prop 47 – Response	Same as name	Optional	11/2014
Criminal	Prop 47 – Stipulation and Order per PC 1170.18(f)	Same as name	Optional	5/2016
Criminal	Prop 64 – Petition	Same as name	Optional	1/2017
Criminal	Prop 64 – Response	Same as name	Optional	1/2017
Criminal	Prop 64 – Stipulation and Order per PC 11361.8(f)	Same as name	Optional	1/2017
Criminal	Petition for Dismissal per 1203.4 or 1203.4a (Packet) (pages 1,2,3,4)	CR-180/ 181	Optional	5/2017
Criminal	Petition for Dismissal per 1203.425	SJCM CR-180	Optional	2/2023
FamLaw	Adoption Questionnaire	SJ-AD-001	Mandatory	Rev 6/2020
FamLaw	At-Issue Memorandum	SupCt-43	Mandatory	5/2019
FamLaw/Civ	Attachment- Additional Protected Persons	SL-FL-108/ SJ-CV-001	Optional	1/2024

FamLaw	Client Complaint Form	SJ-FL-002	Mandatory	Rev 9/2020
FamLaw	Client Complaint Information	SJ-FL-001	INFO ONLY	Rev 9/2020
FamLaw	Consent of Parent or Guardian for Minor to Marry	SJFL-008	Optional	2/2021
FamLaw	Declaration of Custodial Parent	SJ-AD-002	Mandatory	Rev 9/2020
FamLaw	Declaration for Issuance of Writ of Execution and Order	SupCt-115	Optional	9/1990
FamLaw	Declaration of Mailing or of Inability to Ascertain Address	SupCt-125	Optional	9/1990
FamLaw	Declaration Re Notice of Ex Parte Application	SupCt-260	Mandatory	8/2020
FamLaw	Ex Parte Application for Remote Appearance for Remote Appearance at Hearing and Order	SJ-FL-005	Mandatory	Rev. 2/2025
FamLaw	Ex Parte Application and Order to File Additional Documents Under Local Rule 7-102.5	SJ-FL-271	Optional	5/2024
FamLaw	Ex Parte Application for Videoconference Appearance at Trial and Order	SJ-FL-004	Optional	9/2020
FamLaw	Ex Parte Request and Order to Vacate DV/Elder Abuse RO	SJ-FL-003	Optional	Rev 9/2020
FamLaw	Family Centered Case Resolution Conference Statement	SJ-FL-011	Mandatory	No date
FamLaw	Marital Settlement Agreement (No Children)	SJ-FL-101	Optional	7/2016
FamLaw	Marital Settlement Agreement (Children)	SJ-FL-100	Optional	7/2016
FamLaw	Order Declaring Minor Free from Parental Custody and Control	SJ-AD-004	Optional	Rev 9/2020
FamLaw	Order Granting Alternative Service for Elder Abuse Restraining Order	SJ-FL-010	Optional	4/2021
FamLaw	Order on Petition to Obtain Unsealed Birth Certificate	SJ-FL-007	Optional	2/2021
FamLaw	Petition to Declare Minor Free from Parental Custody	SJ-AD-003	Optional	Rev 9/2020
FamLaw	Petition for Grandparent Visitation (FC3102 et seq)	SupCt-284	Optional	Rev 9/2020
FamLaw	Petition to Obtain Unsealed Birth Certificate	SJ-FL-006	Optional	Rev. 3/2022

FamLaw	Request for Additional Family-Centered Case Resolution Conference	SJ-FL-012	Mandatory	2/2025
FamLaw	Request to Drop/Continue Family Centered Case Resolution Conference	SJ-FL-013	Mandatory	2/2025
FamLaw	Request for Discovery Conference	SJ-FL-80	Optional	4/2018
FamLaw	Settlement Conference Statement	SJ-FL-105	Optional	4/2018
FamLaw	Trial Brief	SJ-FL-107	Optional	12/2016
FamLaw	Underage Marriage of Domestic Partnership Application Information	SJ-FL-009	Mandatory	7/2021
Juvenile	Prop 64 – Juvenile Petition	Same as name	Mandatory	1/2017
Mental Health	Declaration of Services	SJMH-001	Optional	7/2024
Probate/ Mental Health	Attachment to Declaration Re Notice of Ex Parte Application	Optional	SPR-006A	1/2024
Probate	Checking and Cleaning Probate Notes	INFO ONLY	INFO ONLY	8/2020
Probate	Confidential Conservatorship Questionnaire	SJPR-300	Mandatory	Rev 7/2023
Probate	Guardianship Questionnaire	SJPR-400	Mandatory	Rev 7/2023
Probate	Conservatorship – Conservatee Status Report Form	CI-12	Optional	1/2011
Probate	Conservatee Status Report – Person & Estate	SJPR-302	Mandatory	Rev 7/2023
Probate	Conservatee Status Report – Person Only	SJPR-301	Mandatory	Rev 7/2023
Probate	Declaration in Support of Affidavit re Real Property of Small Value	SJPR-206	Mandatory	Rev 7/2023
Probate	Declaration of Due Diligence	SJPR-004	Mandatory	Rev 7/2023
Probate/Mental Health	Declaration Re Notice of Ex Parte Application	SJPR-006	Mandatory	1/2024
Probate	Financial Document(s) Cover Sheet	SJPR-007	Mandatory	1/2024
Probate	Finding People	INFO ONLY	INFO ONLY	1/2021
Probate	Instructions for Objection to Guardianship	INFO ONLY	INFO ONLY	No date
Probate	Guardianship/Conservatorship Due Diligence	INFO ONLY	INFO ONLY	1/2021

Probate	Lineal Chart A	SJPR-203	Mandatory	Rev 7/2023
Probate	Lineal Chart B	SJPR-204	Mandatory	Rev 7/2023
Probate	Lineal Chart C	SJPR-205	Mandatory	Rev 7/2023
Probate	Meet and Confer Statement	SJPR-002	Mandatory	2/2023
Probate	Newspaper for Publication	INFO ONLY	INFO ONLY	Updated 7/2023
Probate/ Mental Health	Notice of Ex Parte Request	SJPR/MH-008	Mandatory	10/2024
Probate	Notice of Remote Appearance	SJPR-001	Mandatory	Rev 7/2023
Probate	Notice of Refusal to Petition for Probate of Will or Codicil	SJPR-202	Mandatory	Rev 7/2023
Probate/ Mental Health	Nunc Pro Tunc Order Correcting Order	SJPR/MH-009	Optional	10/2024
Probate	Objection to Petition for Appointment of Guardian	SJPR-401	Optional	Rev 7/2023
Probate	Objection to Petition for Visitation (Guardianship)	SJPR-403	Optional	Rev 7/2023
Probate	Objection to Petition to Terminate Guardianship or Conservatorship	SJPR-500	Optional	Rev 7/2023
Probate/ Mental Health	Opposition to Ex Parte Application	SJPR/MH-010	Optional	10/2024
Probate	Order Regarding Request to Continue Due Date or Request to Set Hearing Date	SJPR-003A	Mandatory	Rev 3/2023
Probate	Order Terminating Conservatorship	SJPR-303A	Optional	Rev 7/2023
Probate	Order to Increase Bond and/or Order to Place Funds in Blocked Account(s) OR Order to Decrease Bond	SJPR-005A	Mandatory	Rev 7/2023
Probate	Order on Petition for Termination of Proceedings and Discharge	SJPR-209A	Mandatory	7/2024
Probate	Order on Petition for Visitation (Guardianship)	SJPR-402A	Optional	Rev 7/2023
Probate	Order on Report of Personal Representative; Petition for Final Distribution	SJPR-208	Mandatory	7/2024
Probate	Petition for Termination of Proceedings and Discharge	SJPR-209	Mandatory	7/2024
Probate	Petition for Visitation (Guardianship)	SJPR-402	Optional	Rev 6/2021
Probate	Petition Tendering Resignation of Guardian	SJPR-404	Optional	Rev 72023
Probate	Petition to Increase Bond and/or Petition to Place Funds in Blocked	SJPR-005	Mandatory	Rev 7/2023

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Probate	Petition to Remove Guardian or Conservator	SJPR-501	Optional	Rev 7/2023
Probate	Petition to Terminate Conservatorship	SJPR-303	Optional	Rev 7/2023
Probate	Preparing for Trial Handout	INFO ONLY	INFO ONLY	8/2020
Probate	Proof of Service Attachment to Notice of Remote Appearance	SJPR-001A	Optional	7/2023
Probate	Report of Personal Representative; Petition for Final Distribution	SJPR-208	Mandatory	7/2024
Probate	Request to Continue Due Date or Request to Set Hearing Date	SJPR-003	Mandatory	Rev 3/2023
Probate	Status Report of Administration	SJPR-201	Mandatory	Rev 7/2023
Probate	Trust Document Cover Sheet (Confidential)	SJPR-100	Mandatory	6/2023
Probate	Waiver of Accounting	SJPR-207	Mandatory	1/2024
Records Management	Request for Records Search and Copies	SupCt-109	Optional	No date
Small Claims	Notice of Initiation of Online Dispute Resolution (ODR) Program	SC ODR-1	Mandatory	3/2024
Small Claims	Request for Certified Mail (Small Claims)	SupCt-378	Mandatory	9/2015
Small Claims	Petition of Minor Plaintiff/Defendant for Appointment of Guardian Ad Litem; Acceptance and Order of Court	SupCt-458	Mandatory	10/2019
Traffic	Ex Parte Motion to Vacate Conviction /Request for a New Trial	TR-001	Mandatory	1/2023

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN
180 E. Weber Avenue
Phone: (209) 992-5695
Stockton, CA 95202
Effective July 1, 2025

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