Superior Court of California
County of San Bernardino

Local Rules of Court
Effective January 1, 2013

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

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CHAPTER 1
COURT RULES AND ADMINISTRATION

PART 1
INTRODUCTION

RULE 111 TITLE OF NEW ENTITY PASSAGE OF SENATE CONSTITUTIONAL AMENDMENT 4 (SCA 4), Prop. 220

1. The name of the Court is "Superior Court of California, County of San Bernardino". (Eff. January 1, 1999.)

RULE 112 EFFECTIVE DATE

July 1, 2000.

RULE 113 METHOD OF ADOPTION

Upon a majority vote of the Judges of the Court. (Eff. January 1, 1999.)

RULE 114 EFFECT OF THE RULES AND CITATION OF RULES

These rules shall be known and cited as "Superior Court Rules" hereinafter referred to as "Court Rules", and shall at all times be supplementary to and subject to any and all rules heretofore and hereafter adopted by the Judicial Council of the State of California for the Courts. These rules shall, on the date when they become effective, supersede all pertinent rules or policies heretofore adopted by either the Superior or former Municipal Court of San Bernardino County or by both Courts jointly which are hereby replaced in their entirety as of the date when these new rules become effective. The new rules have no retroactive effect or application whatsoever. (Eff. July 1, 1998 As amended January 1, 1999.)

RULE 115 CONSTRUCTION AND APPLICATION OF RULES

These rules shall be construed and applied in such manner as not to conflict with the rules heretofore or hereafter adopted by the Judicial Council of the State of California for the Courts and shall be liberally construed to secure the proper and efficient administration of the business and affairs of this Court and promote and facilitate the administration of justice by this Court. Rule and subdivision headings do not in any manner affect the scope, meaning or intent of any of the provisions of these Rules. (Eff. July 1, 1998.)

PART 2
DESIGNATION OF JUDGES

RULE 120 JUDICIAL RESOURCES

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

PART 3
DISTRICTS OF THE COURT

RULE 130 DISTRICTS DEFINED

For the convenience of the parties, attorneys and the Court, sessions of the Court shall be heard in Districts, which are based upon the Courthouse location as provided:

The San Bernardino District is the District consisting of the Courthouse located in San Bernardino.

The Fontana District is the District consisting of the Courthouse located in Fontana.

The Rancho Cucamonga District is the District consisting of the Courthouse located in Rancho Cucamonga.

The Chino District is the District consisting of the Courthouse located in Chino.

The Victorville District is the District consisting of the Courthouse located in Victorville.

The Barstow District is the District consisting of the Courthouse located in Barstow.

The Needles District is the District consisting of the Courthouse located in Needles.

The Joshua Tree District is the District consisting of the Courthouse located in Joshua Tree.

The Big Bear District is the District consisting of the Courthouse located in Big Bear.

The Juvenile Court District is the District consisting of the Juvenile Courthouse located in San Bernardino and the departments of other Courthouses as designated by the Presiding Judge.

(Eff. January 1, 1999. Amended, January 1, 2005 and January 1, 2007. As amended, eff. July 1, 2010.)

RULE 131

Unless the Presiding Judge shall order otherwise, all actions or proceedings shall be filed and heard in the District in which they arose, or in which the land subject to dispute is situated, or in which a party thereto resides. (Eff. July 1, 1998. Amended, January 1, 1999, January 1, 2005. Amended, eff. July 1, 2005. As amended, eff. January 1, 2007.)

RULE 132

Departments designated for hearing juvenile delinquency and dependency shall be located as designated by the Presiding Judge of the Superior Court or the Presiding Judge of the Juvenile Court. Departments designated for hearing mental health matters (other than mentally disordered sex offender proceedings) and probate matters excluding guardianships shall be located as designated by the Presiding Judge of the Superior Court. (Eff. January 1, 1999. As amended, eff. January 1, 2007.)

Rule 132.2

Any action or proceeding may be transferred to any other District by the Court on its own motion or on noticed motion by any party where the action was filed in the wrong District or for other good cause shown by Affidavit or Declaration. (Eff. July 1, 1998.)

Rule 132.3

Any supplemental proceedings shall be heard in the District where the original action was filed unless an order transferring all future proceedings to another District has been entered. (Eff. July 1, 1998.)

RULE 133 TRIAL JURY VENIRES

When a Superior Court jury trial is held in a District other than the San Bernardino District, the trial jury venire~~s~~ shall be drawn from residents of the area served by the District in which ~~a~~ the matter is tried.

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

CHAPTER 2
ADMINISTRATIVE ORGANIZATION

PART 1
PRESIDING JUDGE

RULE 210 DUTIES

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

The Presiding Judge shall have no regular Court assignment. The Presiding Judge shall have those powers and duties conferred upon such office of the Court by statute the California Rules of Court and Standards of Judicial Administration as promulgated by the Judicial Council. (Eff. July 1, 1998. Amended, eff. July 1, 2003. As amended, eff. January 1, 2009.)

Rule 210.1

The President Judge may issue such Standing Orders for the administration of the Court as the Presiding Judge deems appropriate. The Supervising Judge of a District may issue such Standing Orders for the administration of that District as the Supervising Judge deems appropriate. The Presiding Judge, or the Supervising Judge of a District, may issue new or amended Standing Orders by filing the Order with the clerk of the court for the impacted District(s). Standing Orders shall be valid only to the extent they are not inconsistent with the Local Rules or applicable California Rules of Court and statutory and decisional law. (Eff. January 1, 2008.)

RULE 211 NOMINATING COMMITTEE

The Nominating Committee shall consist of the immediate past Presiding Judge of the Superior Court and three (3) Judges to be appointed by the chair of the committee. The chair of this four-member committee shall be the past Superior Court Presiding Judge. In the event the past Presiding Judge is no longer a Judge pursuant to Rule 212.1, the number of the Nominating Committee shall be temporarily reduced by that number until a past Presiding Judge exists and the current Presiding Judge shall appoint the temporary chair of the committee. (Former Rule 212, renumbered as Rule 211, eff. January 1, 2009.)

Rule 211.1 NOMINATIONS

A. The Nominating Committee shall meet in the month of May preceding the June election. In performing its duties, the Nominating Committee shall consider the requirements and factors set forth in California Rules of Court, rule 10.602(b), and the Court's Leadership Development Program.

B. The Nominating Committee shall nominate for the office of Presiding Judge the current Assistant Presiding Judge unless that person chooses not to run or is unable to run for the office of Presiding Judge. If the Assistant Presiding Judge chooses not to run or is unable to run for the office of Presiding Judge, the Nominating Committee shall canvas all judges who will have at least ten years of experience on the bench by the time the term of

the next Presiding Judge begins, who have served as the Supervising Judge of a court district or the Presiding Judge of the Juvenile Court, and who have served on the Executive Committee, and shall nominate from their ranks such willing candidates for the office of Presiding Judge as the committee deems suitable.

C. The Nominating Committee shall canvas all judges who will have at least eight years of experience on the bench by the time the term of the next Assistant Presiding Judge begins, who have served as the Supervising Judge of a court district or the Presiding Judge of the Juvenile Court, and who have served on the Executive Committee, and shall nominate from their ranks such willing candidates for the office of Assistant Presiding Judge as the committee deems suitable.

D. If there is no one eligible or willing to run for the office of Assistant Presiding Judge or Presiding Judge under the above criteria, the Nominating Committee shall canvas all judges who meet the requirements of California Rule of Court 10.602 (b) while considering the factors listed in that rule and other factors listed in these Local Rules.

E. The Nominating Committee shall present the names of the nominees at least 14 days prior to the scheduled election.

F. Notwithstanding any other local rule, within seven days of the Nominating Committee notifying the bench of the nominees any judge who meets the minimum requirement under California Rule of Court 10.602 (b) may be nominated by a petition signed by twenty percent of all judges.

(Former Rule 212.1, renumbered and amended, eff. January 1, 2009.)

RULE 212 ELECTION

A. The election of the Presiding Judge and Assistant Presiding Judge shall take place at a meeting of the bench in the month of June in the year prior to the commencement of the term of the next Presiding Judge. All elections for Presiding Judge and Assistant Presiding Judge shall be by secret ballot.

B. If an election for Presiding Judge or Assistant Presiding Judge is contested, the candidate receiving the most votes shall be the victor. In the event of a tie a new ballot shall immediately be held between those candidates who received the most votes.

C. If an election for Presiding Judge or Assistant Presiding Judge is not contested, the election shall be by confirmation. If a majority of those casting votes do not vote to confirm the nominee, the Nominating Committee shall reconvene within 15 days and shall nominate such willing candidates meeting the requirements of Local Rule 211.1 that the Nominating Committee deems suitable. The Nominating Committee may not re-nominate the candidate not accepted at the confirmation election. Candidates may also be nominated by petition as allowed by Local Rule 211.1(F). After the Nominating Committee nominations are announced, a meeting shall be called and election held, according to the terms of this Rule, no later than 30 days after the Nominating Committee announces its nominations. (Eff. January 1, 2009.)

Rule 212.1

For purposes of these Rules, “Judges” are Judges sitting in San Bernardino County on a full-time basis and not subject of Judicial Council temporary assignment. (Eff. July 1, 1998. Former Rule 212.3, renumbered as Rule 212.1, eff. January 1, 2009.)

RULE 213 REMOVAL/VACANCY

The Presiding Judge may be removed from office by a vote at a regularly scheduled meeting or upon the call for a meeting of 20% of all Judges. On vote, a simple majority of all Judges may remove the Presiding Judge.

If for any reason the Presiding Judge is unable to complete his or her term, the Assistant Presiding Judge shall become the Presiding Judge subject to a confirmation election to be held within 45 days.

If for any reason the office of the Assistant Presiding Judge becomes vacant, a new election shall be held within 45 days of the creation of the vacancy. Nominations for the election shall be determined according to the procedure in Local Rule 212(C). (Eff. July 1, 1998. As amended, eff. January 1, 2009.)

RULE 214 LEADERSHIP DEVELOPMENT

The Superior Court operates in an increasingly complex environment. Each year new laws, rules, procedures and requirements must be incorporated into its operations while at the same time accommodating significant increases in workload. In order to meet the Court's obligation to provide a fair, effective and efficient court system, the Court must have capable, knowledgeable and trained leadership. The Court must have leaders able to deal with everyday occurrences as well as engage in long-term strategic planning. While the Presiding Judge is most directly responsible for the operations of the Court, court governance is the responsibility of every judge and can be manifested through such efforts as committee work, supervising judges, special projects, and others.

To ensure that the Court has the necessary leadership and that everyone is given the appropriate opportunity to assume a leadership position within the Court, the Court has established a systematic program to identify, encourage, train and otherwise develop the leadership skills of its judges. (Eff., January 1, 2009.)

Rule 214.1

Upon appointment, each judicial officer shall receive the new judge orientation disk prepared by the Executive Office. Within thirty days of being sworn in each judicial officer shall attend a one day orientation program at the Court Executive Office, which shall include information on court governance, leadership development, judge's duties, authority and duties of the Presiding Judge, judicial education, mentoring, and expense reimbursement, as well as information on court structure, administration and other related matters. (Eff., January 1, 2009.)

RULE 215

In October of each year, the Presiding Judge will review the assignments of all judges and commissioners for the upcoming year. The Court Executive Office will maintain a database of each judge's accomplishments, education, assignments and activities that will be reviewed by the Presiding Judge who will consider that information along with the factors listed in California Rule of Court 10.603(c)(1) and Local Rule 120. In assessing the Court's leadership development needs, the Presiding Judge shall consider the need of the Court and of individual judges to increase their leadership skills and abilities and also the desire of judges to assume leadership positions within the Court. (Eff., January 1, 2009.)

RULE 216

The following activities are significant opportunities to gain knowledge of and understanding of court operations and administration and also provide avenues to interact with other court leaders-locally and statewide as well as county administrators and the public at large. All judges are encouraged to participate in some of these activities and those considering leadership positions such as Supervising Judges or the Presiding Judge should participate in as many as possible. This list is not intended to be exhaustive but rather to act as a guide.

A. Service in multiple locations
B. Exposure to different calendars
C. Local committee work
D. Service on the Executive Committee
E. Special projects such as
    1. Pro Tem Education
    2. Presentation at retreats
F. California Judges Association (CJA) Committees
G. State and Administrative Office of the Courts (AOC) projects including
    1. Task forces
    2. Working groups
    3. Committees
H. Public Outreach such as
    1. Mock trial
    2. Law Day
    3. Public speaking
I. Supervising Judge
    1. Courts
    2. Calendars or areas of law
J. Juvenile Court Presiding Judge
K. Commenting on proposed rules and forms
L. California Center for Judicial Education and Research (CJER) education, teaching and committees
M. Appellate Division

(Eff., January 1, 2009.)

PART 2
MEETINGS

RULE 220

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

Rule 220.1

Special meetings of the Judges shall be held:

a) Upon the call of the Presiding Judge; or
b) Upon the written petition to the Presiding Judge signed by 20% or more of all Judges specifying the purpose/agenda of such special meeting. Notice of any such special meeting shall be given to all Judges at least 24 hours in advance of such meeting. (Eff. July 1, 1998.)

Rule 220.2

Special meetings of the Judges of a particular District of San Bernardino County shall be held:

a) Upon the call of the Supervising Judge of said District; or
b) Upon the written petition to the Supervising Judge of said District signed by 20% or more of the Judges of said District specifying the purpose/agenda of such special meeting. Notice of any such special meeting shall be given to all Judges of said District at least 24 hours in advance of such meeting. (Eff. July 1, 1998.)

RULE 221

Written proxy votes of absent Judges shall be allowed for the election of the Presiding Judge and the Assistant Presiding Judge. Written proxy votes of absent Judges also shall be allowed for any other matters; provided, however, that such matters have been set forth and noticed in writing in advance of the meeting. (Eff. July 1, 1998.)

PART 3
EXECUTIVE COMMITTEE

RULE 230 COMPOSITION

The Executive Committee shall consist of sixteen members: the Presiding Judge, who shall be the chairperson, the Assistant Presiding Judge, one Commissioner and thirteen Judges selected by the Judges of each areas as follows:

a. Three Judges representing the West Region (Rancho Cucamonga and Chino Districts) selected by the judges of that region.

b. Three Judges representing the Central Region (San Bernardino and Fontana Districts, at least one of whom must be assigned to the Fontana District) selected by the judges of that region.

c. Presiding Judge of the Juvenile Court.

d. Three Judges representing the Desert Region (Victorville, Barstow, Joshua Tree, Needles and Big Bear Districts) selected by the judges of that region.

e. Three Judges elected as follows:

- One Judge with less than seven years of judicial service, elected by all judges with same years of service as of December 31 of each year.
- One Judge with at least seven but less than fourteen years of judicial service elected by all judges with same years of service as of December 31 of each year.
- One Judge with fourteen or more years of judicial service elected by all judges with same years of service as of December 31 of each year.

No region (West, Central or Desert) may have more than one Judge elected from that region based on judicial service.

f. One Commissioner representative selected by all Commissioners. The Commissioner selected shall not have any voting rights on the Executive Committee.

(Eff. July 1, 1998. Amended January 1, 2000. January 1, 2004 and January 1, 2008. As amended, eff. July 1, 2010.)

RULE 231 DUTIES

Rule 231.1

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

Rule 231.2

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

Rule 231.3

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

Rule 231.4

The Executive Committee shall review and recommend major personnel and administrative policies. Adoption of these policies shall be subject to the approval of a majority of all the Judges per Rule 234. (Eff. January 1, 2000. As amended, eff. January 1, 2004.)

Rule 231.5

The Executive Committee shall serve as the "Sheriff's Court Services Committee" (Eff. January 1, 2000. As amended eff. July 1, 2000.)

Rule 231.6

The Presiding Judge shall appoint from among all the Judges such committees, as he or she deems appropriate for the conduct of Court business. The committees will be responsible for the oversight of Court functions and the development and analysis of Court policy initiatives as directed by the Presiding Judge. Specific areas in which such committees may be expected to operate include Personnel, Budgeting, Facilities, Automation, Civil, Criminal, Juvenile, Family Law, Rules, and Commissioner Oversight. (Eff. July 1, 1998.)

RULE 232 TERM OF OFFICE

Members of the Executive Committee shall be elected for two-year terms. Six at-large positions and three positions based on seniority shall be filled by election in even-numbered years. Seven at-large positions shall be filled by election in odd-numbered years.

Any member of the Executive Committee reassigned outside the region from which the member was elected will cause that position to become vacant. The judges of the region or court to which the member was previously elected, shall select another judge to serve the remainder of that term of office.

Nothing in this rule will limit the same person from being re-elected to numerous terms. (Eff. July 1, 1998, Amended July 1, 2000, January 1, 2004, January 1, 2008, July 1, 2008 and January 1, 2010. As amended, eff. July 1, 2011.)

RULE 233 QUORUM

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

RULE 234 EFFECT OF ACTION OF THE EXECUTIVE COMMITTEE

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

PART 4
COURT EXECUTIVE OFFICER

RULE 240 SELECTION

The Court Executive Officer (Executive Officer) shall be selected by election of a majority of all Judges. (Eff. July 1, 1998. As amended, eff. January 1, 2001.)

RULE 241 STATUTORY RESPONSIBILITIES

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

Rule 241.1 Transfer of Powers, Duties and Responsibilities from the County Clerk to the Executive Officer

A. Pursuant to Government Code Section 69898, subdivision (c) and (d), the court hereby transfers from the County Clerk to the Superior Court Executive Officer all of the powers, duties and responsibilities of the County Clerk which relate to, serve or impact the functions of this court. The powers, duties and responsibilities transferred pursuant to this rule shall include all of those performed by the County Clerk with respect to superior court actions, proceedings and records, including but not limited to:

1. The acceptance, processing and filing of papers in connection with any action or proceeding before the court, including but not limited to those relating to the court's original jurisdiction, appellate jurisdiction and appeals from the court; the maintenance and management of court records; the micro-filming of court records and the keeping and disposition of papers, documents, files and exhibits in accordance with law.

2. The maintenance of indexes of all court files; the keeping of a register of actions or its alternate.

3. The issuance of process and notice including without limitation, summons, writs of execution, and other writs; subpoenas to witnesses; probate notices; citations in probate, guardianship and other matters; the acceptance of service on parties, the entry of defaults; the transmission of transcripts on change of venue.

4. The attendance at each session of court and upon the judge in chambers when required; the administration of oaths; the keeping of minutes and other records of the court.

5. The entry of orders, findings, judgments and decrees; the acceptance for filing of confessions of judgment; the authentication of records; certification of abstracts of judgment, the keeping of a judgment book or its equivalent.

6. The collection, receipt, deposit, and accounting of fees for filings, for preparing or certifying copies and for other fees; the receipt of jury fees, bonds, undertakings, fines, forfeitures and revenues; the keeping of money deposited in court including but not limited to, funds received in connection with minor's compromise; the recovery of county costs in judicial commitment proceedings.

7. The maintenance of statistical and financial records and the preparation of reports to the Judicial Council and other state and county offices as required by law or policy.

8. The preparation of the clerk's transcript on appeal and the transmission of the record and exhibits to the reviewing court.

9. The receipt of wills of decedents.

10. The taking of bail and related matters as provided in the Penal Code.

11. The provision of calendar management, including the calendaring of cases and hearings and the maintenance of court calendars and schedules.

12. The printing and sale of court forms and rules of court; the procurement of supplies.

13. The keeping and affixing of the seal of the court to appropriate instruments.

14. Administrative functions related to the above, including hiring, training and supervision of personnel; accounting functions; mailing activities; and ordering and storing equipment and supplies.

B. The County Clerk is hereby relieved of any obligation imposed on him by law with respect to the above powers, duties and responsibilities. This rule does not transfer from said County Clerk to the Executive Officer those powers, duties, and responsibilities of the County Clerk which are performed by County Clerk in such capacity such as the issuance of marriage licenses, the filing of fictitious business name statements, and the keeping of naturalization records.

C. If any part of this rule is held to be unconstitutional or invalid, the remaining parts shall not be affected thereby. (Eff. January 1, 1999.)

RULE 242 DUTIES

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

Rule 242.1

The Executive Officer shall be the appointing authority for Court staff, except the Sheriff, and Sheriff's staff and Court Commissioners. (Eff. July 1, 1998. Amended, eff. July 1, 2003.)

Rule 242.2

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

Rule 242.3

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

Rule 242.4

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

Rule 242.5

The Executive Officer shall perform such duties as set forth in the personnel policies of the Courts. (Eff. July 1, 1998.)

Rule 242.6

Under the general direction of the Presiding Judge, the Executive Officer shall be responsible for coordinating the administration of the Superior Court and shall have the duties and responsibilities prescribed and conferred by the Presiding Judge in consultation with the Executive Committee. (Eff. July 1, 1998, amended eff. July 1, 2000.)

RULE 243 EMPLOYMENT STATUS

The Executive Officer is an "at will" employee who serves at the pleasure of the Judges of the Courts. The Executive Officer may be removed by a majority vote of all Judges sitting as a whole. (Eff. July 1, 1998.)

PART 5
RESERVED

PART 6
COURT COMMISSIONER

RULE 260 APPOINTMENT

The Presiding Judge shall appoint such Court Commissioners as may from time to time be authorized. Such Commissioners shall serve at the pleasure of a majority of the Judges of the Court. (Eff. July 1, 1998.)

RULE 260.1 SELECTION AND APPOINTMENT PROCEDURE

The Presiding Judge shall appoint a committee of Judges to evaluate the applicants and determine which applicants are most qualified for the position. As part of its evaluation, the committee of Judges may interview some of the applicants.

The Executive Committee will establish the number of most qualified applicants to be reported out of the committee of Judges, and will set forth any additional procedures that may be implemented to further reduce that number prior to the full bench vote set forth below.

After the number of applicants has been reduced pursuant to the procedures outlined above, the remaining applicants will make a presentation to the full bench. After those presentations, a full bench vote will be taken. The applicant receiving a majority of the votes cast at the meeting shall be appointed Court Commissioner by the Presiding Judge in accordance with Rule 260. The Executive Committee may authorize that the entire applicant list, or any most qualified list created by the applicant review committee of judges, shall remain active for a period not to exceed eighteen months. (Eff. July 1, 1998. As amended, eff. July 1, 2012.)

RULE 261 QUALIFICATIONS

An applicant for appointment as Court Commissioner must have been admitted to practice before the Supreme Court of California for at least ten years. (Eff. July 1, 1998, as amended January 1, 1999.)

RULE 262 VACATION

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

RULE 263 GENERAL AUTHORITY

Court Commissioners have all powers assigned by statute pursuant to Government Code Section 68112.5. (Eff. July 1, 1998 as amended January 1, 1999.)

PART 7
DISCIPLINARY PROCEDURES FOR COURT EXECUTIVE OFFICER, COURT COMMISSIONERS AND JUVENILE HEARING OFFICERS

RULE 272 DISCIPLINARY ACTION AGAINST COMMISSIONER, COURT EXECUTIVE OFFICER AND JUVENILE HEARING OFFICER

The positions of Court Commissioner, Superior Court Executive Officer and Juvenile Hearing Officer serve at the pleasure of a majority of the judges of the Superior Court. The employment of a Juvenile Hearing officer may be terminated at any time upon a majority vote of the Executive Committee. The employment of a Court Commissioner or the Executive Officer may be terminated at any time upon a majority vote of the full bench of the Superior Court. (Eff. January 1, 2000. Amended, eff. January 1, 2005. As amended, eff. July 1, 2008.)

CHAPTER 3
DISTRIBUTION OF BUSINESS

RULE 310 DISTRIBUTION OF BUSINESS BY PRESIDING JUDGE

It is the intention of the Court that these rules supplement the applicable California Rules of Court, Rule 204.1 et seq. and Government Code § 68616 et seq. To the extent these rules conflict with any Statute or Rule of Court, the Statute or Rule of Court shall control. (Eff. July 1, 1998. Amended eff. July 1, 2003.)

RULE 311 DIRECT CALENDARING OF CIVIL CASES

Rule 311.1 Assignment to Judicial Officer

All cases described as personal injury, eminent domain collection, or other civil shall be subject to assignment to a judicial officer for all purposes other than the Government Code § 68600 et seq. hearings. This section shall not apply to abandonment, adoption, mental health and petitions for approval of minor's compromise and family law cases. (Eff. July 1, 1998)

Rule 311.2 Categorical Department Calendars

The calendar control clerk shall maintain a calendar for each of the categorical departments. When it is necessary to specifically set or to reset any matter on the calendar of any categorical department such special setting or resetting shall be ordered so as to avoid conflict with previously calendared matters. (Eff. July 1, 1998)

Rule 311.3 All-Purpose Assignment to Judicial Officer

Cases which are subject to direct calendars assignment shall be assigned to a judicial officer for all purposes, who shall thereafter handle all proceedings in the case except hearings pursuant to Government Code § 68600 et seq. Nothing herein shall be construed to interfere with the power of the Presiding Judge to assign or reassign cases pursuant to Rule 6.603, California Rules of Court. (Eff. July 1, 1998. Amended eff. July 1, 2003.)

RULE 320 FAX FILING

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

A party may file by fax directly with the appropriate Court District using the facsimile numbers located on the court's website at www.sb-court.org.

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

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

CHAPTER 3
DISTRIBUTION OF BUSINESS AND GENERAL MATTERS

RULE 321 USE OF CORRECTION FLUID OR TAPE ON DOCUMENTS AND PAPERS

Correction fluid or tape shall not be used to correct errors in dates, monetary amounts, signatures, names of parties, or legal descriptions on any documents or papers, of any nature, presented for filing as part of the official court file. Documents or papers presented for filing with such errors corrected with correction fluid or tape shall be refused for filing by the Clerk of the Court, unless otherwise ordered by the Court. The purpose of this rule is to ensure the long-term integrity of court documents which might otherwise be compromised by the decomposition of masking materials; nothing in this rule is intended to constrain the form or format of documents presented for filing, as alternative methods of document correction are available. (Eff. January 1, 2013.)

RULE 322 EXHIBIT TABS

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

RULE ~~321~~ 323 CIVIL DEFAULTS

Rule ~~321.1~~ 323.1 Setting Hearings

Except upon order of the Court, or where otherwise provided by law, the clerk of this Court shall not set regular civil default actions for hearing in any department until 30 days have elapsed after filing of the complaint or petition, and unless the default of the defendant or respondent shall have been first entered not less than 10 days before the proposed hearing date. (Former Rule 321.1, ~~Eff.~~ eff. July 1, 1998. Renumbered as Rule 323.1, eff. January 1, 2013.)

Rule ~~321.2~~ 323.2 Forms (Exceptions)

In all cases where constructive service of summons is had, or where a General Appearance and Waiver under the Soldier's and Sailor's Relief Act, as amended, is on file, the default form "Default Entry – By Court" shall be attached to the Request to Enter Default form, Judicial Council mandatory form number ~~1299.10~~ CIV-100. (Former Rule 321.1, ~~Eff.~~ eff. July 1, 1998. Amended, eff. July 1, 2003. Renumbered as Rule 323.2, eff. January 1, 2013.)

~~Rule 323.3 Forms~~

~~In all other causes, the form "Request to Enter Default" shall apply except as otherwise ordered by the Court. (Eff. July 1, 1998~~ Deleted, eff. January 1, 2013.)

RULE 329 COURT REPORTER POLICY

Pursuant to California Rules of Court, rule 2.956, it is the policy of the Court that the services of an official court reporter will normally be available in child support, civil, criminal, family law, juvenile, and probate departments, including mental health calendars, during regular

court hours. Services of official court reporters are not normally available in small claims departments, traffic departments and limited jurisdiction cases and not normally available during trials de novo, unlawful detainer trials and video criminal arraignments.

In cases where an official court reporter's services are not available, a party may make arrangements for the presence of a certified shorthand reporter to serve as an official pro tempore reporter. It is that party's responsibility to pay the reporter's fee for attendance at the proceedings.
(Eff. January 1, 2012.)

RULE 330 TELEPHONIC APPEARANCES

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

Rule 330.1 Use of Private Telephone Vendor to Place Call

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

Rule 330.2 Obligation for Placement of Call

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

Rule 330.3 Cost of Telephone Call

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

Rule 330.4 Non-appearance by Telephone Call

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

Rule 330.5 Trailing or Recalled Status

Counsel on cases placed into trailed or recall status may request authority to appear by telephone. Such request must be made in open Court at the time the case is trailed or placed on recall. If granted, the Court will provide the specific conditions of telephonic appearance. (Eff. July 1, 1998. As amended, eff. January 1, 2005.)

RULE 331 UNCONTESTED MATTERS

Defaults, minor's settlement, adoptions, and other uncontested matters shall be scheduled by the default calendar clerk, and any reassignment of such cases shall be coordinated by said clerk. (Eff. July 1, 1998.)

RULE 332 APPELLATE DIVISION

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

CHAPTER 4
CIVIL CASE MANAGEMENT

RULE 400 CIVIL CASES SUBJECT TO THE DELAY REDUCTION ACT

These Rules are adopted pursuant to the Trial Court Delay Reduction Act (Government Code Sections 68600, et seq.) and the Pre-Trial and Trial Rules and Civil Trial Court Management Rules of the California Rules of Court, rules 3.110-3.222, 3.252-3.254, 3.650, 3.7190-3.3735, 3.1380, 3.1385, and 10.900 – 10.910. They shall apply only to actions included in the classification of general civil cases as defined in California Rules of Court, rule 1.6(4) (Eff. July 1, 1998. Amended, eff. July 1, 2002. As amended, eff. January 1, 2008.)

RULE 401 POLICY

It is the policy of the Court that all included cases shall be tried or otherwise disposed of consistent with the time limits set forth in California Rules of Court, rules 3.712-3.715. (Eff. July 1, 1998. Amended, eff. July 1, 2002 and January 1, 2005. As amended, eff. January 1, 2008)

RULE 402 DEFINITION

This category shall include all the civil matters not excluded as exceptional cases or others stated in the first section of this chapter. Uninsured motorist claims cases will be referred through these proceedings. (Eff. July 1, 1998.)

Rule 402.1 Exceptional Cases

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

RULE 403 ASSIGNED JUDGES

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

RULE 404 DESIGNATION

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

RULE 408 CASE MANAGEMENT CONFERENCE

The case management conference will combine the functions previously covered by at-issue conference, status conferences regarding arbitration, initial voluntary settlement conferences, and trial setting conferences. The date of the case management conference shall be

set by the clerk at the time of the filing of the initial complaint. The date fixed will be a Court date in the twentieth (20th) week from the filing of the complaint. At the case management conference, all trial counsel must be present or represented by counsel thoroughly familiar with the case. At the hearing, the Court will set future dates for general civil cases, including dates for the Mandatory Settlement Conference, Trial Management Conference and trial, and consider any special scheduling for exceptional cases. (Eff. July 1, 1998. Amended, eff. July 1, 2001. As amended, eff. July 1, 2002)

RULE 409 ALTERNATE DISPUTE RESOLUTION PROCEEDINGS

At the case management conference, the Court shall review the case and determine if the parties are amenable to using an alternate dispute resolution process. The Court may order the case to arbitration, or make such other alternate resolution orders as may be appropriate. (Eff. July 1, 1998. Amended, eff. July 1, 2002)

RULE 410 MANDATORY SETTLEMENT CONFERENCE (MSC)

The mandatory settlement conference shall take place on the dates set by the Court at the case management conference. (Eff. July 1, 1998. Amended, eff. January 1, 2005.)

RULE 411 TRIAL READINESS CONFERENCE

A trial readiness conference will be held in all general civil and complex cases. The purpose of this conference will be to finalize trial preparation and allow the trial of the case to proceed in a more expeditious manner. On the date set by the Court, the parties and trial counsel shall appear and submit to the Court any motions in limine, their jury instructions, a verdict form, their witness list, their exhibit list, a statement of any stipulated facts, proposed voir dire questions and/or questionnaires, and a short statement of the case to be read to the jury if applicable. If a party reasonably believes a witness's name or an exhibit should be confidential until used in trial, he shall so indicate to the Judge in camera.

All motions in limine shall have been submitted in writing with service completed at least 8 days before the conference.

All proposed jury instructions shall be submitted in writing at the trial readiness conference, or as directed by the court. All motions in limine shall comply with Local Rule 415. (Eff. July 1, 1998. Amended, January 1, 2005. As amended, eff. January 1, 2007.)

RULE 412 COMPLEX CASES

If a case qualifies for complex case status, the assigned Judge shall continue as an all-purpose Judge to hear all further proceedings in the case.

If a case is accepted by or defined by the Court as a complex case, the matter will be subject to a scheduling conference if the Court finds it is appropriate. No later than five (5) Court days before the scheduling conference, each party shall file a schedule describing a plan for the future progress of the case. Each schedule shall include a description of the action taken in the case to date, the conduct of further law and motion matters, and the conduct of future discovery. The Court at the scheduling conference will issue an appropriate order approving or setting a schedule. The Court may conduct further scheduling conferences, as appropriate, to ensure progress of the case consistent with the policy of these Rules. Rule 401 does not apply to Complex Cases. (Eff. July 1, 1998. As amended, eff. January 1, 2005.)

RULE 413 UNINSURED MOTORIST (UM) CLASS

If a case is filed by a plaintiff against a defendant who is an uninsured motorist, and the plaintiff's claim is subject to an arbitration provision, the case may be designated a general civil - UM. The case will be exempt from time requirements of these Rules, except that the case management conference will be set as in regular cases so that the Court can monitor the progress of the arbitration. A UM case may be redesignated as General Civil by the Court on its own motion or by motion of any interested party. (Eff. July 1, 1998)

RULE 415 MOTIONS IN LIMINE

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

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

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

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

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

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

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

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

RULE 416 DUTY OF COUNSEL AS TO TRIAL DATE ASSIGNED

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

RULE 417 UNCONTESTED CALENDARS

All uncontested matters such as adoptions, minors compromise, sole custody dissolutions, nullities, and legal separations, etc. will be set by request made to the clerk. (Eff. July 1, 1998 Amended. Eff. July 1, 2002.)

RULE 418 STATEMENT OF POLICY RE CONTINUANCES OF ANY MATTER

This Court practices a firm continuance policy. Counsel should be aware that the dates assigned for trial setting conferences, settlement conferences and trial are definite appointments with the Court. All continuances, contested or not, are to be applied for by noticed motion with supporting declarations. Continuances applied for in any other manner will be denied, except in emergencies. Motions for the continuance of the trial setting conference and trial shall be made to the Assigned Judge. Motions for the continuance of the mandatory settlement conference shall be made to the Judge to whom the mandatory settlement conference has been assigned and shall be granted only if the continuance would not delay the trial of the action nor disrupt the calendar of the Judge to whom the settlement conference has been assigned and shall be granted only if the continuance would not delay the trial of the action nor disrupt the calendar of the Judge to whom the settlement conference has been assigned. The Court will grant continuances only upon an affirmative showing of good cause. Grounds which the Court will recognize as good cause for continuance will be:

(1) Death:

(i) The death of the trial attorney or an essential witness where, because of the proximity of such death to the date of trial, it is not feasible to substitute another attorney or witness.

(ii) The death of an expert witness where because of the proximity of his death to the date of trial, there has been no reasonable opportunity for a substitute expert witness to become qualified to testify in the test.

(iii) The death of any other witness only where it is not possible to obtain another witness to testify to the same facts or where, because of the proximity of his death to the date of trial, there has been no reasonable opportunity to obtain such a substitute witness.

(2) Illness: (supported by an appropriate declaration of a medical doctor, stating the nature of the illness and the anticipated period of any incapacity):

(i) The illness of a party or essential witness, except that, when it is anticipated the incapacity of such party or witness will continue for an extended period, the continuance will be granted on condition of taking the deposition of the party or witness in order that the trial may proceed on the next date set.

(ii) The illness of the trial attorney or of an expert witness, except that the substitution of another attorney or witness will be considered in lieu of a continuance depending on the proximity of the illness to the date of trial, the anticipated duration of incapacity, the complexity of the case, and the availability of substitute attorney or expert witness.

(iii) The illness of any other witness only where it is not possible to obtain another witness to testify to the same facts or where, because of the proximity of his illness to trial, there has been no reasonable opportunity to obtain such a substitute witness.

(3) Unavailability of trial attorney or witness:

(i) The unavailability of the trial attorney when he is engaged in the trial of another case if: (a) at the time such attorney accepted the trial date in this case he could not have reasonably anticipated the conflict in trial dates; and (b) the Court was informed and made a finding at the trial setting conference or on motion made at least 30 days before the date set for trial that the case was assigned for trial to this attorney within a particular law firm and that no other attorney in that firm was capable and available to try the case and was or could be prepared to do so.

(ii) The unavailability of a witness only where the witness has been subpoenaed or is beyond the reach of subpoena and has agreed to be present, and his absence is due to an unavoidable emergency that counsel did not know and could not reasonably have known at the time of the trial setting conference.

(4) Substitution of trial attorney: The substitution of the trial attorney only where there is an affirmative showing that the substitution is required in the interest of justice.

(5) Significant change in status of case: A significant change in the status of the case where, because of a change in the parties or pleadings ordered by the Court, the case is not ready for trial. (Former Rule 361, eff. May 27, 1982. Renumbered as Rule 418, eff. July 1, 1998.)

Rule 418.1 Civil Cases

In order to effect and preserve the maximum efficiency of the Court in reducing congestion and delay in the trial of cases, the Court will enforce a strict policy of requiring case management conferences, mandatory settlement conferences, trial assignments and trials to proceed as calendared in the absence of good cause shown for a continuance thereof. Any request for a continuance or trial assignment or trial date shall be made in the form of a noticed hearing before the Assigned Judge. No stipulation for a continuance of such dates shall be accepted without the express consent of the Assigned Judge. Any request for a continuance of a mandatory settlement conference shall be made to the Judge to whom the settlement conference has been assigned. (Former Rule 361.2, eff. May 27, 1982. Renumbered as Rule 418.1 and amended, eff. July 1, 1998.)

Rule 418.2 Civil Cases, Law and Motion, and Voluntary Settlement Conference Policy

It is the policy of the Court to cooperate with counsel regarding continuances of law and motion matters and settlement conferences to the extent possible. This policy is necessarily limited by certain obvious practical considerations. The grant of a last minute continuance is generally inappropriate in that it requires a duplication of effort on the part of the Judge and tends to deprive other litigants of timely access to the Courts. (Former Rule 361.3, eff. May 27, 1982. Renumbered as Rule 418.2 and amended, eff. July 1, 1998.)

RULE 419 CIVIL COURT COMMUNICATION PROTOCOL

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

RULE 420 CASES REMOVED TO OTHER COURTS

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

At the status conference or upon filing of a Notice of Status of Removed Case, the Court will determine the status of the case. If it is determined that the case remains pending in federal court or a superior court in another county, no further status conference or other hearing in this Court will be set.

If a case is remanded from federal court or returned from a superior court in another county, the plaintiff shall notify the Court of the remand or return and request a case management conference date.

If a case is removed to bankruptcy court, the Court will continue the status conference for 90 to 180 days at the Court's discretion. The plaintiff shall notify the Court of any action by the bankruptcy court that resolves the case. (Eff., July 1, 2003. As amended, eff. January 1, 2012.)

CHAPTER 5
CIVIL LAW AND MOTION

RULE 510 SUBSEQUENT FILING

All papers, other than those initiating the proceedings, whether in opposition or support, shall be filed ~~directly with the~~ ~~Court clerk~~ in the ~~Law and Motion~~ department in which the matter is scheduled, within the time prescribed by statute or State Rules of Court.
(Former Rule 511.2 eff May 27, 1982; amended, eff. Jan 1, 1992. Renumbered as Rule 510, eff. July 1, 1998. Amended eff. July 1, 2000. As amended, eff. January 1, 2013.)

RULE 520 MOTION DATE

No motion shall be scheduled or noticed for hearing without first contacting the clerk, with whom moving papers are filed, to request a date for hearing. Should any matter be improperly noticed, the clerk shall refer it to the appropriate Law and Motion Judge for disposition or instructions. Such instructions may be at the discretion of the Judge and may include returning the document without filing. (Eff. May 27, 1982. As amended, eff. July 1, 1998.)

RULE 530 JUDICIAL ASSIGNMENTS

Judicial assignments and reassignments in law and motion matters are made by the Presiding Judge or another Judge designated by the Presiding Judge, based on case numbers in accordance with established policy. The clerk with whom moving papers are filed shall set the hearings in accordance with such policy. (Former Rule 540.1, eff. May 27, 1982. Amended, eff. July 1, 1991. Renumbered as Rule 530, eff. July 1, 1998.)

RULE 540 EX PARTE ORDERS AND CIVIL WRITS

Except as otherwise prescribed in Chapter 7 of these rules, the following ex parte orders must be presented to and signed by the law and motion Judge to whom the case is assigned: orders to show cause, temporary restraining orders, appointments of receivers, writs of prohibition, mandate, review and certiorari in civil matters, and all other ex parte orders in civil matters. Complaints in intervention under the Labor Code do not require supporting documentation. (Former Rule 540.2, eff May 27, 1982. Amended, eff. July 1, 1991. Renumbered as Rule 540, eff. July 1, 1998. As amended, eff. July 1, 2003.)

RULE 550 CONTINUANCES

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

RULE 560 MOTIONS REMOVED FROM CALENDAR

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

RULE 570 – RECORDS UNDER SEAL

The Court may direct the Clerk of the Superior Court to place under seal any sexually explicit material filed with the Court pending a further order of the Court to unseal the material. This rule shall not preclude the rights of the parties to access any material nor shall it modify their otherwise applicable discovery obligations.
(Eff. January 1, 2013.)

RULE 591 ORDERS AND JUDGMENTS

Rule 591.1 Minute Orders

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

Rule 591.2 Proposed Orders

Proposed orders shall be submitted to Judicial Assistant at the time of the hearing. If no hearing is scheduled, the party may submit the proposed order to the clerk's office in the court district where the matter is pending.
(Eff. January 1, 2013.)

Rule ~~591.2~~ 591.3 Judgment Forms

Counsel must prepare, serve, and present to the Court forms for all orders and judgments, which require the Court's signature. If no objection is forthcoming within ten days, the order or judgment ~~will~~ may be signed as presented. Complaints in intervention under the Labor Code do not require supporting documentation.
(Former Rule 592.2, eff. May 27, 1982. Amended eff. July 1, 1991 and renumbered as Rule 591.2, eff. July 1, 1998. Renumbered as Rule 591.3 and amended, eff. January 1, 2013.)

RULE 593 CAPTIONS

Captions on orders, decrees, and judgments must refer to all matters covered by the order, decree or judgment, and shall affirmatively state the result or relief. (Former Rule 594, eff. May 27, 1998. Renumbered as Rule 593, eff. July 1, 1998.)

CHAPTER 6
SETTLEMENT CONFERENCES

RULE 610 SETTLEMENT CONFERENCE CALENDARS

The settlement calendar is designed to facilitate the settlement of cases, particularly in personal injury cases. Therefore, all parties and attorneys participating therein will be expected to comply fully with the provisions of this Chapter. (Eff. July 1, 1998.)

Rule 610.1 Voluntary Settlement Calendar

The calendar clerk or the Assigned Judge may set any case for a Voluntary Settlement Conference at the request of any party or the Court's own motion. (Eff. July 1, 1998.)

Rule 610.2 Voluntary Settlement Conference Rules

The rules relating to Mandatory Settlement Conferences shall apply likewise to Voluntary Settlement Conferences. (Eff. July 1, 1998.)

RULE 611 PERSONS WHOSE PRESENCE IS REQUIRED

Plaintiffs, trial counsel, insurance company representatives, defendants in cases other than personal injury cases where there is insurance coverage must attend the settlement conference. In malpractice cases, where a doctor or a hospital's consent to settlement is required, those parties must either be present, or must give the insurance company express consent to settle. (Former Rule 641, eff. Jan. 1, 1989. Renumbered as Rule 611 and amended, eff, July 1, 1998. Amended, eff. July 1, 2002.)

RULE 612 BRIEFS

No less than five (5) days before the settlement conference, each party shall have delivered a settlement statement or brief to the clerk of the department where the conference will be held. The briefs must comply with California Rules of Court, rule 3.1380, and must also contain:

(1) Names of all parties and their respective counsel;
(2) Statement of procedural posture of case; i.e., motions heard to date, discovery completed and/or scheduled with dates for completion provided;
(3) Statement of Facts;
(4) Statement of Issues to be Determined;
(5) Statement Regarding Status of Settlement Discussions including any 998 offers/counteroffers and last offer made; and;
(6) A reasonable assessment of the value of the case and reasons for said assessment. Police reports, discovery statements, photographs, and bills should be available for Court inspection, as desired by the Court.

(Former Rule 642, eff. Jan. 1, 1989. Renumbered as Rule 612 and amended, July 1, 1998. Amended January 1, 2002 and July 1, 2002. As amended, eff. July 1, 2010.)

RULE 613 DISCOVERY

Discovery should be completed by the time of the Settlement Conference. The Court recognizes that many times counsel will have reserved some discovery pending the outcome of the settlement conference. However, if the Court determines that discovery is not substantially completed, and this will have a significant influence on the settlement, the Settlement Calendar Judge may refer the matter to the Direct Calendar Judge for such action, as he or she deems appropriate. (Former Rule 643, eff. Jan. 1, 1989. Renumbered as Rule 613, eff. July 1, 1998. Amended, eff. July 1, 2002.)

RULE 614 DEMANDS AND OFFERS

Counsel and the interested parties shall be prepared to state their best demand and offer at the settlement conference. (Former Rule 644, eff. Jan. 1, 1989. Renumbered as Rule 614, eff. July 1, 1998.)

RULE 615 FAILURE TO ATTEND OR BE PREPARED

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

RULE 616 CONTINUANCES

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

RULE 617 NOTICE OF SETTLEMENT

Counsel is charged with the responsibility of notifying the Court of any settlement made in the case. This may be telephonic or written. (Former Rule 616 renumbered to Rule 617, eff. January 1, 1999.)

RULE 620 ARBITRATION

The Court complies with California Rules of Court, Rules 1580 et seq., and encourages the use of alternate dispute resolution, including arbitration in accordance with the California Rules of Court. The Court can also arrange private arbitration or determination or other alternate dispute resolution processes through retired Judges. (Former Rule 650, eff. Jan. 1, 1989. Renumbered as Rule 620, eff. July 1, 1998. Amended, eff. July 1, 2002. As amended, eff. July 1, 2004.)

RULE 621 ALTERNATE DISPUTE RESOLUTION PROCEDURES

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

Upon receipt of a written complaint, the ADR Complaint Coordinator shall make a preliminary review of the complaint and determine the appropriate action required.

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

CHAPTER 7
APPLICATION FOR EX PARTE ORDERS

RULE 710 APPLICATIONS (RESERVED)

RULE 711 FEE

No application for an ex parte order, except for the appointment of a guardian ad litem or the approval of an undertaking or an attachment, shall be made until any required filing or other fee has been paid. (Former Rule 911, eff. May 27, 1982. Renumbered as Rule 711, eff. July 1, 1998.)

RULE 712 FORM

Every application for an ex parte order shall be accompanied by the original file of the action. (Former Rule 912, eff. May 27, 1982. Renumbered as Rule 712, eff. July 1, 1998.)

RULE 720 LIMITATIONS ON GRANTING

Except upon a stipulation, leave shall not be granted ex parte to stay execution after judgment, file a cross-complaint, amend or supplement a pleading, other than to strike out the name or substitute the true name of a fictitiously named party. (Former Rule 920, eff. May 27, 1982. Renumbered as Rule 720, eff. July 1, 1998.)

RULE 730 TO WHOM PRESENTED

Rule 730.1 In Particular

Except as otherwise specifically provided by these rules, an application for an ex parte order shall be presented as follows:

Rule 730.2 Civil Ex Parte and Writs

An application involving mandamus, review, prohibition, certiorari, receivers, and habeas corpus in a civil matter shall be presented to the law and motion Judge to whom the case has been assigned. (Eff. July 1, 1998)

Rule 730.3 Criminal Ex Parte and Writs

An application involving a criminal matter shall be presented to the Judge presiding in the criminal department, except for an application requesting authorization of ancillary defense funding at government expense which shall be presented to the Court's designated judge for reviewing ancillary defense funding requests per Local Rule 1451. An application involving mandamus, review, prohibition, certiorari, habeas corpus, and corum nobis in a criminal matter shall be presented to the writ Judge handling criminal writs. (Eff. July 1, 1998. As amended, eff. January 1, 2010.)

Rule 730.4 Juvenile Court Ex Parte and Writs

An application involving a Juvenile Court matter shall be presented to the Presiding Judge of the Juvenile Court or to the Juvenile Court Commissioner, in cases in which he or she is authorized to act. (Eff. January 1, 1999.)

Rule 730.5 Family Law

An application involving a Request for Order in a domestic relations matter shall be presented to the Judge or Commissioner presiding in the department designated to hear such matters. (Eff. July 1, 1998. As amended, eff. July 1, 2012.)

Rule 730.6 Probate

An application involving a probate matter shall be presented to the Judge presiding in the probate department or to the Commissioner in cases in which he is authorized to act. (Eff. July 1, 1998)

Rule 730.7 Mental Health

An application involving a mental health matter shall be presented to the Judge assigned to the mental health calendar. (Former Rule 931, et seq., eff. May 27, 1982. Renumbered as Rule 730, eff. July 1, 1998.)

RULE 731 FILING AND NOTICE

Rule 731.1 Civil ex parte applications

All ex parte applications must be filed with the Court no later than 12:00 P.M. on the court day preceding the day of the scheduled hearing on the ex parte application. A party seeking an ex parte order must notify all parties no later than 10:00 A.M. on the court day before the ex parte appearance as provided by the California Rules of Court, rule 3.1203. (Eff. July 1, 2011.)

RULE 740 PRESENTATION

Rule 740.1 Guardian Ad Litem

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

Rule 740.2 Application for Reduction of Undertaking

An application for a reduction in the amount stated by statute for an undertaking on an attachment shall be verified; shall fully set forth facts in the personal knowledge of the affiant or the sources of information of facts averred on information and belief, which tend to show that a reduction would not prejudice the rights of the defendant; the facts purporting to justify the attachment; the amount of the demand; the nature; whether said property is in use and the nature thereof; if the property is a going business, the effect, if any, of the attachment thereof and if the attachment is to be on a sum of money, the date and result of al previous attachments. (Eff. July 1, 1998.)

Rule 740.3 Shortening or Extending Time

An application for an order shortening or extending time for the service of a notice shall state any previous extension, any expiration date and the facts showing good cause for granting the application. (Eff. July 1, 1998.)

Rule 740.4 Appointment of Counsel for Military Personnel

An application for the appointment of an attorney for a defendant in military service shall state the branch of such service, his service mailing address, when the time to answer or demur expired, whether any pleading has been filed on his behalf, and any other pertinent facts. (Eff. July 1, 1998.)

Rule 740.5 Substitute Service, Domestic

An application for an order authorizing service pursuant to Section 3302 of the Corporations Code shall be by affidavit or declaration averring that no designation of an agent for service of process is on file with the Secretary of State (or facts showing the failure to locate a designated agent) corroborated by letter from the Secretary of State and facts showing that service cannot be made upon any person authorized to receive service. (Eff. July 1, 1998.)

Rule 740.6 Substitute Service, Foreign

An application for an order authorizing service pursuant to Section 2111 of the Corporations Code shall be by affidavit or declaration averring facts showing the doing of business by the corporation in California, the search made to find a person in the State authorized to receive service, no designation of an agent is on file with the Secretary of State (or the designated agent is no longer authorized to receive service) corroborated by a letter from the Secretary of State. (Eff. July 1, 1998. As amended eff. July 1, 2003.)

Rule 740.7 Application for Money Deposited

An application for an order for the payment of money which has been deposited with the clerk of the Court pursuant to Sections 708.710 – 708.750 of the Code of Civil Procedure shall be verified by the applicant, state the amount of money and date it was deposited with the clerk, any amount previously received by the applicant and whether any claim or exemption or motion to vacate the judgment has been filed. The amount of money on deposit shall be endorsed on the application by the Clerk of the Court. (Eff. July 1, 1998. As amended, eff. July 1, 2003)

Rule 740.8 Property Otherwise Deposited

An application to receive personal property or money, other than that deposited under Sections 708.710 – 708.750 of the Code of Civil Procedure, shall be verified by the claimant; state when, why and by whom it was deposited; any term or condition of the deposit; the name and address of every person claiming any interest therein; and the reason the claimant is entitled to receive it. The amount of money or description of the property on deposit shall be endorsed on the application by the clerk. The Judge or Commissioner may require the application to proceed by motion on the notice to all interested persons. (Eff. July 1, 1998)

Rule 740.9 Execution on Installment Order or Judgment

An application for the issuance of a writ of execution as to an order of judgment for the payment of money in installments shall be verified by the judgment creditor and shall set forth the pertinent provisions of the order of judgment, the total amount which has been paid, the amount of principal then due, and the particulars as to any interest claimed. The application shall set forth also the assignment and the date of service or notice thereof to the judgment debtor. (Former Rules 941 through 949, eff. May 27, 1982. Renumbered as Rule 740.1 through 740.9, eff. July 1, 1998.)

CHAPTER 8
CASES UNDER CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

RULE 800 CEQA DESIGNATION

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

CHAPTER 9
RESERVED
~~ECONOMIC LITIGATION~~

~~RULE 900 ECONOMIC LITIGATION PROGRAM~~

~~Rule 900.1~~

~~Except as otherwise provided by law, this Court will follow the Economic Litigation Program pursuant to California Code of Civil Procedure, sections 90 through 100. (Former Rule 582 of the Municipal Court Rules, eff. Aug. 1, 1985; Renumbered as Rule 900,and amended, eff. July 1, 1998.~~ Former Rule 900, deleted, eff. January 1, 2013.)

CHAPTER 10
UNLAWFUL DETAINER ACTIONS

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

CHAPTER 11
SMALL CLAIMS

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

CHAPTER 12
PROBATE

RULE 1200 PROBATE ACTIONS

The Probate Policy Memorandum found in Appendix I governs probate actions. (Revised eff. July 1, 1998.)

CHAPTER 13
CRIMINAL RULES

RULE 1300

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

RULE 1301

Felony, misdemeanor and infraction matters shall be scheduled to be heard in the Judicial District where the offense allegedly occurred. That District, which was previously named the Municipal Court Division, shall be known as the Superior Court District.

The Superior Court District that was geographically closest to the former Municipal Court District shall hear the matter. Superior Court Districts are defined pursuant to Rule 130. (Eff. July 1, 1998.)

RULE 1303

These rules recognize that each District has a calendar system of processing criminal cases. The District calendar procedures remain unchanged by these rules except when they conflict and then these rules supersede. (Eff. July 1, 1998.)

RULE 1304

Preliminary hearings, felony, misdemeanor, and infraction trials are to be heard and assigned pursuant to local Superior Court District rules. Calendar rules that segregated preliminary hearings, misdemeanor, and infraction matters solely within the former Municipal Court jurisdiction are eliminated. (Eff. July 1, 1998. As amended January 1, 1999.)

RULE 1305

Felony preliminary hearings and pre-preliminary hearings shall be set and heard by the criminal Division within each Superior Court District.

Trials on informations, indictments, complaints or citations shall be scheduled within the criminal Division in each Superior Court District. (Eff. July 1, 1998.)

RULE 1306

Counsel may make P.C. 977a appearances with appropriate authority from the client in misdemeanor matters excluding trial (P.C. 997a notwithstanding). Counsel must secure judicial permission for appearance by counsel for trial. (Eff. July 1, 1998.)

RULE 1307

Counsel may limit his/her appearance in felony matters only per P. C. 987.1 for preliminary hearings and initial arraignment on the information. (Eff. July 1, 1998.)

RULE 1308 CRIMINAL LAW & MOTION

All to be heard in the Dept. in which case has been assigned.

All matters on motion calendar shall be set forth in writing and supported by declarations, if appropriate, and points and authorities.

Unless waived, 10 calendar days written notice shall be given to opposing side and filed with clerk no later than 10 calendar days prior to the date set for hearing. (Eff. July 1, 1998. Amended, eff. July 1, 2001.)

RULE 1309 P.C. 1538.5 MOTIONS

A. Misdemeanor
   1. Notice shall describe specifically all evidence sought to be suppressed and state any legal theory in support thereof. It shall include a brief summary of facts.

   2. Notice shall be filed pursuant to the Criminal Division Calendar Rules then existing in the Superior Court District where the matter is scheduled to be heard.

B. Felony Cases
   1. Prior to preliminary hearing pursuant to P. C. 1538.5 as amended effective 1-1-98.

   2. After filing the information or indictment, the motions shall be in writing and then filed pursuant to the Criminal Division Calendar Rules in the Superior Court District where the matter is scheduled to be heard. (Former Rule 456, eff. July 1, 1990. Renumbered as Rule 1309 and amended, eff. July 1, 1998.)

RULE 1310 MOTIONS TO QUASH OR TRAVERSE WARRANTS

These motions shall contain the warrant or an exact copy of the warrant and shall be heard in the same manner as outlined in the P.C. 1538.5 motions above. (Eff. July 1, 1998.)

RULE 1311 PRIORITY OF PROTECTIVE ORDERS AND MODIFICATION

(a) This Rule sets forth the court communication protocol for Domestic Violence and Child Custody Orders as required by California Rules of Court, Rule 5.450. The purpose of this Rule is to avoid conflicting orders whenever possible, and to permit appropriate visitation between a restrained person and his or her child while providing for the safety of all victims and witnesses and the proper consideration of the best interests of the child.

(b) Criminal Protective Orders take precedence over all other protective orders issued by the Civil, Family, Juvenile and Probate Courts.

(c) When the Criminal Court issues a Criminal Protective Order:
   (1) The Criminal Court shall determine whether there are any minor children of the relationship between the defendant/restrained person and the victim/protected

person, and whether there are any court orders for custody/visitation for those minor children.

(2) If there are minor children, the Criminal Court shall consider whether peaceful contact with the victim/protected person should be allowed for the purpose of allowing defendant/restrained person to visit the minor children. Peaceful contact with the minor children and victim/protected person shall be permitted under any Criminal Protective Order for the purpose of attending court-ordered mediation and/or Family Court hearings.

(3) The Criminal Court shall also determine whether there are any existing orders involving the defendant/restrained person, the victim/protected person, and/or the minor children. The court shall examine available databases for existing orders before issuing a permanent Criminal Protective Order.

(4) If the Criminal Protective Order includes minor children as named protected parties, the order may be made explicitly subject to modification by a judge of the Civil, Family, Juvenile, or Probate Court. If this qualifying clause is not included in the Criminal Protective Order, the order may not be modified without notification and consent of the Department of the court assigned to the criminal case. It is the policy of the Superior Court of San Bernardino County that the Juvenile Court is best equipped to determine the best interests of any minor children, and the criminal court shall give due consideration to making the criminal court order expressly subject to modification by the Juvenile Court whenever a Juvenile Court case is pending or is likely to be initiated.

(5) When the Criminal Court issues a Criminal Protective Order that lists the defendant/restrained person's minor child or children as protected persons, the Criminal Court shall transmit a copy of the order to any Civil, Family, Juvenile, or Probate Court in which a matter concerning the defendant and the protected minor or minors is pending.

(d) When a Criminal Protective Order exists and a judicial officer in another court has a case in which he or she determines that it is appropriate to permit visitation different than that provided for in the Criminal Protective Order and that order has not been made expressly subject to modification by the court desiring a modification of the order:

(1) The court clerk for the judicial officer requesting modification of the Criminal Protective Order shall contact the court clerk for the Criminal Court to inform the Criminal Court that a modification is requested and shall inform the court clerk for Criminal Court of all pertinent information, including the terms of the proposed modification and the identity of all parties to the action over which the judge requesting a modification has jurisdiction.

(2) The Criminal Court shall set a hearing date on the request for a modification for no later than 30 calendar days after the receipt of the request for modification, or as soon thereafter as the court's calendar allows, and shall provide notification in writing to all parties to both the criminal case and the matter in which the modification request was made. Such notice shall inform all parties of the modification request, the terms of the proposed modification and the hearing date,

and shall specifically indicate that a request for modification has been made pursuant to this Rule.

(3) Any written opposition to the modification request shall be filed no later than 9 court days prior to the hearing and shall be served in the manner provided for the filing of oppositions in Chapter 5 of Title 14 of Part 2 of the Code of Civil Procedure. Any reply to any opposition shall be served and filed in the manner allowed by the Code.
(4) The hearing date on the proposed modification shall not be continued except on a showing of good cause.
(5) After hearing, and after consideration of the proposed modification and all arguments in favor and in opposition to the proposed modification, the Criminal Court shall, in its discretion, modify the Criminal Protective Order as requested, or make such other modifications to the Criminal Protective Order as the court deems appropriate, or decline to modify the Criminal Protective Order, stating the reasons for the court's decision to accept, modify or reject the proposed modification on the record.
(6) The Criminal Court shall transmit a copy of its order on the proposed modification to the court making the request for modification.

(e) For the purposes of this Rule:
"Criminal Court" means a Department of this Court assigned to a criminal case.

(1) "Civil Court" means a Department of this Court assigned to a civil case.
(2) "Juvenile Court" means a Department of this Court assigned to juvenile cases.
(3) "Family Court" means a Department of this Court assigned to family cases.
(4) "Probate Court" means a Department of this Court assigned to probate cases.
(5) A "Criminal Protective Order" is a restraining order or protective order against the defendant in a criminal case issued by a criminal court as a term of probation, bail release or own recognizance release prohibiting the defendant from communicating or contacting any specified person, category of persons or a specified witness or victim.

(Eff., July 1, 2003. As amended, eff. January 1, 2008.)

RULE 1320 P. C. 995 MOTIONS

P.C. 995 motions shall be heard in the department scheduled to hear the trial on the case. However, if the trial Court was the committing magistrate, then the Supervising Criminal Law Judge within the District shall reassign the matter for hearing on the motion to another Judge. If the motion is denied on its merits, the case shall be assigned back to the original Judge.

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

(a) A brief statement in summary form of the facts as set forth in the transcript.

(b) A statement of the issues, specifically identifying in what regard the People's case is defective.

(c) Where defendant intends to rely upon some testimony in the transcript, the moving papers shall contain references to such testimony identified as to page and line number of the transcript.

(d) A statement of the authorities upon which defendant relies with explanation as to why they are applicable. (Mere citation of sections in the California Penal Code and the U.S. Constitution shall not be sufficient.)
(Former Rule 455, eff. May 27, 1982. Renumbered as Rule 1320 and amended, eff. July 1, 1998. Eff. as amended, January 1, 2008.)

RULE 1321 MOTIONS TO CONTINUE

Shall be heard per P. C. 1050 in a manner as determined by the Criminal District of the Superior Court District where the case is assigned for trial. (Former Rule 453, eff. May 27, 1982. Renumbered as Rule 1321 and amended, eff. July 1, 1998.)

RULE 1322 TRANSFER OF CASES

Probation Revocation:

1. If a defendant has an active, pending case in any Superior Court District, then any revocation of probation case shall be transferred to that District.

2. Supervising Criminal Judges of the respective Districts may transfer cases between them. (Eff. July 1, 1998.)

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

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

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

1. New case with felony charges pending
2. Felony probation case
3. New case with misdemeanor charges pending
4. Misdemeanor probation case
5. Cases with only outstanding money balances

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

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

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

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

RULE 1327 VENUE OF ACTIONS

The District Attorney should file criminal actions in the judicial district as defined in the Local Rules of Court, rule 130, as "District" where the offense occurred. If the district attorney files an action outside the judicial district where the offense occurred, the Supervising Judge of that district shall transfer the case to the district that contains the proper venue. (Eff. January 1, 2000.)

CHAPTER 14
COUNSEL/INVESTIGATOR/EXPERT FEES

RULE 1400 APPOINTED ATTORNEY SERVICE FEE SCHEDULES

Attorneys appointed by the Court may not charge fees for their services in excess of the rates and limits set forth in the Appointed Services Fee Schedule, available on the Court's website www.sb-court.org and from the Court Executive Office, except as provided by Local Rule 1416. (Eff. July 1, 2011. As amended, eff. July 1, 2012.)

RULE 1403 APPOINTED CRIMINAL CASES - COMPLEX FELONY

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

RULE 1410 ATTORNEY FEE PAYMENTS - GENERAL

RULE 1411

All claims for attorney service payments must be submitted on Superior Court of California, County of San Bernardino forms. (Eff. July 1, 1998. As amended, eff. January 1, 2004.)

RULE 1412

All requests for payment of fees shall include claimant's California State Bar number. (Eff. July 1, 1998)

RULE 1413

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

RULE 1414

Claims for attorney fees in matters other than Family Law must be submitted~~,~~ on Court forms to the Court District where the case is heard within 60 days of completion of the case. Any claim submitted more than 60 days after completion of the case will be subject to a penalty of ten percent (10%) of the claim amount per month, up to a maximum of 20%, absent extenuating circumstances. The Court in its discretion shall determine when extenuating circumstances sufficient to justify a delay in submission of a claim exist. Any claim submitted more than 2 years after completion of the case, which the Court cannot verify as being previously paid, shall be denied.

For the purposes of this Rule, completion of the case is defined as conclusion of the Pronouncement of Judgment in criminal matters, conclusion of the Dispositional Hearing in juvenile matters, and grant or denial of permanent Petition in guardianships. Billing should be for all services provided to that point.

Statements for post-dispositional activities must be submitted within 60 days of the hearing. If an attorney submits a Declaration re: Attorneys Fees claim form before the end of a case, and out-of-court time is being claimed, a copy of any prior billings for the same case must be submitted with subsequent~~ly~~ billings. The Court staff shall review that statement to verify days and dates of service and billing amounts and submit it to the appropriate Judge, noting any deviations from Court rule or policy. The Judge shall approve the statement or modify it as appropriate. (Former Rule 1110, eff. Jan. 1, 1993. Renumbered as Rule 1411 through 1414 and amended, eff. July 1, 1998. Amended, July 1, 2000, January 1, 2001, July 1, 2001, January 1, 2003 and July 1, 2004. As amended, eff. July 1, 2012.)

RULE 1415 ORDINARY ATTORNEY SERVICE FEES

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

RULE 1416 EXTRAORDINARY ATTORNEY FEES

In cases where, because of complexities thereof, the seriousness of the charge or novel legal principles being involved, extensive research, trial preparation and investigation are required, additional extraordinary fees may be allowed at the discretion of the Court. Requests for extraordinary fees must be made by written motion with appropriate supporting declaration and receive prior approval of the Court. It should be understood that extraordinary fees are not

designed to cover the routine or usual legal services or ordinary office expenses. An itemized statement of the services rendered or to be rendered shall accompany any application for a fee in addition to any attorney service fee schedule in this chapter because of extraordinary services. (Former Criminal Rules, Rule 1332, eff. January 1, 2000 and amended, eff. January 1, 2002. Renumbered as Criminal Rule, 1416, and amended, eff. January 1, 2003. As amended, eff. January 1, 2004. As amended, eff. July 1, 2004.)

RULE 1417 CLAIMS FOR ATTORNEY FEES IN FAMILY LAW CASES

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

RULE 1418 DETERMINATION OF REASONABLE COMPENSATION AND NECESSARY EXPENSES FOR PRIVATE COUNSEL

In each case in which a person has been furnished services of private counsel at public expense, upon conclusion of the proceedings, the Court shall make a determination of the sum that is reasonable for compensation and authorized expenses. Payment will be based on the Appointed Services Fee Schedule available on the court's website www.sb-court.org, and from the Court Executive Office. (Former Criminal Rules, Rule 1450.2, eff. July 1, 2003.
Renumbered as Criminal Rules, Rule 1418, eff. January 1, 2004. Amended, July 1, 2006. As amended, eff. July 1, 2012.)

RULE 1419 COUNSEL IN DEATH PENALTY/LWOP CASES

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

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

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

RULE 1424 COMPUTATION OF FEES

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

RULE 1425 APPLICATION

No attorney's fees for services rendered on behalf of a minor in any action to which such minor is a party shall be fixed or allowed, or contract therefore approved, except upon application made in open Court, after notice to the minor, if of the age of 12 years or over, and to his or her guardian and to such of his or her parents as reside in this state. The notice shall state the character and extent of the services rendered, or to be rendered, and any expenses incurred in connection therewith, shall state the sum which counsel regard as a reasonable fee, and shall state that the minor, his guardian or parents may at the time noticed, in person or by attorney, object to the allowance of the amount asked. (Former Rules 1111 et seq., eff. May 27, 1982. As amended, eff. July 15, 1985.)

1430 DEFAULT ATTORNEY FEES

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

25 percent of the first $1,000 with minimum attorney's fees of $75.00;
10% of the next $14,000
3 percent of the next $35,000;
2 percent of the next $50,000; and

1 percent of the contract or note amount over $100,000.

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

(c) In contested matters, the Court will determine the reasonable attorney fees as proved by the prevailing party after trial in accordance with Code of Civil Procedure, section 1021 et seq., Civil Code, sections 1717 and 171.5, and the California Rules of Court, rule 3.1702.

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

RULE 1431 ACTION FOR JUDICIAL DECLARATION OF ABANDONMENT OF MOBILE HOME

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

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

RULE 1433 FORECLOSURE

Rule 1433.1

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

Rule 1433.2

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

RULE 1434 IN DISSOLUTION, LEGAL SEPARATION OR NULLITY ACTION

The following counsel fees will be awarded under normal circumstances in marriage dissolution, legal separation or nullity action, exclusive of costs: (Eff. July 1, 1998.)

Rule 1434.1

Hear as Default (Without Request for Order): $300.00. (Eff. July 1, 1998. As amended, eff. July 1, 2012.)

Rule 1434.2

Request for Order for Initial Allowance or Other Relief: $350.00 (contingent upon showing of efforts of counsel before hearing to obtain stipulation or agreement of parties.) (Eff. July 1, 1998. As amended, eff. July 1, 2012.)

Rule 1434.3

Subsequent Request for Order Hearing for Modification of Order, Contempt, or otherwise: $200.00 to $300.00. (Eff. July 1, 1998. As amended, eff. July 1, 2012.)

Rule 1434.4

Trial (contested): $350.00 per diem. (Eff. July 1, 1998)

Rule 1434.5

Counsel who has obtained an order for fees will be deemed to have waived any objection to going to trial before the payment of said fees unless he makes objections to the Presiding Judge at least five days before the date set for trial. (Former Rule 1114, et seq., eff. May 27, 1982. Renumbered as Rule 1434 et seq., eff. July 1, 1998; amended, eff. July 1, 2000)

RULE 1440 REVIEW COMMITTEE

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

RULE 1441 APPOINTED DEFENSE FEES

In each criminal case in which a person has been furnished appointed defense services, upon appointment of such defense service, the person shall be required to complete and submit to the Court a financial evaluation form upon presentation by the Court. Upon conclusion of the proceedings in criminal matters, the Court shall make a determination of the actual costs of providing such services per Penal Code §987.8. The appointed service provider shall be prepared at that time to submit itemized information as to the time they have devoted to the case.

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

RULE 1442 REIMBURSEMENT ORDER

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

RULE 1443 COLLECTION

The Court, in its discretion, may delegate to County Central Collections the authority to collect such reimbursement and to establish and modify arrangements for installment payments. (Former Rule 1150, eff. May 27, 1982. Renumbered as Rule 1480, eff. July 1, 1998. Amended eff July 1, 2000. Renumbered as Rule 1443, and amended, eff. January 1, 2005.)

RULE 1451 APPOINTMENTS OF INVESTIGATORS OR OTHERS

1451.1 All requests for Court-appointment of investigators, experts, or others at government expense shall comply with Rule 1441 regarding appointed defense fees. Prior express written approval of the Court is required for all investigator, ~~and~~ expert or other services pursuant to Local Rules 1451.2 and 1451.3. Costs of services performed and expenses incurred prior to the order of the Court, and costs not included in the Court Order, will be denied. The Court's Appointed Services Fee Schedule rates are the maximum rates allowed for experts unless the express written approval of the Court for an extraordinary billing rate is obtained in advance of the expert's services pursuant to Local Rule 1460.7. Copies of the Court's Appointed Services Fee Schedule may be obtained on the Court's website www.sb-court.org or from the Court Executive Office.

1451.2 Applications for ancillary defense funding under Penal Code § 987.2 must comply with the Court's ~~*Procedures for Administration of 987.2 Penal Code Applications*~~ *Penal Code § 987.2 Rules and Procedures* and Local Rules for appointed services. The Superior Court of California, County of San Bernardino shall have designated primary and alternate judges ("PC § 987.2 Judges") for each Court Region (West Valley, East Valley, Desert) to monitor and authorize fees for ancillary defense funding at government expense under the provisions of Penal Code § 987.2 for non-capital cases. Appointed ancillary defense services and expenditures shall be authorized at the discretion of and subject to approval by the Court's designated PC § 987.2 Judges.

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

1451.3 Applications for ancillary defense funding for capital and death penalty–eligible Penal Code § 190.2 special circumstances cases under Penal Code § 987.9 must comply with the Court's *Procedures for Administration of 987.9 Penal Code Applications*. The Superior Court of California, County of San Bernardino shall have two designated judges ("PC § 987.9 Judges") to monitor and authorize fees for ancillary defense funding at government expense pursuant to Penal Code § 987.9.

Services rendered by investigators, experts and others under appointment by the Court's designated PC § 987.9 Judge (other than appointed psychiatric/psychological evaluation services appointed pursuant to Local Rule 1460.4) must comply with the Local Rules and the Court's ~~*Procedures for Administration of 987.2 Penal Code Applications*~~ *Penal Code § 987.2 Rules and Procedures*. Appointed ancillary defense services and expenditures shall be authorized and approved at the discretion of the Court's designated PC§987.9 Judges.

1451.4 Paralegal services must be performed under the direction and supervision of an active member of the State Bar of California consistent with the Business and Professions Code § 6450, et seq. The Court strongly discourages appointed paralegals from attending court proceedings. Appointments of paralegals shall generally be limited to capital cases. Paralegal service appointment order requests must specify the services to be performed by the paralegal under appointment, and must specify why the services cannot be performed by the attorney or attorney office staff.

1451.5 Mitigation specialists for death penalty cases, when appointed by order of the Court pursuant to Penal Code § 987.9 and Rule 1451.3, should be limited to gathering of information specifically related to mitigation defense and coordinating the various aspects of investigators, experts and witnesses for the penalty (mitigation) phase, and to activities which would not normally be performed by an investigator or paralegal appointed for the case pursuant to ~~this~~ Rule 1451.

1451.6 The provisions of Rule 1451 and its sub-parts shall apply to all cases filed under Sections 601 and 602 of the Welfare and Institutions Code, except: (1) Motions shall be presented to the Presiding Judge of the Juvenile Court, or to such other judicial officers sitting in Juvenile Court as the Presiding Judge shall designate; and, (2) All references to defendants shall be deemed to refer to minors.

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

1, 2010, ~~and~~ July 1, 2011~~. As amended, eff.~~ and July 1, 2012. As amended, eff. January 1, 2013.)

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

RULE 1460 APPOINTED SERVICES OF INVESTIGATORS, ~~LEGAL RUNNER AND~~ EXPERT, ~~FEES~~ AND OTHERS

Rule 1460.1 Claims for Payment

Services rendered by investigators, experts and others under appointment by the Court's designated PC§987.2 Judge or PC§987.9 Judge (other than appointed psychiatric/psychological evaluation services appointed pursuant to Local Rule 1460.4) must comply with the rules and guidelines for appointed ancillary defense services specified in the Court's ~~*Procedures for Administration of 987.2 Penal Code Applications*~~ *Penal Code § 987.2 Rules and Procedures*. (Criminal Rules, Rule 1460.1, eff. July 1, 1998, and former Appendix III, Rule 1460, eff. July 1,1998; renumbered as Criminal Rule 1460.1 and amended, eff. July 1, 2000. Amended, July 1,2001, January 1, 2004, July 1, 2006, ~~and~~ July 1, 2010~~. As amended, eff.~~ and July 1, 2012. As amended, eff. January 1, 2013.)

Rule 1460.2 Investigators, Experts and Others

Investigators, experts and others appointed by the Court may not charge fees for their services in excess of the rates and limits set forth in the Appointed Services Fee Schedule, available on the Court's website www.sb-court.org and from the Court Executive Office, except as provided by Rule 1460.7.

(Former Appendix III, Rule 1460, eff. July 1, 1998. Renumbered as Criminal Rules, Rule 1460.2 and amended, eff. July 1, 2000. Amended January 1, 2002; July 1, 2002; January 1, 2004; July 1,
2005; July 1, 2006, January 1, 2009, July 1, 2010 and July 1, 2011. As amended, eff. July 1, 2012.)

Rule 1460.3 Expert Fee Schedules

Experts other than M.D.'s and Ph.D.'s or the equivalent will be compensated at the rates and according to the limits set forth in the Appointed Services Fee Schedule, available on the Court's website www.sb-court.org and from the Court Executive Office, except as provided by Rule 1460.7 ~~and authorized by the Court's designated PC987.2 Judge~~.

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

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

Rule 1460.4 Appointed Psychiatric/Psychological Evaluation Services

All claims for appointed standard psychiatric/psychological evaluation services shall be submitted in a timely manner. Claims shall be submitted on court forms to the Court District where the case was heard within 60 days of completion of the services rendered. Any claim submitted more than 60 days after completion of services on case will be subject to a penalty of ten percent (10%) of the claim amount per month, up to a maximum of twenty percent (20%), absent extenuating circumstances. The billing must be submitted on the proper court form (Form 12-21283-356 for PC 1368/1369, W&I 3050/3051, and PC 288.1 evaluations; Form 13-17711-360 for PC 1026 and
EC 1017 evaluations), and shall include all services provided that have not been previously presented or paid. A copy of the ~~psychological/Psychiatric~~ psychiatric/psychological Court order of appointment must accompany all claims for appointed evaluation services. Billings for EC § 1017 defense requested confidential exam and reports must be signed by defense counsel in the space provided prior to submittal to the Court.
(Eff. July 1, 2000. Amended, July 1, 2006, July 1, 2010, ~~and~~ July 1, 2011 and ~~As amended, eff.~~ July 1, 2012. As amended, eff. January 1, 2013.)

Rule 1460.5 Appointed Psychiatric/Psychological Evaluation Service Fee Schedules

Psychiatrists and Psychologists appointed by the Court may not charge fees for their services in excess of the rates set forth in the Appointed Services Fee Schedule, available on the Court's website www.sb-court.org and from the Court Executive Office, except as provided by Rule 1460.7 ~~and authorized by the Court's designated PC§987.2 Judge~~. Juvenile Court appointed

psychiatric/psychological services will be paid at the San Bernardino County Probation Department's approved rates.
(Former Appendix III, Rule 1460, eff. July 1, 1998. Renumbered as Criminal Rule 1460.5, and amended, eff. July 1, 2000. Amended, January 1, 2004, July 1, 2004, January 1, 2005, July 1, 2006, ~~and~~ July 1, 2011 and July 1, 2012. As amended, eff. ~~July 1, 2012~~ January 1, 2013.)

~~Rule 1460.6 Prior Approval~~
~~Prior express written approval of the Court is required for all investigator and expert services. Costs of services performed prior to the order of the Court, and costs beyond that provided for in the Court Order, will be denied.~~
(Former Rule 1460.2, eff. July 1, 1998. Renumbered as Rule 1460.6 and amended, eff. July 1, 2000. Amended, July 1, 2001 July 1, 2006, July 1, 2010 ~~and~~ , July 1, 2011~~. As amended, eff.~~ and July 1, 2012. Deleted, eff. January 1, 2013.)

Rule 1460.7 Extraordinary Expert Fees

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

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

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

(Former Rule 1324, eff. July 1, 1998. Renumbered as Rule 1460.8, and amended, eff. July 1, 2000. Amended, eff. July 1, 2010. Deleted and renumbered as Rule 1451.3, eff. July 1, 2012.)

Rule 1460.8 Subpoena and Testimony
Expert testimony and expenses related to testimony in criminal proceedings are the responsibility of the subpoenaing or requesting party (prosecution or defense) unless the expense is the responsibility of the Court or County under applicable California Code. A copy of the subpoena to the expert must accompany a claim for expert testimony.

~~1460.9(a)~~ 1460.8(a) Penal Code § 1368/1369 testimony expenses in competency proceedings for experts that prepared the court-ordered competency evaluation reports for the court will be paid by the Superior Court. If the prosecution or defense chooses to call their own expert to testify at

a competency proceeding, the Superior Court is not required to pay those expenses. If the prosecution or defense chooses to call an expert that prepared the court-ordered competency evaluation at a different proceeding, such as the trial on the underlying charges, the Superior Court is not required to pay those expenses.
~~1460.9(b)~~ 1460.8(b) Penal Code § 288.1 testimony expenses in lewd acts proceedings for experts that prepared the court-ordered evaluation reports for the court will be paid by the Superior Court. If the prosecution or defense chooses to call their own expert to testify at a lewd act proceeding, the Superior Court is not required to pay those expenses. If the prosecution or defense chooses to call an expert that prepared the court-ordered lewd act evaluation at a different proceeding, such as the trial on the underlying charges, the Superior Court is not required to pay those expenses.

~~1460.9(c)~~ 1460.8(c) Welfare & Institutions § 3051 testimony expenses in narcotics addiction hearings for experts that prepared the court-ordered evaluation report for the court will be paid by the Superior Court if the testimony occurs as part of a jury trial on the issue at the request of the defendant.

~~1460.9(d)~~ 1460.8(d) Penal Code § 1026 testimony expenses related to not-guilty-by-reason-of-insanity hearings are not the responsibility of the Superior Court.

(Eff. January 1, 2003. Amended, January 1, 2004; January 1, 2005; July 1, 2006, January 1, 2007 ~~and~~ , July 1, 2010~~. As amended, eff.~~ and July 1, 2012. As amended, eff. January 1, 2013.)

RULE 1490

Rules 1430-1480 are not intended to apply to procedures under Section 372 of the Code of Civil Procedure and Section 1431 of the Probate Code. (Former Rule 1160, eff. May 27, 1982. Renumbered as Rule 1490, eff. July 1, 1998.)

CHAPTER 15
FAMILY LAW RULES

RULE 1510 CHANGE OF CHILD CUSTODY RECOMMENDING COUNSELOR

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

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

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

RULE 1511 CHILD CUSTODY RECOMMENDING COUNSELING

Rule 1511.1 Child Custody Recommending Counseling Procedures

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

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

Rule 1511.2 Ex Parte Communication

If both parties are represented by attorneys and the attorneys want to confer with the child custody recommending counselor prior to the child custody recommending counseling conference, they may schedule a meeting at a time that is agreeable to the child custody recommending counselor. The child custody recommending counselor will not meet with one attorney unless the opposing attorney is present in person or by telephone. If one attorney refuses or is unwilling to meet with the child custody recommending counselor, the other attorney may meet with the child custody recommending counselor only by court order.

The mediator child custody recommending counselor may have ex parte contact with either attorney or party at any time during the mediation child custody recommending counseling and/or while preparing the recommendation for the limited purpose of obtaining necessary information. Neither party nor attorney may contact the mediator child custody recommending counselor, except upon request of the mediator child custody recommending counselor, unless the other party or attorney is present in person or by phone. (Former Family Law Rule 1510.2, eff. January 1, 2003. Renumbered as Family Law Rule 1511.2, eff. July 1, 2003. As amended, eff. July 1, 2011.)

RULE 1512 EVALUATION PROCESS

Rule 1512.1 Qualifications and requirements

All evaluators shall meet the minimum qualifications, training, continuing education and experience requirements pursuant to the California Rules of Court, Rule 5.220(g), and adhere to all other requirements of Rule 5.220. (Eff. July 1, 2003.)

Rule 1512.2 Ex parte communication

If both parties are represented by attorneys and the attorneys want to confer with the evaluator, they may schedule a meeting at a time that is agreeable to the evaluator. The evaluator will not meet with one attorney unless the opposing attorney is present in person or by telephone. If one attorney refuses or is unwilling to meet with the evaluator, the other attorney may meet with the evaluator only by court order.

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

Rule 1512.3 Payment

The Court will order payment of the evaluation at the time of the appointment. The evaluator may not withhold a report because of the parties' failure to pay. The evaluator may bring the issue of a parties' failure to pay to the Court. (Eff. July 1, 2003.)

Rule 1512.4 Compliance with Rules of Court

All evaluations shall include those requirements set forth in California Rules of Court, Rule 5.220(e). (Eff. July 1, 2003.)

Rule 1512.5 List of Evaluators

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

Rule 1512.6 Complaint procedures

If a written complaint about a court-appointed evaluator is received by the hearing bench officer and/or Family Court Services, or the bench officer has a complaint, the matter will be

referred to the Supervising Family Law bench officer who will then investigate the merit of the complaint and determine if further action should be taken. (Eff. January 1, 2007.)

RULE 1513 GUIDELINES FOR APPOINTMENT OF COUNSEL FOR MINORS

1513(a) Request for appointment of counsel

In any family law or other proceeding where two or more persons are disputing the division of time with (physical custody) or responsibility for (legal custody) of a minor child or the court determines that the appointment is justified by the facts of the specific case, the court should consider the appointment of an attorney to represent the best interests of the child if requested to do so by either party, the attorney for either party, a mediator performing the duties under Family Code section 3170 et seq., a professional person making a custody recommendation under Family Code sections 3110 et seq., a court appointed guardian ad litem or special advocate, the child, or any relative of the child; or the court may appoint counsel on its own motion.

1513(b) Guidelines for appointment

In considering the appointment of counsel for the child, the court should take into account the following factors:

(1) whether the dispute over custody is intense or protracted or the parties are so embroiled in the dispute that the needs of the child are being neglected;

(2) whether the child is subjected to stress on account of the dispute that might be alleviated by the intervention of counsel representing the child;

(3) whether an attorney representing the child would be likely to provide the court with significant information not otherwise readily available or likely to be presented;

(4) whether the dispute involves allegations that a parent, a stepparent or other person with the parent's knowledge has physically, mentally or sexually abused the child;

(5) whether it appears that neither parent is capable of providing a stable and secure environment for the child;

(6) whether the child is capable of verbally expressing his or her views;

(7) whether attorneys are available for appointment who are sensitive to the needs of children and the issues raised in representing them;

(8) whether the parties disagree regarding the medical treatment for the child and the child's health is at risk;

(9) whether there is an issue whether to waive a privilege on behalf of the child; and

(10) whether the best interests of the child appear to require special representation.

1513(c) Contents of order for appointment of counsel

If counsel is appointed to represent a child pursuant to subdivision (b), the order for appointment of counsel may specify the following:

(1) the issues regarding which the child's representation is ordered;

(2) any tasks expected to be performed by the child's counsel to benefit the child;

(3) the duration of the appointment which may be extended upon a showing of good cause; and

(4) the source of funds and manner of reimbursement for costs and attorney fees.

1513(d) Two or more children

If there are two or more children, the court should consider whether there may be a conflict between the children such that one attorney can adequately represent them all. (Eff., July 1, 2003.)

RULE 1513.1 COMPLAINT PROCEDURE REGARDING APPOINTED COUNSEL FOR MINORS

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

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

Any appeal of the decision must be made in writing to the Presiding Judge of the San Bernardino Superior Court within 10 days. The appealing party will be informed of the determination of the Presiding Judge. (Eff. January 1, 2010.)

RULE 1514 GUIDELINES FOR DETERMINING PAYMENT OF APPOINTED COUNSEL FOR MINORS

1514(a) General guidelines

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

1514(b) Determination of ability to pay

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

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

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

Rule 1514(c) Payment of appointed counsel

If the court finds the parties are unable to pay all or a portion of the costs of appointed counsel pursuant to Family Code, section 3153, it shall order the county to pay the portion the parties are unable to pay. The order may provide for progress or installment payments. (Eff., July 1, 2003.)

RULE 1515 EX PARTE PROCEDURE

Rule 1515.1 Ex Parte Notice

~~For all ex parte applications, except Domestic Violence matters and discovery proceedings, the party seeking an ex parte order shall notify opposing counsel or a party, if not represented, no later than 12:00 P.M. on the court day immediately preceding the day of the ex parte appearance.~~ For Domestic Violence matters, four-hour notice shall be given to opposing counsel or a party, if not represented, unless the court approves a waiver of notice on good cause, which cause is set forth by clearly articulated facts in a supporting declaration. ~~Notice of ex parte discovery shall be given to opposing counsel or to a party, if not represented, not later than the time provided for in California Rules of Court, Rule 3.1203~~ (Former Family Law Rule 1511.1, eff. July 1, 2000. Renumbered as Family Law Rule 1515.1, eff. July 1, 2003. Amended, eff. July 1, 2009. As amended, eff. January 1, 2013.)

RULE 1516 FAMILY LAW COURT PRIORITY OF PROTECTIVE ORDERS AND MODIFICATION

In hearing any case involving any issue of domestic violence, child custody or visitation, the judicial officer shall make a reasonable inquiry about the existence of any criminal court protective orders involving the parties to the action currently before the Court. The priority of restraining and protective orders regarding domestic violence, child custody or visitation or modification thereof must comply with Local Rule 1311. (Eff., July 1, 2003. As amended, eff. January 1, 2008.)

RULE 1517 CASE MANAGEMENT

Rule 1517(a) Filing and Hearing Locations for Family Law Cases

Unless the Presiding Judge shall order otherwise, all family law actions or proceedings shall be filed and tried in the District in which they arose. Districts are defined pursuant to Local Rule 130.

For the purposes of this rule, an action or proceedings arises in the District in which the petitioner and/or the respondent reside or, in paternity cases, where the child resides provided, however:

> The San Bernardino District shall also hear, and have filed there, family law actions and proceedings arising in the Fontana, Twin Peaks, or Redlands Districts.
>
> The Rancho Cucamonga District shall also hear, and have filed there, family law actions and proceedings arising in Chino District.

Rule 1517(b) *Marvin* Actions

Any family law related action not specifically authorized by the Family Law Act, (e.g., *Marvin* complaints), must initially be filed as a separate proceeding in the Family Law Division. Upon the court's own motion, or if a timely request for a jury trial is made and granted, the assigned judicial officer shall consult with the supervising judge to determine whether the matter will remain in the Family Law Division for trial.

Rule 1517(c) Case Assignment

New cases are randomly assigned to a judicial officer for all purposes. All appearances in the case must be made before the assigned judicial officer, unless otherwise ordered. Should a judicial officer's caseload be reassigned, notice of this reassignment will be posted at the courthouse.

Rule 1517(d) Alternate Dispute Resolution

The Court encourages alternate dispute resolution of family law matters. The Court can assist the parties in arranging mediation, private arbitration or other alternate dispute resolution processes. (Effective July 1, 2004.)

RULE 1518 STATUS CONFERENCE PROCEEDINGS

It is the intent of the Superior Court of San Bernardino County to manage Family Law cases in order to focus on early resolution of cases through settlement, expedite the processing of cases, and to reduce the costs of litigation.

At the first hearing calendared by a party after the response to Petition is filed, the Court may hold a status conference. At the status conference, the Court may review the progress of the case, identify unresolved issues, develop discovery plans and discuss the possibility of settlement.

At the status conference, the parties shall inform the Court of the following matters:

> (1) attendance of both parties at Family Court Services Mediation and Orientation

(2) completion and service by both parties of a complete Preliminary Declaration of Disclosure;

(3) filing with the Court of a Declaration Regarding Service of Declaration of Disclosure and Income and Expense Declaration;

(4) readiness of the parties to participate in mediation;

(5) appropriateness of referral to arbitration;

(6) willingness of the parties, to limit, schedule or expedite discovery and willingness without waiting for a discovery request, to provide to the opposing side, with the name and, if known, the address and telephone number of each individual likely to have discoverable information that supports the party's disclosures and a copy of, or a description by category and location of, all documents, data compilations, and tangible things that are in the possession, custody or control of the party and that supports the party's disclosures;

(7) appropriateness of implementation of case management pursuant to Family Code section 2451; and

(8) willingness to stipulate to the appointment of Court experts, and to allocate the expense for the appointment, or to schedule a hearing for the appointment of Court experts and the allocation of the expenses for the experts.

At any status conference, the Court may:

(1) schedule disclosure of expert witnesses, by stipulation upon agreement;

(2) require filing of stipulations, if issues can be narrowed;

(3) set dates for further status conference, as needed but no later than every six months;

(4) set dates for other court-ordered events that are to take place before the next status conference;

(5) set the date for trial and/or settlement conferences; and

(6) take such other action, as permitted by law, which could tend to promote the just and efficient disposition of the case.

Appearance at any status conference by counsel and any self-represented party, either in person or by telephone (if approved in advance by the Court) is mandatory. Failure to appear may result in the setting of an Order to Show Cause why sanctions should not be imposed. No

appearance is required if excused by the Court, or if a judgment has been filed, or if the case has been dismissed. (Amended, eff. July 1, 2008.)

Rule 1518(c) Case Management Conference Statement

A Case Management Conference Statement may be filed in family law cases using the form set forth hereinafter. A Supplemental Case Management Conference Statement should be filed in connection with all subsequent Case Management Conference hearings. (Eff. July 1, 2004. As amended, eff. July 1, 2008.)

RULE 1519 MANDATORY SETTLEMENT CONFERENCE

Rule 1519(a) Mandatory Settlement Conference Continuances and Attendance

The Mandatory Settlement Conference shall take place on the dates set by the Court. Because of the time settlement judges spend reading the briefs and preparing for the conference, there shall be no continuances granted on the day of the Mandatory Settlement Conference.

Absent a court order allowing a party to appear telephonically, parties and their counsel of record must personally attend the Mandatory Settlement Conference. Failure to comply may result in monetary sanctions. (Effective July 1, 2004. Amended, July 1, 2007. Renumbered and amended, eff., July 1, 2008.)

Rule 1519(b) Preparation for Mandatory Settlement Conference

Counsel or the parties to the action if they are not represented by counsel shall serve their Final Declarations re Disclosure in compliance with Family Code, section 2105, at least 45 days prior to the first date set for trial and file copies thereof with the Court at least five (5) court days before the date of the Mandatory Settlement Conference.

Counsel or the parties to the action if they are not represented by counsel shall meet and confer either in person or by phone at least ten (10) court days before the day of the MSC to resolve as many issues as possible and to specify those matters to be litigated. Results of the conference shall be included in the settlement brief. Failure to comply with these requirements shall subject offending counsel to monetary sanctions pursuant to Code of Civil Procedure, section 575.2.

No less than five (5) court days before the settlement conference, each party shall have served and lodged a settlement statement or brief with the clerk of the department where the settlement conference will be held. In lieu of individual settlement statements or briefs, the parties may serve and lodge a joint settlement statement or brief. All briefs must contain:

(1) Names of all parties and their respective counsel;

(2) Statement of procedural posture of case, (i.e., motions heard to date, discovery completed and/or scheduled with dates for completion provided);

(3) Copies of all prior Orders and Judgments;

(4) Statement of Facts;

(5) Statement of Issues to be Determined, including a brief, specific statement as that party's proposal on each issue and the reasons therefore;

(6) Statement Regarding Status of Settlement Discussions including results of meet and confer meeting and statement of last offer made;

(7) Current Income and Expense Declaration; and

(8) Time estimate for trial; and

(9) A brief statement as to the identity of witnesses and the substance of their anticipated testimony.

(Effective July 1, 2004. Amended July 1, 2007. Renumbered and amended, eff. July 1, 2008.)

RULE 1520 SETTING OF CONTESTED TRIALS

Either party may request the Court to set contested issues for trial by filing an At-Issue Memorandum, San Bernardino Local Form No. 12-858-356. At the discretion of the Court, the matter may first be set for a trial setting conference. The parties or their counsel shall be notified by mail of the date and time of the trial or the trial setting conference.

In the event that the case settles, both parties shall immediately notify the trial court, so that the trial date may be vacated. (Eff. July 1, 2008.)

RULE 1521 STATEMENT OF POLICY RE CONTINUANCES OF ANY MATTER

In order to effect and preserve the maximum efficiency of the Court in reducing congestion and delay in the trial of family law cases, the Court will enforce a strict policy of requiring Case Management Conferences, Mandatory Settlement Conferences and trials to proceed as calendared.

Any request for a continuance must be made in the form of a noticed motion with supporting declarations. Motions for the continuance of the Case Management Conference or trial shall be made to the Assigned Judge. Motions for the continuance of the Mandatory Settlement Conference shall be made to the Judge to whom the Mandatory Settlement Conference has been assigned.

Continuances applied for in any other manner will be denied, except in emergencies. No stipulation for a continuance shall be accepted without the express approval of the consent of the court.

The Court may grant a continuance of a Case Management Conference for a period of no more than 30 days. The Court shall grant no more than two (2) continuances of the Case Management Conference in any family law case, except for good cause as determined in Local Rule 418.

The Court shall not grant any continuances of Case Management Conferences, Mandatory Settlement Conferences, trial assignments and trials absent an affirmative showing of good cause. Good cause shall be determined as set forth in Local Rule 418. In addition to a showing of good cause, a request for continuance of the Mandatory Settlement Conference shall be granted only if the continuance would not delay the trial of the action nor disrupt the calendar of the Judge to whom the settlement conference has been assigned. (Effective July 1, 2004.)

CHAPTER 16
JUVENILE RULES

RULE 1610 SANCTIONS

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

RULE 1620 TIME FOR FILING REPORTS IN JUVENILE PROCEEDINGS

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

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

RULE 1630 CALENDAR CALL

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

RULE 1640 CONTINUANCES

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

Rule 1640.1 Written motion for continuance

A motion for continuance shall be in writing and shall be accompanied by a supporting affidavit or declaration. The moving party shall file and serve notice of the motion and all supporting documents upon each party at least 2 Court days prior to the hearing date. The supporting affidavit or declaration shall detail specific facts showing that good cause exists to grant a continuance. (See Welfare & Institution Code, §§ 352, 682; Cal. Rules of Court, rules 1362, 1412, 1422, 1447. Eff. July 1, 1998)

Rule 1640.2 Oral motion for continuance

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

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

RULE 1650 MOTIONS

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

Rule 1650.1 Notice

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

Rule 1650.2 Response

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

Rule 1650.3 Reply

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

Rule 1650.4 Motion under § 700.1

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

(a) describe with specificity the item, statement, or other evidence sought to be suppressed;

(b) state with specificity the theory of law and factual basis underlying the theory which support the motion;

(c) cite the specific legal authority which supports the motion; and

(d) indicate whether sworn testimony is to be relied upon at the hearing.

Failure to specify the evidence to be suppressed, theory of law, factual basis, or legal authority in support of such motion shall be considered a failure to raise a contested issue and shall preclude litigation of such issue unless and until properly placed in issue by compliance with this rule. (Eff. July 1, 1998)

RULE 1660 ORDER SHORTENING TIME

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

RULE 1670 PRETRIAL SETTLEMENT CONFERENCES IN DEPENDENCY MATTERS

Before any attorney (or party in pro per) may set a dependency hearing for contest, a Pretrial Settlement Conference shall be calendared for the purpose of attempting to resolve or narrow the disputed issues. Counsel shall agree to a date and a time for the Pretrial Settlement Conference which does not conflict with any other scheduled appointments or calendared Court appearances. Counsel and all parties shall be ordered to appear at the date and the time set for the conference; provided, however, that an attorney may waive his or her client's presence if the attorney has been given sufficient authority to act on the client's behalf at the conference.

At the appointed date and time, counsel shall meet and confer outside the Courtroom. Counsel shall advise their clients of any proposed settlement and shall not return to the Courtroom until either a written settlement agreement has been negotiated or at-issue memoranda for a contested hearing have been drafted. The written settlement agreement or the at-issue memoranda shall be submitted to the Court immediately after the conclusion of the negotiations. (Former Rule 2570, renumbered as Rule 1670, eff. July 1, 1998.)

Rule 1670.1 Pretrial At-Issue Memorandum

If a settlement cannot be reached at the Pretrial Settlement Conference, the attorney intending to set a contested hearing must complete a Pretrial At-Issue Memorandum. All other attorneys must complete a Counter Pretrial At-Issue Memorandum. A Pretrial At-Issue Memorandum and a Counter Pretrial At-Issue Memorandum shall contain the following information:

(a) the nature of the hearing being set for contest;
(b) the specific facts which are disputed;
(c) the specific material facts which are not disputed;
(d) the specific points of law which are disputed;
(e) the specific nature of the relief sought;
(f) a list of all witnesses likely to be called at trial;
(g) a brief statement describing the substance of the testimony each listed witness is expected to provide;
(h) a list of exhibits expected to be offered at trial, with a description of the relevance of each exhibit;
(i) any factual and/or legal issue to which all parties will stipulate;

(j) a statement of whether discovery has been completed;
(k) if discovery has not been completed, a list of the items sought and the reason each item has not yet been obtained; and
(l) a time estimate for the contested hearing. (Eff. July 1, 1998)

Rule 1670.2 Court Procedure

Each Courtroom shall schedule and adhere to a specified time when it will briefly recess its regular calendar in order to handle matters which have been scheduled for Pretrial Settlement Conferences that day. During the recess, the judicial officer shall review any written settlement agreement reached as a result of a Pretrial Settlement Conference and shall make appropriate findings and orders. Where a Pretrial Settlement Conference has not resolved matters, the judicial officer shall review the Pretrial At-Issue Memorandum and all Counter Pretrial At-Issue Memoranda submitted. The Court shall prepare an Order re Pretrial At-Issue Memorandum and shall then set the case for a contested hearing. (Eff. July 1, 1998)

Rule 1670.3 Order re: Pretrial At-Issue Memorandum

The Order re Pretrial At-Issue Memorandum shall identify the following:

(a) any facts admitted and which will require no proof at trial;
(b) the issues of fact which will be litigated at trial;
(c) the issues of law which will be litigated at trial;
(d) any witness or exhibit the Court has deleted from the witness and exhibit lists provided by the parties;
(e) all declarations which have been lodged with the Court clerk upon stipulation of the parties;
(f) the time estimate for the trial; and
(g) the date the matter is set for trial. (Eff. July 1, 1998)

Rule 1670.4 Modification of Order re: Pretrial At-Issue Memorandum

Any change to the Order re Pretrial At-Issue Memorandum shall be accomplished only if the party seeking the change files and serves an Amended Pretrial At-Issue Memorandum or an Amended Counter Pretrial At-Issue Memorandum no later than five Court days before the date set for trial. If necessary, any opposing party may respond by filing and serving its own amended memorandum no later than one Court day before the date set for trial. The Court shall review the amended memoranda prior to the commencement of the contested hearing and shall modify its Order re Pretrial At-Issue Memorandum only to prevent manifest injustice. (Eff. July 1, 1998)

Rule 1670.5 Continuances

No continuance of the Pretrial Settlement Conference shall be granted based on the failure of a party to appear. (Eff. July 1, 1998)

Rule 1670.6 Requirement of jurisdictional/dispositional report

When a Pretrial Settlement Conference is calendared at a detention or arraignment hearing, the Court shall order the Department of Public Social Services to prepare a jurisdictional/dispositional report for use by counsel and parties at the Pretrial Settlement Conference. The report shall be submitted to the Courtroom where the case is pending no later

than one Court day prior to the Pretrial Settlement Conference. The Department of Public Social

Services may submit only a jurisdictional report if leave of Court is obtained prior to the Pretrial Settlement Conference. (Eff. July 1, 1998)

Rule 1670.7 Pretrial Settlement Conference prior to contested § 366.26 hearing

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

RULE 1680 PRETRIAL DISCOVERY IN PROCEEDINGS UNDER SECTION 600 ET SEQ

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

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

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

RULE 1689 JUVENILE COURT PRIORITY OF PROTECTIVE ORDERS AND MODIFICATION

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

RULE 1690 RELEASE OF INFORMATION RELATING TO JUVENILES

All requests for release of information relating to juveniles shall describe with specificity the materials sought and shall describe with specificity the purpose for which such material is to be used. Failure to comply with this rule shall result in the request being denied. (See Welfare & Institution Code, § 827; Cal. Rules of Court, Rule 1423; Judicial Council form JV-570.) (Eff. July 1, 1998.)

Rule 1690.1 Objection to request for release of information

Any objection to a request for release of information shall be filed with the Court and served on both the petitioning party and all persons specified in California Rules of Court, rule 1423(d). The objection shall be filed and served no later than ten (10) calendar days after the date the Court clerk gives notice of the request. The objection shall set forth with specificity the grounds for opposing the request and the legal authority upon which the objection is made. (Eff. July 1, 1998.)

Rule 1690.2 Review by Court

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

RULE 1691 CLIENT COMPLAINTS IN DEPENDENCY MATTERS

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

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

Effective July 1, 1996, only attorneys who meet the minimum standards of competency set forth in Rules 1692.4 through 1692.6, infra, shall represent parties in juvenile matters. Attorneys who believe they meet these minimum standards shall submit to the juvenile Court a Certification of Competency. This rule shall not apply to privately retained counsel.

Attorneys who meet the minimum standards of competency as demonstrated by the information contained in the Certification of Competency shall be deemed competent to represent parties in juvenile matters; provided, however, that the juvenile Court may determine an attorney is not competent based on the performance of the attorney in a juvenile case within the six-month period prior to the attorney's submission of the certification. In the event the juvenile Court determines an attorney is not competent, the Court shall give notice of its decision to the attorney and provide the attorney an opportunity for hearing on that issue. (Eff. July 1, 1998.)

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

If an attorney has a matter pending before the juvenile Court on the effective date of this rule, the attorney shall complete and submit to the Court an initial Certification of Competency on or before July 31, 1996.

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

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

Any attorney who appears before the Court in a juvenile case pending on the effective date of this rule and who does not meet the minimum standards of competency shall notify the Court. The attorney shall then have until October 31, 1996 to complete and submit a Certification of Competency demonstrating that the attorney meets the minimum standards. The Court shall order that certified counsel be substituted for any attorney who fails to comply with this rule. (Eff. July 1, 1998.)

Rule 1692.3 Attorneys certified in other counties

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

Rule 1692.4 Minimum standards of competency

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

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

(b) Participated in at least eight hours of training or education in juvenile law. The training or education must have addressed Juvenile case law and statutes, the Rules of Court, Judicial Council forms, motions, trial techniques and skills, and writs and appeals. If the attorney seeks certification to represent parties in juvenile dependency matters, the training or education must also have addressed child development, child abuse and neglect, family reunification and preservation, and reasonable efforts. (Eff. July 1, 1998.)

Rule 1692.5 Recertification every three years

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

Rule 1692.6 Training and/or education required for recertification

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

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

Rule 1692.7 Decertification

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

Rule 1692.8 Maximum Caseload

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

RULE 1693 CHILD ADVOCACY PROGRAM: COURT APPOINTED SPECIAL ADVOCATE/GUARDIAN AD LITEM

The Child Advocates of San Bernardino County (CASBC) is the sole local agency, which has been approved and designated by the Presiding Judge of the San Bernardino County Superior and Juvenile Courts to serve as the Court Appointed Special Advocate/Guardian ad Litem (CASA/GAL) program. The CASBC agency is contracted by the San Bernardino County Superior Court to recruit, screen, select, train, supervise and support lay volunteers to be appointed by the Court to help define the best interests of children in juvenile Court dependency and delinquency proceedings, including guardianships, actions to terminate parental rights, and adoption. The program offers the opportunity to enhance the decision-making process in juvenile Court through the development of significant and appropriate community volunteer advocacy relationships with children. (See Welfare & Institution Code, §§ 100, 356.5, 358; Cal. Rules of Court, Rule 1424.) (Eff. July 1, 1998. As amended, eff. January 1, 2007.)

Rule 1693.1 Duties of CASA/GAL volunteers

CASA/GAL volunteers serve as officers of the Court and are subject to all Court rules. Their duties and responsibilities are outlined in the policies and procedures approved by the CASBC Board of Directors and by the Superior Court contract agreement. The volunteers are under the direct guidance and supervision of the CASBC agency staff and are required to comply with the approved policies and procedures. (See Welfare & Institution Code, §§ 100-109; Cal. Rules of Court, Rule 1424. Eff. July 1, 1998. As amended, eff. January 1, 2007.)

Rule 1693.2 Appeals/grievance procedure for CASA/GAL volunteers

All CASA/GAL volunteers are appointed by and serve at the pleasure of the Court. The appointment is a privilege and not a right.

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

Rule 1693.3 Referral of case to CASA/GAL program; appointment of CASA/GAL volunteer

A child's juvenile Court case may be referred to the CASBC CASA/GAL program for evaluation and consideration for acceptance into the program. Upon acceptance of the case by the agency and acceptance by an available CASA/GAL volunteer, an application for appointment, along with a signed CASA/GAL consent to serve, shall be submitted to the Court by the CASBC Executive Director. The application shall request appointment of the identified CASA/GAL volunteer. Appointment may occur anytime at or after detention and shall follow the state approved guidelines for early assignment.

Criteria for referral and appointment include, but are not limited to, the following:

(a) the child is traumatized and has little or no support network of friends and extended family;

(b) the child and the family have multiple or complex service needs and coordination of services is required;

(c) the child has suffered severe physical, sexual or emotional abuse;

(d) the child has special educational, developmental, medical, mental health or other needs, particularly if there are conflicting opinions as to the assessment of or treatment for the child;

(e) the child's case involves numerous issues and interested parties;

(f) the child has experienced multiple placements;

(g) the child's parents have had multiple interventions and have consistently failed to show
progress toward or interest in fulfilling treatment plans and goals for family reunification;

(h) the child's family might be assisted by a CASA/GAL in the preservation of the family
unit or the CASA/GAL might expedite family reunification or adoption;

(i) a delinquent child falls within the program guidelines and the child's history and family
dynamics do not represent a danger to the volunteer or the community;

(j) the Presiding Juvenile Court Judge or a designee determines referral and appointment is advisable. (Eff. July 1, 1998. As amended, eff. January 1, 2007.)

Rule 1693.4 Child Advocacy Advisory Council

There shall be a Child Advocacy Advisory Council consisting of the Presiding Juvenile Court Judge, one dependency bench officer, one delinquency bench officer, the Juvenile Court Administrator, representatives from County Departments (Child Protective Services, Probation,

Public Defender, Mental Health, County Schools), and other representatives as the Council deems appropriate.

The Advisory Council shall provide a channel for communication between the CASBC Executive Director/staff and the Presiding Juvenile Court Judge, other Judges and Referees in the Juvenile Court, and officials from other participating agencies.

The Advisory Council shall also define the relationships among operational participants, including, but not limited to, the Court, the child welfare agency, mental health professionals, attorneys and CASA/GAL volunteers and staff.

The Advisory Council shall meet at least quarterly with the CASBC Executive Director and shall make recommendations to the Executive Director and the Board of Directors on issues pertaining to the program's polices and services.

In addition, the Presiding Juvenile Court Judge shall meet with the Executive Director at least monthly, or more frequently as needed, to discuss any problems that have arisen. During these meetings, the Executive Director shall advise the Presiding Juvenile Court Judge of any other pertinent information. (Eff. July 1, 1998. As amended, eff. January 1, 2007.)

Rule 1693.5 Confidentiality of CASBC records

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

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

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

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

RULE 1694 JUVENILE RESTITUTION ORDERS

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

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

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

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

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

(Eff., January 1, 2007.)

CHAPTER 17
RESERVED

CHAPTER 18
ELECTRONIC FILINGS AND SERVICE

RULE 1800 ELECTRONIC FILING

The Presiding Judge of the Superior Court of California for the County of San Bernardino may allow the electronic filing of documents in accordance with California Code of Civil Procedure section 1010.6 and California Rules of Court, rules 2.250 et seq. There shall be no direct electronic transmission of any pleadings or papers to the Court except in accordance with this chapter. (Eff. January 1, 2000. Eff. as amended, January 1, 2012.)

RULE 1810 ELECTRONIC FILING PARTICIPATION

Filing documents electronically is an enhanced information service provided by arrangement with one or more private-sector firms under contract with the Court. Such a firm may require payment of a convenience fee and/or transaction fee and/or impose other reasonable requirements by contract with the qualified electronic filer as conditions for processing an electronically filed document.

Specific information regarding the service provider may be obtained from the Court Executive Office or the court's website, www.sb-court.org. (Former Rule 1820, eff. January 1, 2000. Renumbered as Rule 1810 and amended, eff. January 1, 2012.)

RULE 1820 FAX FILINGS (FACSIMILE TRANSFER TO COURT)

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

RULE 1830 DATE/TIME OF FILING

An electronically transmitted document is not considered filed until accepted by the Clerk. Once accepted by the Clerk, the document shall be deemed to have been filed on the day it was received by the Clerk, if receipt occurred before the close of business, shall be deemed to have been filed: (a) on the day it was received by the Clerk, if the receipt occurred before the close of business or (b) on the next business day the Clerk's Office is open for business, if the lodging occurred after the close of business hours. Nothing in this chapter shall limit the Clerk's ability to reject filings. (Former Rule 1840(a), eff. January 1, 2000. Renumbered as Rule 1830 and amended, eff. January 1, 2012.)

RULE 1840 RECEIPT OF DATA

(a) Upon receiving a document transmitted electronically for filing with the Court from a qualified electronic filer, the Clerk shall cause to be electronically transmitted to the filer a notice of lodging of the document with the Court. The notice of lodging shall confirm the date and time of receipt of the document by the Court for review and filing.

(b) If an electronically transmitted document lodged with the Court is accepted by the Clerk for filing, the Clerk shall cause to be electronically transmitted to the filer a notice of acceptance. The notice shall set forth the date and time the document was deemed filed.

(c) If an electronically transmitted document lodged with the Court is rejected by the Clerk for filing, the Clerk shall cause to be electronically transmitted to the filer a notice of rejection. The notice shall set forth the grounds for rejection of the document. The Court will retain a log confirming the rejection of electronically transmitted documents. If a document is rejected, it shall be the responsibility of the filer to resubmit the documents.

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

RULE 1850 ERRORS OR MALFUNCTION

The confirmation of filing of the document and verification of the accuracy of the document shall be the sole responsibility of the filer. The Court shall not be responsible for malfunction or errors occurring in the electronic transmission of a document to the Court for filing. (Former Rule 1840(d)(2), eff. January 1, 2000. Renumbered as Rule 1850, eff. January 1, 2012.)

RULE 1860 ELECTRONIC FILING SYSTEM INQUIRIES

Inquiries, disputes, or complaints regarding any aspect of the Electronic Filing System may be directed to: Court Executive Office, 303 West Third Street, Fourth Floor, San Bernardino, CA 92415-0302. (Eff. January 1, 2000. Eff. as amended, January 1, 2008.)

CHAPTER 19
MISCELLANEOUS

RULE 1900 COURTROOM DECORUM

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

RULE 1910 APPOINTMENT OF MEDICAL EXAMINERS AND PSYCHIATRISTS

Medical examiners and psychiatrists shall be appointed from lists of persons who are qualified to act as examiners and witnesses, which lists are maintained by the Court's District Offices under the supervision of the Presiding Judge. (Former Rule 1810, eff. May 27, 1982. Renumbered as Rule 1910, eff. July 1, 1998.)

RULE 1920 DEPOSITIONS

Any deposition returned to the Court may be opened by the clerk at the request of counsel for any party. The clerk shall note who requested the deposition to be opened and the date. Only the original deposition on file with the clerk shall be used for impeachment purposes unless the Court permits other methods. (Former Rule 1910, eff. Jan. 1, 1989. Renumbered as Rule 1920, eff. July 1, 1998.)

RULE 1921 NOTICE OF DEPOSITION

Notices of deposition will not be accepted for filing as part of the case file except by Court order. Any motions filed in connection with a deposition must contain a copy of the notice of deposition. (Former Rule 2220, eff. Jan. 1, 1989. Renumbered as Rule 1921, eff. July 1, 1998.)

CHAPTER 20

PART ONE

GENERAL PROCEDURAL GUIDE

RULE 20-101 WRITTEN POLICY MEMORANDA

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

(b) Unless specific written orders are issued to the contrary, these policies are applicable in Court Districts. Rev. Dec. 1993. Renumbered as Rule 20-101 eff. July 1, 2007.)

RULE 20-102 PROBATE NOTES

(a) Calendar notes are usually available ten (10) days before the hearing date. Notes are available on the Internet at www.sbcounty.gov/courts (then select the Probate pull down menu and choose "Probate Notes"). The notes may also be obtained from the probate clerk's office.

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

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

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

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

RULE 20-105 COMMISSIONERS AND TEMPORARY JUDGES

Before the call of the calendar, parties may be advised in open Court that the matters on the calendar will be heard by a Commissioner or a temporary Judge. Unless the Court is informed to the contrary, all parties shall then be deemed to have stipulated that such person may hear the matter as a temporary Judge, and the minutes will so read. (Former Rule 106, rev. Dec.

1993. Renumbered as Rule 106 and amended, eff. July 1, 1998. Renumbered as Rule 20-105, eff. July 1, 2007.)

PART TWO

FORMS, NOTICES, AFFIDAVITS, AND DECLARATIONS

RULE 20-203 NOTICE RE SPECIAL LETTERS

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

RULE 20-204 PROBATE HEARING ONCE NOTICED CANNOT BE ADVANCED

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

PART THREE

EXECUTORS AND ADMINISTRATORS

RULE 20-302 SPECIAL ADMINISTRATION

A petition for appointment of special administrator may be filed in a separate petition following or concurrently with a petition for probate. Special letters of administration will not normally be granted unless a petition for probate and for general letters is on file. Special letters may be revoked if general administration is not timely pursued. (Former Rule 303, rev. Dec. 1993. Renumbered as Rule 302 and amended eff. July 1, 1998. Renumbered as Rule 20-302, eff. July 1, 2007.)

RULE 20-303 STATEMENT OF ADDRESS

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

PART FOUR

BONDS

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

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

PART FIVE

INDEPENDENT ADMINISTRATION

RULE 20-501 PRELIMINARY DISTRIBUTION

If there is to be a preliminary distribution to a trustee who has not been appointed and who has not been given at least fifteen (15) days' notice of a hearing on such petition, the trustee must file with the Court a consent to act as trustee before the distribution is ordered. (Former Rule 504, rev. Dec. 1993. Renumbered as Rule 501, eff. July 1, 1998. Renumbered as Rule 20-501, eff. July 1, 2007.)

PART SIX

PETITION, MOTIONS, INVENTORIES, AND ORDERS

RULE 20-601 CAPTIONS

The captions in all petitions and motions filed in probate matters shall set out a complete, correct and concise summary of the prayer in order that proper notice may be given. No petition will be accepted for filing without such caption. All captions shall include a reference to the Probate Code Section which authorizes the relief requested. (Rev. Dec. 1993.) Renumbered as Rule 20-601, eff. July 1, 2007.)

RULE 20-603 FILING OF PLEADINGS

(a) All supporting papers for every petition must accompany the petition or be filed within a reasonably short time thereafter.

(b) All petitions shall be accompanied by a proposed Order. (Eff. July 1, 1998. Renumbered as Rule 20-603, eff. July 1, 2007. As amended, eff. January 1, 2010.)

RULE 20-605 COMPLETE ADDRESS IN PETITION OR REPORT

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

(b) Nothing herein is intended to or should prevent an immediate filing of the original petition although complete addresses are unknown but may be ascertained within a few days. New or corrected addresses should be reported to the probate procedures clerk in writing when the fact becomes known and appropriate steps to give proper notice shall be taken. (Rev. Dec. 1993.) Renumbered as Rule 20-605 and as amended, eff. July 1, 2007.)

RULE 20-606 LIMITATIONS ON USE OF PETITIONS FOR INSTRUCTIONS

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

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

RULE 20-607 EX PARTE MATTERS

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

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

All applications for ex parte orders must allege the existence or non-existence of requests for special notice on file. If any such notice has been requested, the ex parte application must contain a waiver of the request, a declaration that the requesting party was given at least twenty-four (24) hours' telephonic notice of the application, or a statement that the subject of the application is not covered by Probate Code section 1250(c). (Rev. Dec. 1993, as amended, eff. July 1, 1998. Renumbered as Rule 20-609, eff. July 1, 2007.)

RULE 20-610 DESCRIPTION OF REAL PROPERTY

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

RULE 20-611 SPECIFICALLY BEQUEATHED PROPERTY

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

RULE 20-612 REAL PROPERTY DISTRIBUTION ORDERS

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

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

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

RULE 20-614 PROBATE ORDERS

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

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

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

(d) Three (3) lines of the contents of the order must appear on the page upon which the Judge's signature is affixed. In no case should any matter appear after the signature of the Judge. (Former Rule 613, rev. Dec. 1993. Renumbered as Rule 614 and amended, eff. July 1, 1998.) As amended eff. January 1, 2004. Renumbered as Rule 20-614, eff. July 1, 2007.)

RULE 20-615 NUNC PRO TUNC ORDERS CORRECTING CLERICAL ERRORS

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

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

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

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

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

RULE 20-617 DEATH OR MISSING PERSONS

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

PART SEVEN

CREDITORS' CLAIMS

PART EIGHT

SALES

RULE 20-801 CONDOMINIUMS, COMMUNITY OR COOPERATIVE APARTMENTS

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

(b) The sale of a cooperative apartment will not be confirmed subject to the purchaser's later obtaining the acceptance of a Board of Directors or other governing body; therefore, the prospective purchaser should obtain acceptance before seeking Court confirmation. (Former Rule 805, rev. Dec. 1993. Renumbered as Rule 801, eff. July 1, 1998 . Renumbered as Rule 20-801, eff. July 1, 2007.)

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

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

RULE 20-803 TANGIBLE PERSONAL PROPERTY

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

(b) Commissions. Commissions on sales of tangible personal property will be allowed only to one holding a broker's license authorizing him to deal in the type of property involved. A commission will be allowed on the original bid only when the commission is requested in the return of sale. The amount of the commission is within the Court's discretion and will not ordinarily exceed (1) six percent (6%) as to sales in which a broker procured the bid presented to Court for confirmation or (2) three percent (3%) as to sales in which no broker procured the bid presented for confirmation. (Former Rule 811, rev. Dec. 1993. Renumbered as Rule 803, eff. July 1, 1998. Renumbered as Rule 20-803, eff. July 1, 2007.)

RULE 20-804 SALES OF DEPRECIATING AND PERISHABLE PROPERTY

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

RULE 20-805 SALES OF SECURITIES

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

RULE 20-806 BROKER'S COMMISSIONS

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

(b) Special circumstances may include the fact that the property has an appraised value or sales price of $10,000.00 or less or the property is undeveloped land. Under such circumstances the Court will not approve payment of a broker's commission in excess of (1) ten percent (10%) as to sales in which a broker procured the bid presented to Court for confirmation; or, (2) five percent (5%) as to sales in which no broker procured the bid presented for confirmation. (Eff. July 1, 1998. Renumbered as Rule 20-806, eff. July 1, 2007. Amended, eff. July 1, 2008.)

RULE 20- 807 COURT CONFIRMATION OF PRIVATE SALES

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

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

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

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

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

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

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

(h) Absence of Attorney for Estate at Confirmation Hearing. If the estate's attorney is absent from the hearing, the hearing will be continued, except where the fiduciary is present and requests that the sale proceed without the attorney. (Former Rule 823, rev. Dec. 1993. Renumbered as Rule 807 and amended, eff. July 1, 1998. As amended, eff. July 1, 2006. Renumbered as Rule 20-807, eff. July 1, 2007.)

PART NINE

ACCOUNTS, FEES AND DISTRIBUTIONS

RULE 20-901 ACCOUNTING REVIEW DATES

Accounting review dates are scheduled by the court in matters where an accounting is required. Accountings (or a status report in probate proceedings) shall be filed thirty (30) days prior to the accounting review date. Should the accounting (or status report) not be filed timely, the review date shall be continued to the date of the accounting. In the event no account or status report is filed, the review shall be continued as an Order to Show Cause proceeding and both the estate representative and counsel shall be cited in to show cause why an accounting has not been filed. This rule is applicable to probate, guardianship, conservatorship and trust accountings. (Eff. July 1, 1998. Amended, eff. January 1, 2003. As amended eff. July 1, 2003. Renumbered as Rule 20-901 and as amended, eff. July 1, 2007.)

RULE 20-903 ATTORNEY'S SIGNATURE

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

RULE 20-904 EXTRAORDINARY COMPENSATION

Applications for extraordinary compensation will not be considered unless both the caption and prayer of the petition, and the notice of hearing of the petition, contain a reference to the application for extraordinary compensation. Such applications must be accompanied by an itemized description of services rendered, time expended, and hourly rate. Ordinarily, a request for extraordinary compensation is made when a petition for final distribution is filed. (Former Rule 907, rev. Dec. 1993. Renumbered as Rule 904 and amended eff. July 1, 1998. Amended eff. January 1, 2003. As amended eff. July 1, 2003. Renumbered as Rule 20-904 and as amended, eff. July 1, 2007.)

RULE 20-906 DESCRIPTION OF ASSETS

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

RULE 20-907 MANNER OF ASSET DISTRIBUTION

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

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

(c) The decree of distribution, whether or not an accounting has been waived, must set forth specifically the manner in which the estate is distributed by showing the distributee's name, address and a description of the property or cash to be distributed. The order for distribution must be prepared so the Judge's signature is at the end. No exhibits or schedules shall follow the Judge's signature. In the event of the distribution of real property: (1) the property must be referenced by street address (if any), Assessor's Parcel Number, and legal description; and (2) the address of the distributee must be set forth.

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

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

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

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

(e) All petitions for final distribution shall allege compliance with Probate Code section 9202 regarding notice to the Director of Health Services. (Former Rule 910, rev. Dec. 1993. Renumbered as Rule 907 and amended eff. July 1, 1998. Renumbered as Rule 20-907 and as amended, eff. July 1, 2007.)

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

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

RULE 20-909 COSTS GENERALLY NOT ALLOWED COUNSEL OR ADMINISTRATOR

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

The personal representative shall not be reimbursed for mileage, parking fees or any other travel expenses incurred in connection with their appearance before the Court to qualify as the personal representative unless they have waived their statutory commission. (Eff. July 1, 2003. As amended, eff. January 1, 2005. Renumbered as Rule 20-909 and as amended, eff. July 1, 2007.)

RULE 20-910 ESCROW CLOSING STATEMENTS

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

PART TEN

DISPOSITION WITHOUT PROBATE AND PETITIONS TO SET ASIDE SMALL ESTATES

PART ELEVEN

FAMILY PROTECTION

RULE 20-1101 HOMESTEADS

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

(a) The name and current residence address of the surviving spouse (if any) and of all surviving minor children.

(b) The date of birth of each surviving minor child.

(c) The dates of filing of all inventories, supplemental inventories, and amended inventories.

(d) As to the property on which the homestead is sought: Its legal description (or identifying data in the case of personal property); its common address (or location); the nature of the property (single family residence or other); whether it is community, quasi-community, or separate property of the decedent; whether any third party has an interest or claim thereto; whether it is specifically devised or bequeathed and, if so, to whom; its appraised value; the nature, amount, and basic details concerning all encumbrances; the period of time during which it has been (if it has) the principal residence of the person or persons on whose behalf the homestead is sought; any other facts which will assist the Court in determining that the property is the most appropriate to be set aside.

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

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

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

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

(i) An itemization of all creditor's claims by name of claimant and amount, as well as the status of each claim. If time for filing claims has not expired, there should be a similar itemization of all known or suspected debts or claims against decedent as to which claims have not yet been filed. The extent to which (1) liquid assets, and (2) other non-exempt assets are available to satisfy claims and specific cash bequests. (Former Rule 1201, rev. Dec. 1993. Renumbered as Rule 1101, eff. July 1, 1998. Renumbered as Rule 20-1101, eff. July 1, 2007.)

RULE 20-1102 PETITION FOR FAMILY ALLOWANCE

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

(1) The solvency of the estate;

(2) Whether others are entitled to family allowance;

(3) Approximate needs of the applicant, with reference to his or her standard of living; and

(4) A general itemization statement of the applicant's property and income.

(b) Ex Parte Petitions Before Inventory.

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

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

(c) Notice of Petition Before Inventory. The Court may grant the family allowance for longer than six (6) months before inventory on a noticed hearing.

(d) Petition After Inventory or Any Subsequent Petition. If application is made after the inventory has been filed, or is a second or subsequent petition, it should be noticed and placed on the calendar. Subsequent orders will be limited to a definite period. (Former Rule 1202, rev. Dec. 1998. Renumbered as Rule 1102, eff. July 1, 1998. Renumbered as Rule 20-1102, eff. July 1, 2007.)

PART TWELVE

PETITIONS TO SET ASIDE SPOUSAL PROPERTY

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

If a community or quasi-community property claim is based on any document, a copy of the document showing signatures with the portions of it relevant to the claim shall be attached to the petition. If counsel reasonably believes that disclosure of the document would be detrimental to third parties, counsel may request the Court to place the document in a confidential folder. (Former Rule 1301, rev. Dec. 1993. Renumbered as Rule 1201 and amended, eff, July 1, 1998. As amended eff. January 1, 2003. Renumbered as Rule 20-1201 and as amended, eff. July 1, 2007.)

PART THIRTEEN

GUARDIANSHIPS OF MINORS

RULE 20-1301 APPOINTMENT OF GUARDIAN OF MINOR

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

RULE 20-1302 SUPPORTING DOCUMENTATION

Petitions for appointment will be filed with all supporting documentation. When known, the full names, including middle names, of the petitioner(s), the minor(s), the mother and father must be set forth in all petitions for guardianship. (Former Rule 1402, rev. Dec. 1993. Renumbered as Rule 1302, eff. July 1, 1998. As amended eff. January 1, 2003. Renumbered as Rule 20-1302, eff. July 1, 2007.)

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

Orders Prescribing Notice are not normally submitted to the Court. The Court will determine which persons must be given notice based upon the requirements of the Probate Code.

Orders Dispensing Notice must be filed if the Petitioner seeks to dispense with notice to a known living person. Orders Dispensing Notice for deceased persons or for people who do not legally exist (such as a father and/or paternal grandparents when no father was listed on the minor’s birth certificate) are not required.

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

RULE 20-1305 GUARDIANSHIP INVESTIGATIONS

(a) An unrelated guardian of the person of a minor will not be appointed until a written report has been filed by the appropriate investigator or officer pursuant to Probate Code Section 1513, unless the Court directs that such referral be dispensed with.

(b) The Court Investigator's Office shall not conduct investigations for petitions filed by relatives within the 2nd degree unless specifically ordered by the Court. Nevertheless, a Guardianship Questionnaire must be completed and filed and an additional copy of the Guardianship Questionnaire, Petition and Notice of Hearing given must be submitted, which the court clerk shall forward to the Court Investigator's Office upon appointment. (Former Rule 1405, rev. Dec. 1993. Renumbered as Rule 1305, eff. July 1, 1998. Amended, eff. July 1, 2006. As amended, eff. January 1, 2007. Renumbered as Rule 20-1305, eff. July 1, 2007.)

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

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

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

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

RULE 20-1308 INCREASING AND DECREASING BOND OF GUARDIAN

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

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

As there is a statutory liability upon the parents to support their children when one or both parents are living, the Court will not permit guardianship funds to be used for the minor’s benefit except upon a showing of the parents' financial inability to adequately support the minor or other circumstances which would justify the Court in departing from this rule in the best interest of the minor. (Former Rule 1412, rev. Dec. 1993. Renumbered as Rule 1309 and amended, eff. July 1, 1998. Renumbered as Rule 20-1309, eff. July 1, 2007.)

RULE 20-1310 INVESTMENTS BY GUARDIANS

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

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

RULE 20-1311 ACCOUNTS OF GUARDIANSHIP

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

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

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

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

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

(e) Private professional or licensed guardians or conservators who provide bank or investment account statements pursuant to Probate Code section 2620(c) shall provide two sets of documents under separate cover. The first set shall be filed with the Court and shall include the account statements for the period preceding appointment (if a first accounting) and the periods for the start and end of the accounting period pursuant to Probate Code section 2620(c)(2). The second set shall be lodged with the Court separately and shall include the account statements for the rest of the accounting period pursuant to Probate Code section 2620(c)(3). The court shall retain all documents lodged pursuant to Probate Code section 2620(c)(3) until the court’s determination of the accounting has become final, at which time the documents shall be returned to the person who lodged them or delivered to any successor appointed by the court.

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

RULE 20-1312 GUARDIANSHIP INVENTORY AND APPRAISAL

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

RULE 20-1315 GUIDELINES FOR APPOINTMENT OF COUNSEL IN GUARDIANSHIPS OF MINORS

In appointing counsel for a child in a guardianship, the court shall adhere to the requirements of the Local Rules of the Superior Court of California, County of San Bernardino County, (Family Law Rules), Chapter 15, Rule 1513. (Eff., July 1, 2003. As amended, eff. July 1, 2006. Renumbered as Rule 20-1315, eff. July 1, 2007.)

RULE 20-1317 NOTICE TO INCARCERATED PERSONS

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

PART FOURTEEN

PROBATE CONSERVATORSHIPS

RULE 20-1400 PETITIONS

The original and one extra copy for the Court Investigator of the petition, proposed order and all supporting documents shall be submitted. (Eff. July 1, 1998. Renumbered as Rule 20-1400, eff. July 1, 2007.)

RULE 20-1401 APPOINTMENT OF COURT INVESTIGATOR

(a) Unless the proposed conservatee is the petitioner or has signed a nomination of the conservator and both the proposed conservator and proposed conservatee will attend the hearing, the Court Investigator will conduct an investigation. To obtain the investigation, the following forms must also be prepared and filed with the petition: A declaration signed by a licensed medical or accredited practitioner; an Order Appointing Court Investigator; and a Probate Investigator's referral form. If the proposed conservatee is able but unwilling to attend the hearing, the medical declaration need not be filed.

(b) The Court Investigator's Office will not conduct a review until the Appointment Order is signed.

(c) The hearing will be set at least four (4) weeks from the date of filing. (Former Rule 1501, rev. Dec. 1993. Renumbered as Rule 1401 and amended, eff. July 1, 1998. Renumbered as Rule 20-1401, eff. July 1, 2007.)

RULE 20-1402 ATTORNEYS FOR CONSERVATEES

The representation of a conservatee by an attorney appointed by the Court, ceases upon the hearing for which he or she was appointed, unless otherwise ordered by the Court. (Former Rule 1502, rev. Dec. 1993. Renumbered as Rule 1402, eff. July 1, 1998. Renumbered as Rule 20-1402 and as amended, eff. July 1, 2007.)

RULE 20-1403 RESPONSIBILITIES OF THE CONSERVATOR

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

(b) A conservatee is not permitted to manage his estate without Court approval, except as to a reasonable allowance under Probate Code Section 2421 or as to earnings under Probate Code Section 2601. Allowances of not more than $100.00 per month will be approved under Section 2403, without prior Court authorization. All other allowances should be presented to the Court for prior authorization under Section 2421. (Former Rule 1504, rev. Dec. 1993. Renumbered as Rule 1403 and amended, eff. July 1, 1998. Renumbered as Rule 20-1403, eff. July 1, 2007.)

RULE 20-1404 INVENTORY AND APPRAISAL

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

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

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

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

RULE 20-1405 SUBSTITUTED JUDGMENT - CREATION OF TRUSTS

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

1. Posting bond for assets and income of the trust;

2. Accounting to the Court in the Conservatorship proceeding;

3. Conservatorship investment limitations;

4. Court approval and confirmation of gifts, hypothecations or sales of assets;

5. Providing for the conservatee's needs without regard for the interest of remainder beneficiaries;

6. Prior Court approval for payment of fees to attorneys, conservators and trustees; and

7. Payment of Court investigator fees. (Eff. July 1, 1998. Renumbered as Rule 20-1405, eff. July 1, 2007.)

RULE 20-1406 ACCOUNTINGS

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

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

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

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

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

(f) Private professionals or licensed guardians or conservators who provide bank or investment account statements pursuant to Probate Code section 2620(c) shall provide two sets of documents under separate cover. The first set shall be filed and shall include the account statements for the period preceding appointment (if a first accounting) and the periods for the start and end of the accounting period pursuant to Probate Code section 2620(c)(2). The second set shall be lodged separately and shall include the account statements for the rest of the accounting period pursuant to Probate Code section 2620(c)(3). The court shall retain all documents lodged pursuant to Probate Code section 2620(c)(3) until the court’s determination of

the accounting has become final, at which time the documents shall be returned to the person who lodged them or delivered to any successor appointed by the court.

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

RULE 20-1407 COURT INVESTIGATOR REVIEW/FEES

(a) The Court Investigator shall review all conservatorships subject to Section 1850 of the Probate Code. This review shall include a personal interview with the conservator of the estate to examine conservatorship records and assets.

(b) The Court shall annually assess the estate for each review conducted by the Court Investigator.

(c) Court Investigator fees for reviews are to be paid at the time the next accounting is filed.

(d) Payment of said assessment is to be made at the Clerk's office in the appropriate District. Upon payment of said assessment the clerk will forward to the Court a copy of their form indicating that payment has been made.

(e) No assessment is to be made in cases that are conservatorship of the person only. (Former Rule 1509, rev. Dec. 1993. Renumbered as Rule 1407 and amended, eff. July 1, 1998. As amended eff. January 1, 2003. Renumbered as Rule 20-1407, eff. July 1, 2007.)

RULE 20-1408 CHANGE OF RESIDENCE OF THE CONSERVATEE

All notices of change of residence pursuant to Probate Code section 2352(e)(1) and 2352(e)(3) must be served upon the Court Investigator. Such notices must include the new telephone number for the conservatee. (Former Rule 1511, rev. Dec. 1993. Renumbered as Rule 1408 and amended, eff. July 1, 1998. Renumbered as Rule 20-1408 and as amended, eff. July 1, 2007.)

RULE 20-1409 INDEPENDENT POWERS

In order to obtain the independent powers set forth in Probate Code Section 2591, specific facts justifying each independent power requested must be alleged. These powers will only be granted upon a showing of specific need. Independent powers are not available to temporary conservators unless granted after a noticed hearing. (Former Rule 1512, rev. Dec. 1993. Renumbered as Rule 1409 and amended, eff. July 1, 1998. Renumbered as Rule 20-1409, eff. July 1, 2007.)

RULE 20-1410 TERMINATION

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

(b) As promptly as possible after the death of a conservatee (within 120 days, unless good cause for delay is shown), the conservator of the estate shall file a Petition for Discharge and a Final Accounting.

(c) Court Investigator fees are to be paid at the time the Petition for Termination is filed, or such Petition shall set forth the reasons for not doing so.

(d) No Order of Discharge shall be issued until proof of payment of all Court Investigator fees is received by the Court. (Former Rule 1513, rev. Dec. 1993. Renumbered as Rule 1410 and amended, eff. July 1, 1998. Renumbered as Rule 20-1410, eff. July 1, 2007.)

RULE 20-1411 CHANGE OF VENUE

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

RULE 20-1413 CONFIDENTIAL INCOME TAX RETURNS

(a) Conservators of the estate shall furnish the court with a copy of the last federal income tax return filed by the conservatee prior to commencement of the conservatorship. The copy of the return shall be marked, "Confidential," and shall be filed in the Confidential File no later than the hearing date for review of filing of the Inventory and Appraisement.

If the return is not filed by the review date, a verified declaration shall be filed setting forth the reason therefore and the date when the return can reasonably be expected to be filed.

(b) The last federal income tax return filed in the Confidential File pursuant to this part is not open to inspection by any person other than the parties to the proceeding and their attorneys and the probate department, except upon the written authority of the judge of the superior court. A judge of the superior court may not authorize anyone to inspect the last federal income tax return except in exceptional circumstances and for good cause. (Eff. January 1, 2000. Renumbered as Rule 20-1413, eff. July 1, 2007.)

RULE 20-1414 CONSERVATOR ORIENTATION CLASS

(a) Each proposed non-professional conservator must attend a conservator orientation class conducted by the Court prior to the hearing on the petition for their appointment as conservator.

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

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

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

(e) LPS conservators are required to attend the orientation only once, prior to the hearing for approval of their initial appointment. (Eff. July 1, 2009.)

PART FIFTEEN

TRUSTS

RULE 20-1502 REQUIRED SUBMISSION OF TRUST INSTRUMENT

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

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