



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO  
Hall of Justice and Records  
400 County Center  
Redwood City, California 94063-0965

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October 15, 2008

The Court is proposing to make changes to its Local Court Rules. These new changes will become effective on January 1, 2009 when adopted. The court invites you to review and provide your comment on these proposals as required by the State of California Rules of Court, Rules 10.613.

To navigate through the document, go to the next page "Table of Proposed Local Rules" and click on the link to the proposal you want to view. The link will take you to that page.

You may send your comments to:

[smsccomment@sanmateocourt.org](mailto:smsccomment@sanmateocourt.org)

with a subject line stating "Comments on Proposed Rule changes. Please state the proposal number, the section and paragraph number on which you are commenting and your comment.

Comments must be received in our office no later than 4 PM, November 28, 2008.

Sincerely,  
John C. Fitton, Court Executive Officer

A handwritten signature in black ink that reads "Timothy J. Gee".

By: Timothy Gee  
Court Rules Committee Staff

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**Title** | **DIVISION I – APPELLATE DEPARTMENT**

**DIVISION I  
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**DIVISION I  
RULES ON APPEAL TO THE APPELLATE DEPARTMENT**

**CHAPTER I. APPELLATE DEPARTMENT RULES**

Rule 1.1 — Sessions

~~— Regular sessions of the appellate department shall be held on the second Friday of each month at 2:00 p.m. unless otherwise ordered. Special sessions may be called by the presiding judge of the appellate department.~~

~~— (Adopted, effective July 1, 1996) (Repealed, eff. 1/1/09)~~

Rule 1.2 — Briefs

~~— When filing any original brief, each party shall deposit with the clerk three additional copies.~~

~~— (Adopted, effective July 1, 1996) (Repealed, eff. 1/1/09)~~

Rule 1.3 — Decisions

~~— Unless otherwise ordered, each party shall be allowed no more than fifteen minutes for oral argument. The appellant or moving party shall be permitted to open and close.~~

~~— (Adopted, effective July 1, 1996) (Repealed, eff. 1/1/09)~~

Rule 1.4 — Rehearing and Finality of Judgments

~~— Judgment is pronounced when the court announces its decision in open court following oral argument. If the court does not announce a judgment in open court, judgment is deemed to be pronounced on the date the judgment is filed by the clerk.~~

~~— (Adopted, effective July 1, 1996) (Repealed, eff. 1/1/09)~~

1  
2  
3 **1.0 GENERAL PROVISIONS**  
4

- 5 (a) **Appellate Division.** Four judges are assigned to the Appellate Division by the Chairperson of the  
6 Judicial Council, and one of the four judges shall be designated as Presiding Judge of the  
7 Appellate Division.  
8
- 9 (b) **Sessions.** Regular sessions of the Appellate Division shall be held on the second Friday of each  
10 month at 2:00 p.m. in Courtroom 2M at the Hall of Justice and Records in Redwood City unless  
11 otherwise ordered. Special sessions may be called by the Presiding Judge of the Appellate  
12 Division.  
13
- 14 (c) **Jurisdiction.** The Appellate Division of the Superior Court has jurisdiction over all appeals  
15 arising from misdemeanor, infraction and limited civil cases in San Mateo County (except small  
16 claims appeals) and over all motions and petitions for stay in connection with such appeals. (Code  
17 Civ. Proc. (“CCP”) §77(e).)  
18
- 19 (d) A panel of three judges participates in each matter before the Appellate Division. The  
20 concurrence of at least two judges is required for a decision in any case. (CCP §§77(a), (b) and  
21 (d).)  
22
- 23 (e) The Appellate Division has jurisdiction over all petitions for writs of mandate, prohibition and  
24 review (certiorari) in any misdemeanor, infraction or limited civil case. (CCP §§1068(b), 1085(b)  
25 and 1103(b).)  
26
- 27 (f) Notwithstanding the above, appeals from convictions of traffic infractions are heard by one judge  
28 of the Appellate Division (C.C.P. § 77(h)).  
29

30 (Adopted, eff. Jan. 1, 2009)  
31  
32

33 **1.1 NOTICE OF APPEAL**  
34

- 35 (a) **Jurisdiction.** The Appellate Division has appellate jurisdiction only over cases in which a  
36 notice of appeal was timely filed. (Cal. Rules of Court (“CRC”) rules 8.751 (civil appeals)  
37 and 8.782 (criminal appeals).)  
38
- 39 (b) **Where filed.** The notice of appeal shall be filed in the trial court from which the appeal is  
40 being taken. Unless specified otherwise in these rules or in the California Rules of Court, all  
41 subsequent filings shall be made with the Clerk of the Appellate Division.  
42
- 43 (c) **Late Filing/Motion to Dismiss.**  
44
- 45 (1) **Criminal cases.** If a notice of appeal is filed late, the clerk will stamp it “Received (date)  
46 but not filed.” (CRC rule 8.782(a).) If a late notice of appeal is inadvertently filed, the  
47 Presiding Judge of the Appellate Division will dismiss the appeal without hearing, either on  
48 his or her own motion or on the motion of counsel.  
49
- 50 (2) **Civil cases.** Requests for relief from a late-filed notice of appeal or a motion to dismiss  
51 on grounds of a late-filed notice of appeal shall be filed with the Clerk of the Appellate

1 Division. The requests and motions are ruled upon without hearing by the Presiding Judge of  
2 the Appellate Division.  
3

4 **(d) Filing Fees.**  
5

6 (1) Filing fees required by Government Code § 70621 shall be paid in the trial court.  
7

8 (2) For litigants who qualify, filing fees may be waived by the court. Applications for fee  
9 waivers shall be filed in the trial court at the time of filing the notice of appeal or within ten  
10 (10) days thereafter. (CRC Rules 8.750(c), (d).)  
11

12 (Adopted, eff. Jan. 1, 2009)  
13  
14

15 **1.2 STAY ORDERS**  
16

17 **(a) Format of Papers.** All papers filed in connection with stay applications shall comply with  
18 San Mateo County Superior Court Local Rules (“LCR”), rule 1.8, and CRC Rule 8.705.  
19

20 **(b) Civil Appeals.**  
21

22 (1) Before Filing Notice of Appeal. Applications for stay orders filed before notice of  
23 appeal shall be filed in the trial court. (CCP § 918.)  
24

25 (2) After Filing Notice of Appeal.  
26

27 (A) Filing. Petitions for writ of supersedeas or requests for stay shall be filed with  
28 the Clerk of the Appellate Division and shall comply with CRC rule 8.705(a).  
29

30 (B) Service. Petitions for writ of supersedeas or requests for stay shall be served in  
31 accordance with CRC rule 8.705(a) and shall be accompanied by proof of service at the  
32 time of filing. Petitions, applications, and oppositions shall be filed and served pursuant  
33 to LCR rule 1.8.  
34

35 (C) Decision. Petitions for writ of supersedeas and requests for stay are ruled upon  
36 without hearing by the Appellate Division, which may request that opposition papers  
37 be filed before ruling. In appropriate cases, the matter may be set for oral argument.  
38

39 (D) Showing required.  
40

41 1) A stay may be granted only on a showing of exceptional circumstances.  
42

43 2) Petitions in unlawful detainer actions shall meet the requirements of CCP  
44 § 1176.  
45

46 (E) Ex parte proceedings.  
47

48 1) Pending the Appellate Division’s ruling on a supersedeas petition or  
49 application for stay, a temporary stay may be granted by *ex parte*  
50 application upon a showing of good cause and upon the giving of notice  
51 to the opposing party in accordance with CRC Rules 3.1200 *et seq.*  
52

2) *Ex parte* applications shall be filed with the Clerk of the Appellate Division, and are ruled upon without hearing.

(c) **Criminal Appeals.**

(1) **Stay of Execution.**

(A) An application for stay of execution shall first be made in the trial court, and, if denied, may then be made in the Appellate Division. (See Penal Code § 1467; CRC rule 8.312.)

(B) Applications for stay orders shall be filed with the clerk of the Appellate Division and served on opposing counsel in accord with LCR Rule 1.8.

(C) Applications for stay are ruled upon without hearing.

(2) **Request for Bail Reduction on Appeal.**

(A) An application for bail reduction shall first be made in the trial court, and, if denied, may then be made in the Appellate Division. (Penal Code § 1272; CRC Rule 8.312(2).)

(B) Applications for bail reduction are ruled upon without hearing.

(3) **Bonds on Appeal.** All proceedings concerning bonds on appeal shall be brought in the trial court.

(Adopted, eff. Jan. 1, 2009)

**1.3 APPOINTED COUNSEL IN MISDEMEANOR APPEALS.**

(a) **Right to Counsel.** A defendant appealing a misdemeanor conviction who had appointed counsel at trial or who meets the standards for appointed counsel is entitled to appointed counsel on appeal. (CRC rule 8.786(a).)

(b) **Applications for Appointed Counsel.**

(1) A party meeting the standards may apply for appointment of counsel either in the trial court or in the Appellate Division. (CRC rule 8.786(b).)

(2) Applications shall be filed in accordance with LCR 1.8, except that they need not be served on other parties, and are decided without hearing.

(3) Once an application for appointed counsel has been approved by the applicable court, the designation of specific counsel on appeal is then made by the Executive Director of the San Mateo County Bar Association's Private Defender Program.

(Adopted, eff. Jan. 1, 2009)

**1.4 RECORD ON APPEAL**

1  
2 (a) **Civil Appeals.**  
3

4 (1) **Contents.** The “record on appeal” includes the clerk’s transcript (CRC rule 8.754)  
5 and may include the reporter’s transcript (CRC rule 8.753), an agreed statement (CRC rule  
6 8.755), or a settled statement (CRC rule 8.756). The record shall be designated by notice  
7 filed in the trial court. (CRC Rule 8.754.)  
8

9 (2) **Clerk’s Transcript.** Within ten days of notification by the clerk of the trial court’s  
10 appeals division of the estimate of the cost of the preparation of the clerk’s transcript,  
11 appellant shall make arrangement for payment of the required fees. (CRC Rule 8.754(a), (c).)  
12

13 (3) **Reporter’s Transcript.** Appellant shall designate and file notice in the trial court to  
14 obtain a reporter’s transcript and pay for that transcript within the time required. (CRC Rule  
15 8.753(a)).  
16

17 (4) **Burden of Providing the Record.** It is the burden of the appellant to insure that the  
18 Appellate Division has an adequate record for review pursuant to CRC rules 8.753 through  
19 8.761.  
20

21 (b) **Criminal Appeals.**  
22

23 (1) **Contents.** The “record on appeal” includes the clerk’s transcript (CRC Rule 8.783),  
24 and may include a reporter’s transcript or a settled statement (CRC Rule 8.784).  
25

26 (2) **Clerk’s Transcript.** Upon filing of a Notice of Appeal, the clerk’s transcript is  
27 prepared by the trial court Clerk without written request or payment of fees by the appellant.  
28 (CRC Rule 8.783.)  
29

30 (3) **Settled Statement or Transcript.** The parties shall comply with the rules governing the  
31 preparation, notice, and time limits for proceeding on appeal in misdemeanor or infraction  
32 case as set forth in CRC Rules 8.784 through 8.791.  
33

34 (4) **Reporter’s Transcript.**  
35

36 (A) Appellant’s responsibility. If appellant intends to present the evidentiary record by a reporter’s  
37 transcript, appellant shall note that fact in his or her proposed statement on appeal pursuant to  
38 CRC Rule 8.784(a), and shall order and pay for the transcript from the reporter who reported  
39 the proceedings in the trial court, unless payment is waived by law or by court order. The  
40 reporter shall file the original transcript with the Clerk of the Appellate Division and provide  
41 copies to appellant and respondent.  
42

43 (B) Waiver of reporter’s fees. Applications to cover the cost of reporter’s transcript  
44 shall be made in the trial court at the clerk’s office. If the application is denied,  
45 appellant may apply to the Appellate Division. The application shall comply with LCR  
46 Rule 1.8, and will be ruled upon without hearing.  
47

48 (5) **Augmentation of the Record on Appeal.** Either party may request from the trial  
49 court, on good cause, augmentation of the record on appeal with additional documents. (CRC  
50 rule 8.791.) If denied, a party may seek an order to augment from the Appellate Division.  
51 Such requests shall comply with LCR rule 1.8, and are ruled upon without hearing.  
52

1 (6) Rights of Respondent. Respondent is entitled to propose corrections, changes, or  
2 additions to the settled statement or transcript. (CRC Rule 8.785.) The proposed corrections,  
3 changes, or additions shall be ruled on by the trial court as provided in CRC rule 8.788.  
4

5 (Adopted, eff. Jan. 1, 2009)  
6

7 **1.5 BRIEFS**  
8

9 (a) **Time for Filing.**

10  
11 (1) Briefs. After the record on appeal has been transmitted, the Appellate Division will  
12 notify the parties. The parties shall file briefs in accordance with the time periods specified in  
13 CRC rule 8.706(a).  
14

15 (2) Failure to File Timely Briefs. Failure of appellant to file an opening brief on or before  
16 the required date is a ground to dismiss the appeal. Failure to file a respondent's brief on or  
17 before the required date will result in the case being submitted for decision on the record on  
18 appeal and on the appellant's opening brief. Such failure may cause the Appellate Division to  
19 accept as true the statement of facts contained in appellant's opening brief. (CRC rules  
20 8.762(c), 8.792.).  
21

22 (b) **Content and Format.** Briefs shall comply with CRC rules 8.706(c) and 8.204(b), except that  
23 only one side of the paper may be used and such briefs shall be bound at the top, with cover colors  
24 that comply with CRC 8.40(b).  
25

26 (c) **Length.**  
27

28 (1) No brief shall exceed fifteen pages in length without prior approval of the Appellate Division.  
29 (See CRC rule 8.766, 8.706(c).) Tables of contents and/or authorities are excluded from this  
30 fifteen-page limitation.  
31

32 (2) Permission to file any briefs in excess of fifteen pages shall be obtained by application  
33 in accordance with LCR rule 1.8.  
34

35 (d) **Service.** Briefs shall be served as follows: the original and three copies on the Clerk of the  
36 Appellate Division, one copy on the trial court, and one copy on opposing counsel. (See CRC rule  
37 8.706(e), (f)).  
38

39 (e) **Extension of Time.** Applications for extensions of time to file briefs shall be filed in the  
40 Appellate Division in accordance with LCR rule 1.8.  
41

42 (Adopted, eff. Jan. 1, 2009)  
43  
44

45 **1.6 ORAL ARGUMENT**  
46

47 (a) **Date and Time.**  
48

49 (1) Date. The date for oral argument will be set after the record on appeal is transmitted to  
50 the Appellate Division. The hearing date will be subject to written notice to the parties by the  
51 Clerk of the Appellate Division at least two weeks prior to the hearing date.  
52



1 (2) Time. Unless noticed otherwise by the Clerk of the Appellate Division, all criminal  
2 and civil matters are heard at 2:00 p.m.  
3

4 (b) Failure to Appear. A party who fails to appear at oral argument when the case is called is  
5 deemed to have waived oral argument, unless the delay or tardiness is excused by the Appellate  
6 Division.  
7

8 (c) Continuances. Continuances will only be granted upon a showing of good cause.  
9 Continuances by stipulation are subject to the approval of the Presiding Judge of the Appellate  
10 Division. Written applications for continuance shall comply with LCR Rule 1.8, and will be ruled  
11 upon without hearing.  
12

13 (d) Amount of Time to Argue. Parties are entitled to a reasonable time to argue, usually five  
14 minutes and in no event exceeding fifteen minutes per side without prior permission.  
15

16 (e) Supplemental Briefing. Supplemental briefing will be permitted when the Appellate  
17 Division indicates it intends to decide a case upon the basis of an issue not briefed or proposed by  
18 any party. (Govt. Code § 68081.)  
19

20 (Adopted, eff. Jan. 1, 2009)  
21  
22

## 23 1.7 DECISION

24  
25 (a) Time for Decision. The Appellate Division shall decide a case within ninety days after  
26 submission. (Cal. Const., Article 6, §19; CRC Rule 8.707(c).)  
27

28 (b) Opinion. The Appellate Division may file an opinion on each appeal, but is not required to  
29 do so. (CRC Rule 8.707(b).)  
30

31 (c) Publication. An opinion is published in whole or in part in the Official Reports when a  
32 majority of the judges in the Appellate Division who participated in the opinion certifies that the  
33 opinion meets one or more of the standards set forth in CRC rule 8.1105(b), and the Court of  
34 Appeal does not order the case transferred to it for hearing and decision. (CRC Rules 8.1105(c),  
35 8.1002.)  
36

37 (d) Rehearing and/or Certification.  
38

39 (1) Any petition for rehearing shall be served and filed with proof of service within fifteen  
40 days after the Appellate Division judgment is filed. Any answer to the petition shall be  
41 served and filed within eight days after filing of the petition. (CRC rule 8.708(c).)  
42

43 (2) If a rehearing is ordered, the Appellate Division may place the case on calendar for  
44 further argument or may resubmit the matter for decision without argument. (CRC rule  
45 8.708(c).)  
46

47 (3) Any party may move to certify, or the Appellate Division on its own motion may  
48 certify, that transfer of a case to the Court of Appeal appears necessary to secure uniformity  
49 of decision or to settle important questions of law. (CRC Rule 8.1005(a).) An application to  
50 certify shall be filed before the judgment on appeal is final. (CRC Rules 8.1005(b), 8.708(a).)  
51

52 (Adopted, eff. Jan. 1, 2009)

1  
2 **1.8 APPLICATIONS AND MOTIONS**  
3

4 (a) **Routine Applications.** Routine applications, as defined by CRC rule 8.766, shall be served  
5 on opposing counsel and submitted to the Appellate Division. Applications on routine matters shall  
6 include a declaration under penalty of perjury. (CRC rules 8.766 and 8.787.)  
7

8 (b) **Motions.** Written motions shall be served on all parties and shall be filed in the Appellate  
9 Division in connection with all non-routine matters or where a party is in default. (CRC rules 8.705,  
10 8.772(b).)  
11

12 (c) **Motions to Withdraw as Counsel.** Motions of an attorney to withdraw as counsel of record  
13 shall comply with the requirements of CCP sections 284 and 285, and CRC rules 3.1362 and  
14 8.768(b).  
15

16 (d) **Motions Before Record Filed.** Motions filed before the Appellate Division has received the  
17 record on appeal shall be accompanied by copies of documents previously filed sufficient to permit  
18 review.  
19

20 (e) **Ruling on Applications and Motions.** Rulings on applications and motions made pursuant  
21 to this rule are made without hearing.  
22

23 (f) **Abandonment.** An appeal may be abandoned before the record is filed in the Appellate  
24 Division by filing a written abandonment in the trial Court. (CRC rules 8.762(a), 8.790.) After the  
25 record is filed in the Appellate Division, a civil appeal may be dismissed on written request of the  
26 appellant or stipulation of the parties filed with the Clerk of the Appellate Division, and, in a  
27 criminal appeal, by filing a written abandonment of appeal with the Clerk of the Appellate Division.  
28 (CRC rules 8.762(b), 8.790.)  
29

30 (Adopted, eff. Jan. 1, 2009)  
31  
32

33 **1.9 EXTENSIONS AND RELIEF FROM DEFAULT**  
34

35 (a) **Where Application For Extension Filed.**  
36 Application for extension of time to perform an act beyond the time allowed by the rules of court  
37 shall be made to the trial court. (CRC rules 8.767(b), 8.787(a).)  
38

39 (b) **Denial or Failure To Grant By Trial Court.** If an extension of time or relief from default is  
40 denied or cannot be granted by the trial court, application may be made to the Appellate Division in  
41 accordance with LCR rule 1.8, and will be ruled upon without hearing.  
42

43 (c) **Reinstatement of Appeal.** Applications to reinstate an appeal after dismissal shall follow  
44 the procedures set forth in sub-paragraph (b) above.  
45

46 (Adopted, eff. Jan. 1, 2009)  
47  
48

49 **1.10 WRITS**  
50

51 (a) **Assigned Departments.** Petitions for writ of mandate or prohibition in limited civil,  
52 misdemeanor or infraction cases shall be heard in the Appellate Division. (CCP §1085(b), 1103(b),

1 and 1068(b).) Petitions for writ of habeas corpus shall not be considered by the Appellate Division.  
2 (CRC rule 4.552(d).) Instead, habeas petitions may be filed with the Clerk of the Superior Court.  
3

4 **(b) Content and Format.** Briefs relating to a petition for writ of mandate or prohibition shall  
5 comply with CRC rules 8.40 and 8.204(b), except that only one side of the paper may be used and  
6 they must be bound at the top, with cover colors that comply with CRC 8.40(b).  
7

8 **(c) Service.** Briefs relating to a petition for writ of mandate or prohibition shall be served as  
9 follows: the original and three copies on the Clerk of the Appellate Division, one copy on the trial  
10 court, and one copy on opposing counsel. (See CRC rule 8.706(e), (f).)  
11

12 (Adopted, eff. Jan. 1, 2009)  
13  
14  
15

**Proposal Number F08-02**

<b>Title</b>	<b>LOCAL RULES 5.8 Trial Setting, Status Conference and Mandatory Settlement Conference Rules</b>
<b>Proposed Changes</b>	<p><b>Rule 5.8</b> <u>Trial Setting, Status Conference, and Mandatory Settlement Conference Rules</u></p> <p>Sections A and B unchanged.</p> <p>C. Status Conference:</p> <ol style="list-style-type: none"><li>1. Paragraph unchanged.</li><li>2. If the parties to a case for dissolution of marriage, nullity, or legal separation elect to resolve their matter using the collaborative law process (also referred to as collaborative practice) <u>or mediation</u>, then they may defer the setting of a Status Conference provided they file a Stipulation and Order to Defer Setting of Status Conference. Thereafter, if upon termination of the collaborative law process <u>or mediation</u>, either party wishes to set a Status Conference, s/he <del>may shall</del> do so <del>either</del> by filing a Request to Set Status Conference <del>or by filing a motion</del>.</li><li>3. Paragraphs 3-10 unchanged.</li></ol> <p>Sections D through F unchanged.</p> <p>(Adopted, effective January 1, 2004) (Amended, effective January 1, 2005) (Amended, effective July 1, 2005) (Amended, effective January 1, 2007) (Amended, effective January 1, 2008) (<u>Amended, effective January 1, 2009</u>)</p>

Proposal Number F08-04

<b>Title</b>	<b>LOCAL RULE 11.5 JURIES: FEES AND DEMANDS</b>
<b>Proposed Changes</b>	<p>Rule 11.5 Juries: Fees and Demands</p> <p><del><b>REPEALED</b>—Jury fees shall be deposited and may be refunded as provided in Code of Civil Procedure Sections 631 and 631.3. No refunds of the Jury fees deposited shall be made where the party making the deposit has failed to give the Clerk written notice of settlement or of the granting of a motion of continuance at least two court days before the date set for trial. Parties in civil actions shall be deemed to have waived their right to a trial by jury in all cases in which they would otherwise be entitled to such a trial, by an express waiver or failure to demand a jury, or in any other manner prescribed by law, specifically including but not limited law to, a failure to demand a jury in compliance with California Rule of Court 507 in all cases entitled to trial setting preference.</del></p> <p><del>—In unlawful detainer cases in which a jury is demanded, a jury will be deemed to be waived unless the party demanding the jury either: (1) deposits jury fees or (2) obtains an order to proceed in forma pauperis, and prior to 10 AM on the third full court day prior to the day set for trial— not counting weekends or non-judicial days established pursuant to law.</del></p> <p>(Adopted, effective July 1, 1996) <del>(Repealed, January 1, 2009)</del></p>

Proposal Number F08-05

<b>Title</b>	<b>LOCAL RULE 11.6 VOLUNTARY ARBITRATION</b>
<b>Proposed Changes</b>	<p>Rule 11.6 Voluntary Arbitration</p> <p><del>In all short-cause matters, the parties may stipulate to arbitration. Cost of such arbitration will be borne as the parties stipulate or, if there be no stipulation, by the losing party.</del><u>Renumbered as Local Rule 10.2</u></p> <p>(Adopted, effective July 1, 1996) <u>(Renumbered, effective. January 1, 2009)</u></p> <p><u>Rule 10.2 Voluntary Arbitration</u></p> <p><u>In all short-cause matters, the parties may stipulate to arbitration. Cost of such arbitration will be borne as the parties stipulate or, if there be no stipulation, by the losing party.</u></p> <p><u>(Adopted, effective, January 1, 2009 [formerly Rule 11.6])</u></p>

<b>Title</b>	<b>LOCAL RULE 11.17 GENERAL CIVIL DELAY REDUCTION PROCEDURAL RULES</b>
<b>Proposed Changes</b>	<p>Rule 11.17 General Civil Delay Reduction Procedural Rules</p> <p>Sections (a) through (c) Unchanged.</p> <p>(d) <del><b>SERVICE OF THESE RULES ON NEW PARTIES. Plaintiff shall serve upon each defendant along with the summons and complaint a copy of the Delay Reduction coversheet provided by the Court when the complaint is filed. Said coversheet will summarize these Delay Reduction Rules including the Rule relating to unlawful detainer actions. Any party, including cross-complainants, must serve this coversheet along with any pleading bringing a new party into the action.</b></del>  <u><b>REPEALED, See Local Court Rule 2.3</b></u></p> <p>(Adopted, effective July 1, 1996) (Amended, effective January 1, 2007) <u>(Amended, effective January 1, 2009)</u></p>

<b>Title</b>	<b>LOCAL RULE 4.81 GUARDIANSHIPS AND CONSERVATORSHIPS</b>
<b>Proposed Changes</b>	<p><u>Rule 4.81.1 Petition for Appointment of a Conservator.</u></p> <p>A. A petition for establishment of a conservatorship requires the following forms:</p> <ol style="list-style-type: none"> <li>(1) Petition for Appointment of Probate Conservator (GC-310);</li> <li>(2) Confidential Supplemental Information (GC-312);</li> <li>(3) Notice of Hearing (GC-020);</li> <li>(4) Order Appointing Court Investigator (GC-330);</li> <li>(5) Capacity Declaration-Conservatorship (GC-335 );</li> <li>(6) Dementia Attachment to Capacity Declaration (GC-335A)</li> <li>(7) Citation (GC-320);</li> <li>(8) Confidential Conservator Screening (GC-314);</li> <li>(9) Duties of Conservator and Acknowledgment of Receipt of Handbook (GC-348);</li> <li>(10) <del>Notification to Court of Addresses (local form)</del><u>Conservatee’s Information and List of Relatives (Local Form PR-1)</u>; and</li> <li>(11) Appointment of Probate Referee (Estate) local form.</li> </ol> <p>B. All filings regarding initial conservatorship petitions [initial petitions and supporting documentation, amended petitions or other amended supporting documents] or Petition for Independent Powers <b>must</b> consist of an original and three copies of each document stated herein. Signatures should be made with blue ink. The Clerk will retain the original and two copies of all documents filed. (The Clerk will deliver the copies to Court Investigators.) The third copy will be returned to the party for his or her records, stamped “endorsed-filed”. The information contained in the Confidential Supplemental Information and Confidential Conservator Screening <del>are</del><u>is</u> not part of the public record.</p> <p>C. Subsequent filings regarding conservatorships [accountings, confidential status reports, other petitions or documents] <b>must</b> consist of an original and two copies. Signatures should be made with blue ink. The clerk will retain the original and one copy of all documents filed. (The clerk will deliver the copy to the Office of the Court Investigator.) The second copy will be returned to the party for his or her records, stamped “endorsed-filed”.</p> <p>D. Petitions requesting Dementia Authority Powers, filings must consist of an original and three copies of all required documents. (The clerk will deliver two copies to the Office of the Court’s Investigator). Reference: Probate Code section 1821; California Rules Of Court, Rule 7.1050; and Local Rule §.4.81.10.</p> <p>(Adopted, effective July 1, 2004 [former Rule 4.81(a)]) (Amended 1/1/05) (Amended, July 1, 2005)</p> <p><u>Rule 4.81.2 Notice.</u> <b>[UNCHANGED]</b></p> <p><u>Rule 4.81.3 <del>Guardians.</del> Conservators and Trustees Qualifications</u></p>



Qualifications for conservators: Both Private Non-professional and Private Professional Conservators provide a valuable service to the community and to the conservatees. All conservators must complete education classes as part of qualifying to serve as a conservator in San Mateo County.

A. Private Non-professional Conservators and Trustee

1. Conservator of the Person
  - a) A private non-professional conservator of the person within six (6) months of appointment must complete a three (3) hour course covering the duties and responsibilities of a conservator of the person. The conservator must file a certificate of completion with the Court to satisfy the requirement or appear to explain why the requirement has not been met.
  - b) The Court may in its discretion waive such requirement.
2. Conservator of the Estate
  - a) A private non-professional conservator of the estate within six (6) months of appointment must complete a ~~three-hour~~three-hour course covering the duties and responsibilities of a conservator of the estate. The conservator must file a certificate of completion with the Court to satisfy the requirement or appear to explain why the requirement has not been met.
  - b) The Court may in its discretion waive such requirement.
3. Trustee
  - a) A private non-professional trustee within six (6) months of appointment must complete a ~~three-hour~~three-hour course covering the duties and responsibilities of a trustee of a trust. The trustee must file a certificate of completion with the Court to satisfy the requirement or appear to explain why the requirement has not been met.
  - b) The Court may in its discretion waive such requirement.

B. Court Appointed ~~Private Professional Conservators~~Professional Fiduciaries as Conservator or Trustee.

1. In order to be a Court Appointed ~~Private Professional Conservator (formerly known as a Friend of the Court)~~Court appointed Professional Fiduciary as a conservator or trustee by the Superior Court of California, ~~in County of~~in County of San Mateo ~~County~~, as of 01 July 2005~~8~~, the ~~Private Professional Conservator~~Professional Fiduciary must be licensed by the Professional Fiduciaries Bureau of the State of California. Requirements for initial licensing include completing thirty (30) hours of approved education courses and passing the State of California Professional Fiduciary Bureau licensing examination. For further licensing requirements, see the Professional Fiduciaries Bureau website at 222.fiduciary.ca.gov. meet the qualification criteria through one of the following means:

- a)~~Provide the Probate Court a Certificate in Professional Fiduciary~~

~~Management for Conservators. This certificate program is available at California State University, Fullerton, and is offered in various Bay area locations.~~

~~b) Provide the Probate Court with a Declaration and Affidavit showing experience equivalent to the Certificate in Professional Fiduciary Management for Conservators. Equivalent experience consists of five (5) years registration in the San Mateo Superior Court or another Bay Area Superior Court as a Private Professional Conservator AND appointment as a conservator of the person in five (5) cases and appointment as conservator of the estate in five (5) cases within those five (5) years.~~

~~c) Provide the Probate Court a Certificate in Professional Fiduciary Management for Conservators or its equivalent issued by another accredited college or university as approved by the Court.~~

~~2. In order to serve as a Court Appointed Private Professional Conservator in the capacity of a Trustee be appointed by the Superior Court in San Mateo County, as of 01 July 2005, the Private Professional Conservator must meet the qualification criteria through one of the following means:~~

~~a) Provide the Probate Court a Certificate in Professional Fiduciary Management for Trustees. This certificate program is available at California State University, Fullerton, and is offered in various Bay area locations.~~

~~b) Provide the Probate Court with a Declaration and Affidavit showing experience equivalent to the Certificate in Professional Fiduciary Management for Trustees. Equivalent experience consists of five (5) years registration in the San Mateo Superior Court or another Bay Area Superior Court as a Private Professional Conservator AND appointment as a trustee in five (5) cases within those five (5) years.~~

~~c) Provide the Probate Court a Certificate in Professional Fiduciary Management for Trustees or its equivalent issued by another accredited college or university.~~

### ~~€. 2. Continuing Education~~

~~As of 01 July 2005<sup>8</sup>, Professional Fiduciaries must complete:~~

- ~~- a minimum of fifteen (15) hours of continuing education credit each year for licensing renewal; and~~
- ~~- Must abide by the new Professional Fiduciaries Code of Ethics (see the Professional Fiduciaries Bureau website at [www.fiduciary.ca.gov](http://www.fiduciary.ca.gov).)~~

~~all Private Professional Conservators registered with the Superior Court in San Mateo County must complete four (4) hours of Continuing Education each year in accordance with guidelines that will be published by the San Mateo County Superior Court Probate Department.~~

(Adopted, effective July 1, 2004 ) (Amended, effective January 1, 2009)

**Rules 4.81.4 to 4.81.6 [UNCHANGED]**

Rule 4.81.7 Changes of Address

The conservator must promptly file a revised notice with the Court of any change of address or telephone number of the conservator, the conservatee, or the attorney for the conservator using the court's local form "Conservatee's Information and List of Relatives (Local Form PR-1)~~Notification to Court of Change of Addresses.~~

(Adopted, effective July 1, 2004 [formerly Rule 4.81(f)]) (Amended, effective January 1, 2009)

Rule 4.81.8 Private Professional Conservators.

A private professional conservator or trustee as defined in Probate Code section 2341, must be licensed by the Professional Fiduciaries Bureau of the State of California in order to continue to function as a Professional Fiduciary as of January 1, 2009. For licensing requirements, see the Professional Fiduciaries Bureau website at [www.fiduciary.ca.gov](http://www.fiduciary.ca.gov). A listing of licensed Professional Fiduciaries is available on the Professional Fiduciaries Bureau website either by county or by name. Fiduciaries are only listed in the county in which their business address is located. ~~shall file a declaration using the local form entitled "Certificate of Registration as a Private Professional Conservator" to provide the information required by statute. The Superior Court maintains a list of private professional conservators who may be appointed on a rotational basis to fill a vacancy or where no other appropriate fiduciary is available. The list is available at the Court Clerk's Office, Probate Division.~~

(Adopted, effective July 1, 2004 )

**Rules 4.81.9 to 4.81. [UNCHANGED]**

(Adopted, effective July 1, 1996) (Amended, effective January 1, 2007) (Amended, eff. January 1, 2009)

<b>Title</b>	<b>LOCAL RULES 4.76 (Temporary Conservatorships), 4.77.14 (Temporary Guardianships) - Inclusion of reference to Local Court Form PR-9 in Rules.</b>
<b>Proposed Changes</b>	<p><b>Rule 4.76 Temporary Conservatorships</b></p> <p>A. In exigent circumstances, petitions may be presented ex parte between 2:00 -3:30 p.m. (M,T, W, Th,F). On those days that the Probate Presiding Judge is not available, the petitioner shall present his/her petition to the court's Presiding Judge or the judge designated to hear ex parte matters. A separate petition for the appointment of a regular conservator must first be on file and a hearing date assigned before a petition for temporary conservator will be considered. Forms necessary for temporary appointment of conservator are as follows:</p> <ol style="list-style-type: none"> <li>(1) Petition for Appointment of Temporary Conservator (GC-110);</li> <li>(2) Declaration Regarding Notice Of Ex Parte Hearing (<u>Local Court Form PR-9</u>);</li> <li>(3) Ex Parte Order Appointing Temporary Conservator (GC-140);</li> <li>(4) Proof of service regarding 5-day personal service of ex parte petition to proposed conservatee (if matter contested); and</li> <li>(5) Letters of Temporary Conservatorship (GC-150) and Temporary Bond Certificate (for estates).</li> </ol> <p>Sections B-F Unchanged.</p> <p style="text-align: center;">(Adopted, effective July 1, 1996) (Amended, effective July 1, 2004)(Amended, effective July 1, 2006) (Amended, effective January 1, 2007) (<u>Amended, effective January 1, 2009</u>)</p> <p><b>Rule 4.77.14 Temporary Guardianship - Emergency Situations Only</b></p> <p>B. All the forms for a general guardianship must be submitted before a petition for temporary guardianship will be granted. The additional forms necessary for a temporary guardianship (original and two copies) are:</p> <ol style="list-style-type: none"> <li>1. Petition For Appointment Of Temporary Guardian . (GC-110)</li> <li>2. Order Appointing Temporary Guardian or Conservator (GC-140)</li> <li>3. Letters of Temporary Guardianship (GC-150)</li> <li>4. Duties of Guardian (GC-248)</li> <li>5. Declaration Regarding Notice <u>of Ex Parte Hearing</u> (<del>San Mateo County</del>-Local <u>Court Form PR-9.</u>)</li> </ol> <p>Sections A, and C through H are unchanged.</p> <p style="text-align: center;">(Adopted, effective July 1, 2004 ) (Amended, effective July 1, 2005) (Amended, effective July 1, 2006) (<u>Amended, effective January 1, 2009</u>)</p>

Title	LOCAL RULES 2.4, 4.17, 5.4, and 11.5
Proposed Changes	<p><b>B. Rule 2.4 Settlement Conference</b></p> <p>Reference: California Rule of Court, <del>Rule 2223.138</del>.</p> <p><i>[All other sections of this Rule remain in effect]</i></p> <p>(Adopted, effective July 1, 1996) (Amended, effective January 1, 2003)(Amended, effective July 1, 2005) (Amended, effective January 1, 2007) <del>(Amended, effective January 1, 2009)</del></p> <p><b>C. Rule 4.17 Appointment of Special Administrator</b></p> <p>Counsel must personally present the petition to the Court. Such petitions would ordinarily require appearance and notice as required in California Rule of Court, Rule 379. Except in the instance of a contest, special letters will issue for only a specified period of time. Although preference is given to the person entitled to letters, if it appears that a bona fide contest exists, the Court will consider the advisability of appointing a neutral person or corporate fiduciary.</p> <p>Reference: Probate Code 8000-8547 and 10400-10503; and California Rule of Court, Rules, <del>3793.1200-1207</del>, 7.50-7.55.</p> <p>(Adopted, effective July 1, 1996) (Amended, effective July 1, 2004) <del>(Amended, effective, January 1, 2009)</del></p> <p><b>D. Rule 5.4 Case Flow Management</b></p> <p><b><u>Sections A through D unchanged</u></b></p> <p><b>E. Cases Assigned to Commissioners:</b></p> <p>1. In some proceedings assigned to a Family Law department the parties may be asked to stipulate that their matter be heard and decided by a commissioner of the Superior Court, acting as a temporary judge pursuant to Code of Civil Procedure §259(e) and Rule <del>2442.831</del>.</p> <p>Section F Unchanged</p> <p>(Adopted, effective January 1, 2000) (Amended, effective January 1, 2003) ( Amended, effective January 1, 2004) (Amended,, effective January 1, 2005) (Amended, effective January 1, 2007) <del>(Amended, effective January 1, 2009)</del></p> <p><b>E. Rule 11.5 Juries: Fees and Demands</b></p> <p>Jury fees shall be deposited and may be refunded as provided in Code of Civil Procedure Sections 631 and 631.3. No refunds of the Jury fees deposited shall be</p>

made where the party making the deposit has failed to give the Clerk written notice of settlement or of the granting of a motion of continuance at least two court days before the date set for trial. Parties in civil actions shall be deemed to have waived their right to a trial by jury in all cases in which they would otherwise be entitled to such a trial, by an express waiver or failure to demand a jury, or in any other manner prescribed by C.C.P. § 631 ~~by law~~, specifically including but not limited ~~law~~ to, a failure to demand a jury ~~in compliance with California Rule of Court 507 in all cases entitled to trial setting preference at the time the cause is first set for trial.~~

In unlawful detainer cases in which a jury is demanded, a jury will be deemed to be waived unless the party demanding the jury either: (1) deposits jury fees or (2) obtains an order to proceed in forma pauperis, and prior to 10 AM on the third full court day prior to the day set for trial - not counting weekends or non-judicial days established pursuant to law.

(Adopted, effective July 1, 1996) (Amended, effective January 1, 2009)