

**PROPOSED LOCAL RULES**  
**(Effective 1/1/16)**

The Kings County Superior Court proposes to add or amend the following Local Rules:

**RULE 113 – Filing Exhibits to Documents with the Court**

A. All documents filed with the court are entered by staff into its electronic case management system. In order to facilitate the easy cross-referencing of exhibits, all pleadings, motions, declarations and other documents filed with the court must individually designate and separate each exhibit through the use of a single 8 1/2" by 11" page with the exhibit designation set forth in the **middle of the page** in type not smaller than 12 points. *For example:* EXHIBIT 1

B. All pleadings, motions, declarations and other documents filed with the court which include attached exhibits must be numbered sequentially beginning on page 1 of the motion, declaration or pleading, and continuing in order until the last page of the last exhibit attached thereto. Exhibit designation pages shall be included in the sequential numbering.

C. Exhibit stamps should **not** be used to create the exhibit designation. Exhibit designators must typewritten or handwritten, as stamps are not able to be searched by optical character recognition (OCR).

D. Due to the fact that they cannot be easily scanned into the court's electronic case management system, exhibit tabs or other dividers which cause the page to exceed 8½" x 11" should **not** be used to separate exhibits from pleadings, motions, declarations or other documents.

E. All pleadings, motions, declarations and other documents filed with the court which include more than one attached exhibit must include an index which sets forth a description of the exhibit, its exhibit designation, and its page number. *For example:*

| <b>Description</b> | <b>Location</b>                             | <b>Page</b> |
|--------------------|---|-------------|
| <b>Contract</b>    | <b>Exhibit 1 to Declaration by John Doe</b> | <b>23</b>   |
| <b>Statement</b>   | <b>Exhibit 2 to Declaration by John Doe</b> | <b>25</b>   |

The index should be located immediately before the first exhibit designation page and included in the sequential numbering provided for in paragraph (B).

F. Documents failing to comply with these rules may be rejected by the Clerk of the Court and/or otherwise have their filing and entry into the court's electronic case management system delayed. (Eff. 7/1/15; as amended, 1/1/16)

#### **RULE 406 – Background Check/Electronic Fingerprint Scan**

A background check and electronic fingerprint scan will be required when a petition for a name change, Guardianship, Conservatorship, and Stepparent Adoption has been filed. The purpose of the background check is to verify that the petitioner is not on probation, parole or a registered sex offender. (Code Civ. Proc. §1279.5 (e).) When a minor's name is to be changed, a Live Scan will be requested from the petitioner parent(s) or legal guardian(s). A Live Scan consists of a check of electronic fingerprint records maintained by the Department of Justice, the Child Abuse Central Index and possibly the FBI. Live Scan locations have been identified in an information packet that is available for purchase from the court clerk. Petitioner shall pay the fee charged by the Live Scan provider. The petitioner shall complete the Live Scan application form with the requested information and provide the Live Scan provider valid photo identification. Failure to provide the requested information will delay the petition and/or otherwise preclude the completion of the required investigation. (Eff. 7/1/11; as amended 1/1/16)

#### **RULE 543 – Payment of Bail in Traffic Infraction Cases**

For those electing to personally appear for arraignment in traffic infraction cases, no deposit of bail is required unless ordered by the court consistent with California Rules of Court, rule 4.105(c)(3). (Eff. 1/1/16)

#### **RULE 580 – Petitions for Writ of Habeas Corpus**

A. Petitions for Writ of Habeas Corpus shall be processed by the court in accord with California Rules of Court, rule 4.550, *et. seq.* Petitions failing to meet the requirements of California Rules of Court, rule 4.551, subdivision (a)(1), (2), will be returned without filing.

B. The Clerk will not conform incomplete copies of filed documents.

C. Absent order of the court, the Clerk will not provide copies of filed petitions and/or exhibits to the parties. It is the responsibility of the submitting party to retain copies of their filed documents and petitions.

D. Any request for expedited review of a Petition for Writ of Habeas Corpus must be presented to the court via written motion demonstrating good cause. (Cal. R. Ct., rule 4.551(h).) Because stating on the face of Judicial Council Form MC-275 that expedited review is requested does not by itself satisfy the good cause requirement of California Rules of Court, rule 4.551, subdivision (h), such unsupported requests will not be considered by the court.

E. Any party-initiated motion for additional time to do any act set forth in California Rules of Court, rule 4.552 or as directed by court order, must demonstrate good cause

and include proof of service upon all parties or their attorney of record. In addition, a *proposed* Order setting forth the good cause basis for the requested extension should be included with the motion. Failure to include a *proposed* Order may delay processing of the party-initiated motion.

F. The court will not accept for filing any written communication or application that, following issuance of an Order Re: Petition for Writ of Habeas Corpus directing action on the part of the Respondent(s), has not been served upon all parties or their attorney of record.

G. Except as provided in California Rules of Court, rule 4.551(a)(2), it is not appropriate for petitioners to fail to complete any portion of the Petition for Writ of Habeas Corpus (form MC-275). In addition, it is not acceptable for a petitioner to simply refer in the form MC-275 to an attached memorandum or pleading without setting forth any allegation within the form itself. If the form MC-275 provides inadequate space to state the entirety of a petitioner's claim, he/she may attach additional pages thereto which set forth in a clear and concise manner the facts necessary to state a prima facie claim for habeas corpus relief. (Eff. 7/1/11; as amended, 1/1/16.)

#### **RULE 620 - Judicial Assignments**

All-purpose judicial assignments have been adopted in connection with juvenile cases. All interested parties are directed to review Standing Order re All Purpose Assignment of Juvenile Delinquency Cases 2013-09 and Standing Order re All Purpose Assignment of Juvenile Dependency Cases 2013-10, as amended or modified, available for public viewing on the court's website. (Eff. 1/1/16.)

#### **RULE 718 – Child Custody Recommending Counseling in Child Custody and/or Visitation Matters**

Parties will be referred to the Family Court Services Department for Child Custody Recommending Counseling. There are two types of Child Custody Recommending Counseling that are available to parties at the Court's discretion. Child Custody Recommending Counselors will work to assist the parties in settling the issues by agreement.

A. Immediate Child Custody Recommending Counseling. At the hearing, the Judicial Officer may order the parties to Immediate Child Custody Recommending Counseling. The Child Custody Recommending Counselor will verbally report in open Court any agreements the parties have reached and/or any recommendations of the Child Custody Recommending Counselor. If an agreeable custody and/or visitation order is not obtained as a result of Immediate Child Custody Recommending Counseling, a formal session may be ordered.

B. Formal Child Custody Recommending Counseling. Parties will be referred to Formal Child Custody Recommending Counseling when deemed appropriate by the Judicial

Officer at the time of the hearing. The parties may request to participate in Child Custody Recommending Counseling by stipulation in writing prior to a hearing.

C. At the time the appointment is set, a parent may request a telephonic appearance for their Child Custody Recommending Counseling session if the parent resides more than 100 miles from Kings County. If granted, the party requesting the telephonic appearance must initiate the telephone call to the Child Custody Recommending Counselor. Where both parents reside over 100 miles from Kings County, only the parent residing the furthest distance from the court may be allowed to make a telephonic appearance at the Child Custody Recommending Counseling session.

D. In a case in which there has been a history of domestic violence between the parties, in which there is a protective or restraining order in effect, or at the request of the party who is alleging domestic violence, the Child Custody Recommending Counselor, Evaluator, or Investigator shall follow the Family Court Service Domestic Violence Protocol and meet with the parties separately.

E. The Child Custody Recommending Counselor may review the Court file at his/her discretion. Any documents that a party wants the Child Custody Recommending Counselor to consider, must be filed in the Court file no less than ten (10) days prior to Child Custody Recommending Counseling. Without prior approval, the Court will not consider more than ten (10) pages of declarations; *including attachments but excluding medical, psychological, and educational documents*. A copy of all documents must also be served on the other party/attorney or the documents will not be considered. A party's failure to appear at any appointment with the Child Custody Recommending Counselor, of which he/she has notice and which he/she has failed to cancel at least 24 hours prior to the session, may result in a missed appointment fee and/or sanctions.

F. Neither party shall bring any weapons to the Child Custody Recommending Counseling appointment. All individuals entering Court facilities will be subject to search.

G. No later than five (5) Court days prior to the hearing, the Child Custody Recommending Counselor will file a counseling report with the Court, with copies available to the parties. The report will, in the absence of an agreement, contain a recommendation to the Court with respect to the matter(s) at issue.

H. Confidentiality – Except as required by California Penal Code Section 11166, recommending counseling proceedings will be held in private, and all written and verbal communication will be deemed “official information” (Cal. Evid. Code §1040). Any information may, however, be disclosed to the Court.

I. Participation of Children - Children shall not be present at Court hearings or Child Custody Recommending Counseling unless ordered by the Court, or requested by the Child Custody Recommending Counselor. The Court and/or Family Court Services will determine whether and under what conditions a minor may be interviewed and the terms and conditions under which counsel may be appointed for the child/ren. However, if the

child is 14 years of age or older and wishes to address the Court, the Judicial Officer will determine whether and under what conditions the child shall be permitted to do so. If a request to address the Court is declined, the Judicial Officer shall state its reasons for that finding on the record. If the court precludes the calling of any child as a witness, the court shall provide alternative means of obtaining input from the child and other information regarding the child's preferences.

J. Presence in Family Court Services - Only the parties to the case are to be present during Child Custody Recommending Counseling. Individuals who are not parties to the case shall not be allowed in the Family Court Services' waiting room and offices. Pursuant to Family Code Section 6303(c), a person alleging domestic violence may request a support person to be present during Child Custody Recommending Counseling.

K. Orientation – Parties are required to complete the Judicial Council of California Orientation to Family Court Mediation and Child Custody Recommending Counseling prior to participating in Child Custody Recommending Counseling. The orientation will take 30 minutes to complete. The orientation is available on the Court's website under the General Information section of the Family Court Services link.

L. Intake – Each party must complete a Family Court Services intake form prior to participating in Formal Child Custody Recommending Counseling. The information placed on the form will provide invaluable information to the Child Custody Recommending Counselor about the parties, their children, and custodial and visitation preferences. (Eff. 1/1/99 as Rule 740; as amended and renumbered, eff. 7/1/08; Amended 1/1/16)

#### **RULE 719 - Custody Evaluation (§730, §3111, §3118, and Child Custody Evaluation)**

The following rules are in accordance with California Rules of Court, Rule 5.220, Court-Ordered Child Custody Evaluations. The goal of this Court is to promote the best interests of the family and its children while protecting the privacy of the parties involved. The term "custody evaluator" defines an independent psychiatrist, psychologist, L.C.S.W., L.M.F.T., or Court connected Child Custody Recommending Counselor completing either a comprehensive or partial child custody evaluation.

A. Matters of custody and visitation will not be referred for an evaluation unless determined necessary by the Court. Family Court Services can provide a limited investigation of specific issues by order of the Court, and the Court may permit examination and cross examination of the Child Custody Recommending Counselor.

B. Whether a referral is to an independent professional for a custody evaluation, or to a Court connected Child Custody Recommending Counselor for a limited investigation, the Court will appoint a professional whose skills, training, and background are best suited to the particular needs of the family with qualifications as outlined in California Rules of Court, Rules 5.225 and 5.230.

C. In all cases referred for evaluation for which there is no previous stipulation as to the

evaluator, the parties will nominate three qualified professionals, and the Court will choose from that list. No preemptory challenge will be allowed once the name of the evaluator is so chosen. In all cases where the parties stipulate to such an evaluation, such stipulation will only be approved where, in the opinion of the Judicial Officer, the alleged facts warrant an evaluation.

D. Ex-parte communication - No party, or attorney for a party, shall initiate contact with an evaluator to discuss the merits of the case without notice to the other party and an opportunity to be present; a copy of any written communication must be served upon the other party or their attorney. The evaluator shall have the discretion to communicate with any person or agency that may provide information relevant to the evaluation.

E. When an evaluator is interviewing children, the evaluator will state to the child in language appropriate to the child that the evaluator may need to tell the Judicial Officer what was discussed during their conversations so that the child is aware that their communications are not confidential.

F. When ordering an evaluation, the Court will state the date upon which the report is due. If any fees or costs will be charged for the evaluation, the Court will make an order allocating the payment of the evaluator's fees and costs between the parties.

G. The report shall have affixed to the first page form FL-328, and shall be submitted to the Court at least ten (10) days before the hearing. The Court shall determine dissemination of the report after the Family Court Services Director or the Director's designee has reviewed the report and submitted it to the assigned Judicial Officer.

1. No written report shall be discussed by the parties or counsel with the minor child/ren at issue.

2. Without a Court order to the contrary, no person with access to such written report will use the report or information contained therein in any manner outside the custody proceeding for which the report was ordered. A violation of this rule may result in the imposition of monetary sanctions.

3. All reports to the Court will remain confidential, and their duplication and dissemination may be subject to appropriate protective orders as determined by the Court. In no event will any such report be shown to any individual not a party to the proceeding, or to their attorneys, except by order of the Court. Custody Evaluation Report (form FL-328) shall be attached as the first page of the child custody evaluation report, and the report shall be filed into the court's database at least ten (10) days before the hearing and shall remain CONFIDENTIAL.

H. A Child Custody Evaluation/Investigation and Report pursuant to California Family Code Section 3110, *et. seq.*, may not commence without the written order of a Judicial Officer. Such investigations are ordered in those cases where serious factual questions as to the health, safety, and welfare of the child/ren are involved and such an investigation is

required to assist the Judicial Officer in reaching a decision. (Eff. 1/1/99 as Rule 741; as amended and renumbered, eff. 7/1/08; amended 1/1/16.)

**PROPOSED FEE INCREASES  
(Effective 1/1/16)**

The Kings County Superior Court intends to enact the following fee increases and changes:

| FAMILY COURT SERVICES FEES |  | PROPOSED NEW FEE   | CURRENT  |
|----------------------------|--|--|--|
| 1.                         | CCRC Session - 1st Session   | Free   | Free   |
| 2.                         | Re-referred to CCRC within 6 months  | \$100.00 per parent. <i>Total cost (\$200.00) may be charged to a parent who failed to cooperate in the first scheduled session, thus causing the re-referral.</i> | Free   |
| 3.                         | CCRC Review  | \$100.00 per parent  | Free   |
| 4.                         | Child Interview (for all children)   | \$100.00 per parent  | Free   |
| 5.                         | Child Custody Evaluation/Investigation<br>Includes minor interviews                      | \$600.00 (\$300.00) per parent   | \$75.00 per hour (on Info. page but not on fee schedule and not charged) |
| 6.                         | Guardianship Investigation/Termination<br>Includes minor interviews                      | \$600.00 to be paid by Petitioner  | \$300 Initial,<br>\$150 subsequent,<br>\$300 Termination                 |
| 7.                         | Conservatorship Investigation  | Remain the same  | \$450- First year includes<br>3 reports - \$150 Annual                   |
| 8.                         | Step-Parent Adoption (Includes minor interviews)   | \$350 to be paid by Petitioner   | \$20.00 per child<br>\$300 Investigation                                 |
| 9.                         | Declare Minor Free (if separate from Step-Parent Adoption and includes minor interviews) | \$350.00 to be paid by Petitioner  | \$20.00 per child; \$300 for investigation fee                           |
| 10.                        | Joint Step-Parent Adoption / Declare Minor Free (Includes minor interviews)              | \$700.00 to be paid by Petitioner  | \$300.00   |
| 11.                        | Grandparents Rights Cases<br>if re-referred within 6 months                              | \$75.00 Each Party   | None / Opening a misc. case \$435.00                                     |