SUPERIOR COURT OF CALIFORNIA
COUNTY OF KINGS

Local Rules

(Effective January 1, 2017)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF KINGS

TABLE OF CONTENTS
(Amended 1/1/17)

Chapter 1: General and Administrative Rules

Chapter 2: Administration of Civil Cases

Chapter 3: Civil Law and Motion

Chapter 4: Miscellaneous Civil Rules

Chapter 5: Criminal Rules

- Part 1 - Rules Applicable to All Criminal Proceedings
- Part 2 - Rules Applicable to Felony Cases and Misdemeanor Cases Joined or Consolidated with a Felony for Trial
- Part 3 - Rules Applicable to Misdemeanor Cases
- Part 4 - Rules Applicable to Infractions
- Part 5 – Rules Applicable to Petitions for Writ of Habeas Corpus

Chapter 6: Juvenile Court Rules

Chapter 7: Family Court Rules

- Part 1 - General Rules
- Part 2 - Child Support and the Kings County Department of Child Support Services

Local Forms Index

Subject Matter Index

List of Effective Dates

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF KINGS

CHAPTER 1: GENERAL AND ADMINISTRATIVE RULES

RULE 100 - Citation of Rules

These rules shall be known and cited as the “Kings County Local Rules of Court.” (Eff. 1/1/99)

RULE 101 - Construction, Scope and Effect of Rules

These rules shall govern all proceedings in The Superior Court of the State of California, County of Kings. These rules are designed to promote the efficient conduct of judicial business in The Kings County Superior Court and facilitate the administration of justice.

The rules are supplementary to, and shall be construed and applied so as to be compatible with, California statutes, the California Rules of Court or other rules adopted by the Judicial Council of California. When a specific rule or code section referred to in these rules is amended or renumbered, the successor rule or code section shall apply. (Eff. 1/1/99; as amended, eff. 7/1/08)

RULE 102 - Definitions

The definitions set forth in the California Rules of Court and other rules adopted by the Judicial Council shall apply with equal force and for all purposes to these rules unless the context or subject matter herein otherwise requires.

Alternative Dispute Resolution: "Alternative Dispute Resolution" or "ADR" means a process, other than formal litigation, in which a neutral person or persons resolve a dispute or assist parties in resolving their dispute. Examples include mediation, arbitration, neutral evaluation, and mini-trial.

CASA: The term “CASA” shall refer to any court appointed special advocate program established in Kings County in accord with the requirements of California Rules of Court, rule 5.665.

Clerk: The word "Clerk" means the Clerk of the Court and any deputy clerks.

Complex Litigation: The words “Complex Litigation” mean cases that meet the definition of "complex case" found in Rule 3.400 of the California Rules of Court.

Court: The word "Court" means The Superior Court of the State of California, County of Kings and includes and applies to any duly appointed or elected judge, to any duly appointed commissioner or referee, to any judge or retired judge who has been assigned by the Chairperson of the Judicial Council to serve, and is serving, as a judge of the Court, and to any attorney who is a member of the State Bar of California designated by the Presiding Judge or any other judge as a temporary judge, while the attorney is serving as a judge.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF KINGS

Court's Website: The Court's website is http://www.kings.courts.ca.gov

CPS: The acronym “CPS” means the Child Protective Services Division of the Kings County Human Services Agency.

Day or Days: The word “Day” or “Days,” unless otherwise specified, shall mean calendar day or days.

Department: The word “Department” means either a numbered courtroom or an administrative unit of a division.

Ex-Parte: The term “Ex-Parte” means from or on one side only, with the other side absent or unrepresented.

General Civil Case: The words “General Civil Case” mean a limited or unlimited civil case, except probate, guardianship, conservatorship, family law, juvenile proceeding, other civil petition, complex litigation, unlawful detainer, and small claims cases.

Judgment: The word "Judgment" includes and applies to any judgment and to any other order or decree from which an appeal lies.

Judicial Council Rules: The words "Judicial Council Rules" mean any rules heretofore or hereafter adopted by the Judicial Council of the State of California for Superior Courts.

Judicial Officer: The words “Judicial Officer” mean any duly appointed or elected judge of the Court, any duly appointed commissioner or referee, any judge or retired judge assigned by the Chairperson of the Judicial Council to serve as a judge of the Court, and any attorney designated to serve as a temporary judge, while so serving.

Limited Civil Cases: The words “Limited Civil Cases,” mean limited civil cases as defined in Code of Civil Procedure Section 86.

Meet and Confer: The words “Meet and Confer” mean a telephone conference between opposing parties or, whenever reasonably possible, a face-to-face meeting. A meet and confer obligation is not satisfied by an exchange of letters.

Paper: The word "Paper" includes all pleadings, notices and other documents.

Party: Unless otherwise indicated, “Party” means the party litigant, but if the litigant is represented by an attorney, then “party” means the attorney.

Person: The word "Person" shall include and apply to corporations, partnerships, proprietorships, associations and all other entities, as well as natural persons.

Plaintiff: The word "Plaintiff" means a plaintiff or petitioner; it also means cross-complainant in those cases where the plaintiff is no longer an active party.

Presiding Judge: The words "Presiding Judge" mean the elected Presiding Judge of the Court, or the Presiding Judge's designee.

Short Cause Case: The words "Short Cause Case" mean any case in which the time estimated for trial by all parties is five (5) hours or less.

Subordinate Judicial Officer – The term "Subordinate Judicial Officer" refers to court commissioners, referees, and hearing officers.

Unlimited Civil Case: The words "Unlimited Civil Case" mean a civil action or proceeding other than a limited civil case. (Eff. 1/1/99; as amended, eff. 7/1/11)

RULE 103 - Failure to Comply with Rules

The failure of any person to comply with these rules, unless good cause is shown, or the failure of any person to participate in good faith in any hearing or conference required by these rules, is an unlawful interference with the proceedings of the Court. The Court may order the person at fault to pay the opposing party's reasonable expenses and counsel fees, to reimburse or make payment to the county, may order an appropriate change in the calendar status of the case, and impose any other sanctions authorized by law, including dismissal of a pending action. To the extent permitted by law, sanctions may be imposed upon a party, the party's attorney, or both, as the Court deems appropriate under the circumstances. (Eff. 1/1/99; as amended, eff. 7/1/08)

RULE 104 - Court Attire and Conduct

A. No person shall appear in Court barefoot, shirtless, wearing a tank top, wearing sunglasses, or dress in any manner reflecting poorly upon the dignity of the Court and its decorum. The bailiffs of the Court are to remove any person violating this rule. This rule does not limit any judge from additionally prescribing appropriate attire or conduct rules in the Courtroom.

B. Cellular phones, pagers, digital cameras, video recorders, and all other electronic communication or recording devices not specifically authorized by a judge, must be turned off prior to entering the Courtroom. Any cellular phone, pager, digital camera, video recorder, or other electronic communication or recording device that disrupts the proceedings or is used/possessed in violation of this rule, shall be subject to confiscation by the bailiffs of the Court.

C. For reasons of safety and security, all persons appearing before the Court are asked to keep their hands in plain sight.

D. All persons entering the Court, Family Services Division or Jury Services area, will be subject to a search. No weapons are allowed within any Court facility, except those legally possessed by judicial officers. Peace officers who are engaged in the duties of their employment while at a Court facility will be allowed to possess employer approved firearms

and other weapons in a manner consistent with their employment duties, requirements and limitations. (Eff. 1/1/99; as amended, eff. 7/1/08; amended 7/1/16.)

RULE 105 - Appearance and Conduct of Counsel

An attorney who appears for another attorney is representing the party before the Court. As provided by the California Rules of Professional Conduct such attorney is required to do so competently, and is expected to be prepared to perform any duties required by the Court, to have authority to make appropriate dispositions or calendar settings, and to communicate any orders the Court may issue to the attorney of record.

An attorney shall not accept representation of a client if the attorney does not have sufficient time to adequately prepare before the next scheduled Court appearance, and shall comply with all applicable case disposition standards unless otherwise ordered by the Court. (Eff. 1/1/99)

RULE 106 – Payment of Fees and Fines

A personal check, bank cashier's check or draft, money order or traveler's check offered in payment of any fee, fine or bail deposit may be accepted by the clerk as follows:

A. Personal checks must be drawn on a banking institution located in the United States.

B. Cashier's checks or money orders may be drawn on any issuing institution located in the United States.

C. The amount must be the exact amount of the fee, fine or bail. Change will not be given. The date on the check must not be over one month previous to the date presented; post-dated checks will not be accepted.

D. The original payee must be the Clerk of the Kings County Superior Court or its practical equivalent.

E. Two-party checks are not acceptable.

F. The numeric figures must agree with the amount written in words. The amount must be in designated in US currency.

G. Any check or money order, which appears irregular on its face, may be refused.

H. Personal checks from persons known to have previously tendered dishonored checks may be refused.

I. Checks returned to the Court are subject to applicable fees.

J. Coinage of more than $50.00 shall be counted and rolled. (Eff. 1/1/99; as amended, eff. 7/1/08)

RULE 107 - Custody of Court Files

A. No papers, exhibits, or evidence on file with the Clerk in any civil or criminal case shall be taken from the Clerk's Office, except by order of the court or in response to a subpoena duces tecum.

B. Except as otherwise required by law or order of the court, original documents filed with the court after November 4, 2014 will be destroyed following their entry into the court's electronic case management system. The electronic record created by the court's electronic maintenance of pleadings and other documents, along with any documents and/or exhibits conventionally maintained by the court, shall constitute the official record of the court for all purposes. (Eff. 1/1/99; amended 7/1/15)

RULE 108 – Exhibits/Dangerous Evidence

A. Evidence admitted in any case before any Court will be only those items required in the case and will be retained by the Court for the minimum time required by law, unless good cause is shown to retain the evidence. No exhibit will be received by any Court if the exhibit poses a security storage, safety or health problem. A photographic record shall be substituted for said exhibit.

B. Exhibits which will not be received include, but are not limited to:

1. Any type of explosive power;

2. Explosive chemicals, toluene, ethane;

3. Explosive devices, such as grenades or pipe bombs;

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

5. Canisters containing tear gas, mace;

6. Rags which have been soaked with flammable liquids;

7. Liquid drugs such as phencyclidine (PCP), methamphetamine, corrosive liquids; pyrrolodine, morpholine or piperidine;

8. Samples of blood, urine, human or animal tissue or other items requiring refrigeration and/or humidity-controlled storage; and

9. Any controlled substance that requires special destruction under the State of California as being a hazardous material, which would include any cocaine, methamphetamine or heroin; or any other controlled substance currently being accepted.

All such substances will be returned to the district attorney's office or the agency that confiscated the controlled substance and who has presented it as evidence in Court in a criminal action or proceeding. It shall be returned by stipulation of Counsel as provided in Penal Code Section 1417.2.

C. Unless specifically ordered by the Court, all exhibits marked, identified and/or admitted into evidence in a civil case must be retrieved by the offering party at the conclusion of trial. The party introducing the exhibits is responsible for maintaining and preserving the exhibit pending any post-verdict proceedings and appeals, until there is a final disposition of the action or proceeding. All exhibit tags and other identifying markings or information concerning each exhibit must remain in place and not be disturbed.

Each exhibit must remain intact and in the same condition as during trial. In the event further proceedings or any Court having jurisdiction of the matter require the presence of any exhibit, the party introducing the exhibit must promptly deliver the exhibit to the Court, with notice to all parties. (Eff. 1/1/99 as Rule 109; as amended and renumbered, eff. 7/1/08)

RULE 109 – Sound Recording Evidence/Transcripts to be Offered as Exhibits

Prior to the commencement of any trial or hearing, a typed transcription of any sound recording which counsel expects to offer into evidence as an exhibit shall be prepared at the direction and expense of the proponent of the evidence and shall be certified by the preparer as containing a true transcription of such recorded statement. The proponent of such recording shall prepare a sufficient number of copies of such transcript for each of the following persons to have a copy: each juror and alternate juror, the judge, each opposing party, each opposing counsel, the court clerk, and the court reporter. (Eff. 1/1/99 as Rule 110; as amended and renumbered, eff. 7/1/08)

RULE 110 - Judicial Notice

A. In addition to complying with the requirements set forth in Rule 3.1306, subdivision (c) of the Rules of Court, any party requesting that judicial notice be taken of documents in a file in a case in The Kings County Superior Court other than the case in which the motion is brought, shall at the time of the filing of the motion notify the Clerk of the request and of the name and Court number of the file containing the documents requested to be noticed.

B. Family law matters scheduled to be heard in Department 4 of the Kings County Superior Court are governed by Local Rule 730. (Eff. 1/1/99; as amended, eff. 1/1/7.)

RULE 111 – Time for Filing

A. The failure to include sufficient fees, required case-identification information, adequate number of copies and/or supporting documentation with any filing, may result

in the court's good cause delay of the filing of the document(s) to the next court day or the date on which the missing information, copies and/or fees are received.

B. Conformed copies of a filing will not be returned via mail to any individual failing to provide a return envelope with adequate postage thereon.

C. Only those documents filed with the court or deposited in the court's drop box before 4:00 p.m. on any court day, will be deemed to have been filed on that day. Any document received by the court after 4:00 p.m., will be filed on the next court day. Documents received by the court after 3:00 p.m. will be processed consistent with Local Rule 124. (Eff. 7/1/08; as amended and renumbered, eff. 1/1/13; amended 7/1/15)

RULE 112 - Facsimile Machine (Fax) Filing

The Court accepts filing of civil documents by facsimile transmission through Official Payments Corporation. Generally, documents must be received by Official Payments Corporation not later than 3:00 p.m. on the day the documents are to be filed by fax. Parties should, however, contact Official Payments Corporation for updated information and/or changes to daily fax filing deadlines.

The Kings County Superior Court does not accept direct facsimile filing of documents. (Eff. 1/1/08; as amended, eff. 7/1/08.)

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 thereon 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 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*:

Description	Location	Page
Contract	**Exhibit 1 to Declaration by John Doe**	**23**
Statement	**Exhibit 2 to Declaration by John Doe**	**25**

The index should be located immediately before the first exhibit designation page and included in the sequential numbering provided for in paragraph (B). (Eff. 7/1/15)

RULE 114 – Stipulation or Objection to Superior Court Commissioner(s)

A. General civil, probate, ex-parte orders and writs, bonds and undertakings, arraignments, bench warrants, conservatorships, juvenile, civil petitions, unlawful detainer, traffic and/or small claims matters are routinely assigned to a Superior Court Commissioner. As to those matters where the Commissioner will be acting as a temporary judge, the parties must stipulate to the assignment. Any failure to object to the assignment of a Commissioner acting as a temporary judge prior to the beginning of the proceeding is deemed a stipulation to the assignment until final determination of the cause. Once given in writing, implied by conduct or orally stated on the record, a stipulation can only be withdrawn as set forth in California Rules of Court, rule 2.816(e).

B. If a party objects to having a proceeding heard by a Commissioner acting as a temporary judge, the matter will be re-assigned and continued to the next available calendar date. In order to avoid the undue consumption of judicial resources and to minimize the inconvenience to the litigants, parties are advised to file and serve any objection to the assignment of a Commissioner acting as a temporary judge, at least five court days before the scheduled proceeding. (Eff. 7/1/08.)

RULE 115 – Filing of Documents for Ex-Parte Hearings

Parties wishing to obtain an ex-parte order from the Court in any civil, family, criminal or other matter should file all documents at least two court days prior to the scheduled hearing, but no later than 9:00 a.m. on the court day prior to the intended hearing. Late-submitted ex-parte papers will be accepted for filing and presentation to the appropriate Judicial Officer. However, parties are advised that the late submittal of documents, especially in matters to be heard in a Division different from the location of filing, may cause the hearing and/or decision thereon to be delayed to the next court day. (Eff. 7/1/08; typographical error amended, eff. 1/1/09.)

RULE 116 – News and Media

The Court has adopted a Media Plan for High Profile Cases at the Kings County Superior Court. A copy of the Plan is available on the Court's website. All media

personnel are expected to comply with the rules, requirements and limitations set forth therein. (Eff. 1/1/09)

RULE 117 - Computers and Electronic Equipment in Courtroom

A. All personal computers, personal digital assistants, and other electronic devices capable of visual and/or audio recording, forwarding of communications to other electronic devices and/or the transmission of information through in the internet or by other digital means ("electronic equipment"), must be turned off and stored prior to entering the Courtroom and must remain turned off at all times while inside the Courtroom.

B. Those individuals who are parties to a hearing, trial or other court proceeding who require the use of electronic equipment during their matter, including those individuals wishing to utilize the court's wireless internet connection system, must be granted permission by the presiding judicial officer or his/her agent. Where permission has been given in connection with a specific action or proceeding, electronic equipment must be turned off and stored immediately upon completion of the relevant matter. Except as allowed by the presiding judicial officer or his/her agent, electronic equipment may not be used to create a visual or audio recording or record of the proceedings before the court.

C. Any individual failing to comply with this Rule and/or otherwise determined by the presiding judicial officer to be acting in a manner that is disruptive of the proceedings, may be subject to additional use restrictions, those penalties set forth in Kings County Local Rule 103, exclusion/removal from the courtroom until their individual matter is called, and/or confiscation of electronic equipment by the bailiffs of the court. Electronic equipment confiscated by a bailiff will not be released until completion of the court's calendar.

D. This rule does not prohibit law enforcement personnel from the wearing and use of department-issued dispatch radios of the type commonly worn by on-duty corrections, police and sheriff department officers during appearances before the court.

E. Individuals selected to serve as jurors in a civil or criminal trial may not utilize electronic equipment inside the courtroom and jury deliberation room. Consistent with the individual preference and policy of each presiding judicial officer, cell phones and other electronic equipment may be subject to collection from jurors prior to their entry into the courtroom and jury deliberation room. Any juror found to be operating electronic equipment in violation of this rule and/or the advisements of the court, is subject to exclusion and those additional remedies and penalties allowed by law.

F. Where such procedures conflict with this rule, media personnel shall be governed by the terms and conditions of the Courthouse and Courtroom Media Plan for the Kings County Superior Court.

G. This rule shall not apply to court employees as directed by the presiding judicial officer and/or the Executive Officer of the Court. (Eff. 7/1/09.)

RULE 118 – Color of Print/Original Signatures

A. Handwriting and hand printing on all papers filed with the court must be in black or blue-black ink. (Cal. R. Ct., rule 2.106)

B. In order to avoid uncertainty as to the original nature of any signature on a document presented for filing, it is the preference of the court and its judicial officers that signatures be scribed in ***blue*** ink of a permanent nature. It is also the preference of the court and its judicial officers that signatures be written using non-gel pens.

C. Although the clerk may not reject for filing any document which fails to comply with this rule (Cal. R. Ct., rules 2.118, 2.135), the clerk reserves the right to reject the filing of any document that is rendered illegible by the color of ink used. In addition, the clerk may delay, pending confirmation from the submitting party, the filing of any document where the original character of a signature is in doubt. (Eff. 1/1/10)

RULE 119 – Notice of Unavailability of Counsel

Notices of unavailability pursuant to *Tenderloin Housing Clinic, Inc. v. Sparks* (1992) 8 Cal.App.4th 299 are not statutorily binding on the court. Although *Tenderloin* compliant notices may provide recourse against a party to whom the provisions of the case are intended to apply, they do not preclude an otherwise calendared court proceeding. Therefore, absent a modifying order, all parties shall appear on all dates for which their presence has been noticed via order of the court.

Any party causing a *Tenderloin Housing Clinic* notice to be filed with the court must include thereon the case number of *each* active case to which it is intended to apply. (Eff. 7/1/10)

RULE 120 - Record on Appeals to the Appellate Division

California Rules of Court allow a superior court in its local rules to provide that the original trial court file may be used instead of a clerk's transcript on appeals to the appellate division of the superior court in limited civil appeals [8.830(a)(1)(B); 8.833], in appeals from a misdemeanor conviction [8.860(a)(1)(B); 8.863] and in appeals from infractions [8.910(a)(1)(B); 8.914]. Pursuant to the forgoing Rules of Court, the court elects to use the original trial court file instead of the clerk's transcript as the record of the written documents from the trial court proceedings in appeals to the appellate division of the superior court. (Eff. 7/1/10)

RULE 121 – Complaints Concerning Subordinate Judicial Officers

A. All complaints against Subordinate Judicial Officers ("SJOs") and Temporary Judges ("Pro Tems") shall be submitted in writing. The court has adopted local procedures for the processing of complaints against SJOs and Pro Tems for conduct that does not fall within the jurisdiction of the Commission on Judicial Performance. A copy of such local procedures and an optional complaint form may be obtained from the Administrative Office of the Kings County Superior Court, 1640 Kings County Drive, Hanford, California 93230.

B. Complaints must include the name, mailing address and contact information for the Complainant. Complaints should be addressed as follows:

Mr. Jeffrey Lewis, CEO
SJO/Pro Tem Program
Kings County Superior Court
1640 Kings County Drive
Hanford, California 93230

C. All complaints alleging conduct that is within the jurisdiction of the Commission on Judicial Performance will be processed in accord with California Rules of Court, Title Ten, Judicial Administration, Chapter 2, Trial Court Management of Human Resources, rule 10.703. Rule 10.703 may be found on-line at the Judicial Council's website www.courtinfo.ca.gov/rules. (Eff. 7/1/11, as amended 7/1/16)

RULE 122 – Mandatory Local Forms

Where a mandatory local form has been adopted or revised in accord with the requirements of California Rules of Court , rule 10.613, failure of a party to file or submit the form as directed may result in delayed processing of pleadings or other documents, sanctions and/or dismissal of the action. (Eff. 7/1/11)

RULE 123 – Appointment of Medical Examiners

A. The court appoints medical examiners and/or mental health experts for reports or testimony as provided by law. When the need for this arises, the court will appoint from the approved List of Medical Examiners/Mental Health Experts for the Kings County Superior Court. Individuals wishing to be included on the court's List of Medical Examiners/Mental Health Experts, must complete and submit a Medical Provider/Expert Certification. The Certification is available through the court's website or may be obtained from the office of the Court Executive Officer. The completed Certification shall be forwarded to:

Kings County Superior Court
Attention: Court Executive Officer
1640 Kings County Drive
Hanford, California 93230

B. The court may, for good cause, appoint an expert not on its approved List of Medical Examiners/Mental Health Experts.

C. Upon receipt of a medical examiner's Certificate and all supporting documents, the court will confirm that the examiner's license is valid and in good standing with appropriate licensing agencies. If the applicant's license is in good standing, the Certificate and supporting documents will be forwarded by court administration to each bench officer for review. Bench officers will thereafter forward to court administrators, all comments and objections that they may have to the examiner's inclusion on the court's approved List of Medical Examiners/Mental Health Experts.

D. The Presiding Judge shall make the final determination as to which individuals appear on the court's approved List of Medical Examiners/Mental Health Experts.

E. All medical examiners and mental health experts applying for inclusion on the court's List of Medical Examiners/Mental Health Experts, shall be advised in writing by court administration of the final determination of the Presiding Judge. Court administration shall retain proof in writing that the examiner was provided with such notice.

F. It is the responsibility of all individuals appearing on the approved List of Medical Examiners/Mental Health Experts, to update court administration regarding any changes/amendments to licensing status, contact information, or other information included on their Certificate.

G. The court's approved List of Medical Examiners/Mental Health Experts shall be updated and distributed to all bench officers and appropriate court staff at an interval of not less than once per year. The list may, however, be updated more frequently as is deemed appropriate to provide bench officers and staff with information relevant to the appointment of experts in pending legal matters.

H. Medical examiner/mental health expert appointments made by the court are made on a rotational basis unless the judicial officer presiding over a case determines that good cause exists for deviation from the rotation. (Eff. 1/1/13, as amended 7/1/16)

RULE 124 – Filing of Documents After 3:00 p.m.

Public service demands upon staff are high and, therefore, all documents must be filed with the court in a timely manner. Pursuant to Administrative Order 94-04, documents filed with the Clerk of the Court after 3:00 p.m. will be stamped in as "filed" but will not be processed nor made available for court review and consideration until the afternoon of the next working day. This includes documents filed after 3:00 p.m. in connection with next day Court hearings. In addition, any document filed after 3:00 p.m. in connection with a next day Court hearing will be filed and conformed in a manner which reflects on its face the fact of its after 3:00 p.m. filing. (Eff. 1/1/14.)

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF KINGS

RULE 125 – Pleadings Prepared by Third Parties

A. Parties who retain the services of third parties (*e.g.*, typing services or paralegals) to prepare their pleadings, must provide the court with the following information concerning the third-party preparer.

1. Name, including Doing Business As (DBA);
2. Legal Document Assistant (LDA) number;
3. Address; and,
4. Telephone number

B. Third-party preparer information must be stated in the caption area of the prepared document or, in the case of Judicial Council Forms, the area designated for such information.

C. This rule applies to all pleadings, including Judicial Council Forms. If a Judicial Council Form does not provide sufficient space to set forth the required information, parties must include the name of the preparer on the face of each prepared pleading. The remaining information required by this rule may be submitted via a simultaneously filed declaration. (Eff. 1/1/14.)

RULE 126 - E-Filing Rules

A. Requirement

1. Pursuant to Code of Civil Procedure Section 1010.6, documents filed by represented parties in all limited and unlimited civil cases, class actions, consolidated actions, or group of actions, coordinated actions, and actions that are complex under California Rules of Court, rule 3.403, must be filed and served electronically unless the Court excuses the parties from doing so. Although not required, self-represented parties are encouraged to participate in electronic filing and service. Parties bound by these rules must serve self-represented parties and nonparties conventionally unless the self-represented party affirmatively agrees otherwise in the manner provided for in California Rules of Court, rule 2.251.

2. If a party with a fee waiver files documents electronically, that party is exempt from the fees and costs associated with electronic filing to the same extent that they would have been exempt had the documents been conventionally filed. This rule is subject to the provisions set forth in Code of Civil Procedure section 1010.6 and California Rules of Court, rules 2.250*, et. seq*.

3. A party that is required to file and serve documents electronically under this rule may be excused from the requirements if the party shows undue hardship or significant prejudice. A written request for exemption which sets forth verified facts demonstrating undue hardship or significant prejudice must be filed at the time of initial appearance in the case and served along with the party's initial pleading. Written requests for

exemption submitted after the filing of a party's initial pleading must be based upon new or additional facts unknown to the party at the time of first appearance. The requesting party shall lodge a proposed order with the court. The court may summarily grant or deny the request based upon the facts set forth by the requesting party or, where additional information is required, schedule the matter for hearing. However, in the absence of a judicial order granting exemption from these rules, all parties to whom this rule applies must comply with its provisions.

B. Effective Date/Retroactive Effect of Designation

1. These rules are effective October 1, 2014 or on such date thereafter that the e-filing system of the Kings County Superior Court becomes available for public use ("Effective Date"). Notice regarding the official launch date of the Court's e-filing system and the Effective Date of this Rule will be posted on the Court's website.

2. This rule does not require the re-filing, re-service, or translation into electronic format of any document filed or served before the Effective Date designation. However, the judge assigned to a Case may order the parties to e-file papers previously conventionally filed.

3. The rule shall apply to documents filed after the Effective Date, even if the case was initiated prior to the same.

C. Manner of Filing

1. The electronic filing of documents must be affected using the Court's electronic service providers ("Vendor"). Vendor information is available on the Court's website. The Vendor will assign a confidential username and password to each party representative, which will be used to file, serve, and receive pleadings, orders, and other documents electronically filed in the Case. No attorney or party representative may knowingly or recklessly authorize or permit his/her username or password to be utilized by anyone other than the authorized attorneys or employees of the attorney's law firm.

2. All electronically filed documents, to the extent practicable, must be formatted in accordance with the applicable rules governing formatting of paper pleadings, and in such other or further format as the Court may require. The document title entered on the e-filing system must be the same as that reflected in the caption of the document.

3. All documents, papers or pleadings directly related to a previously filed document, paper or pleading must include a caption reference to the previously filed document, paper, pleading or motion. *For example*:

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF KINGS

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF KINGS

JOHN DOE, Plaintiff, vs. JANE DOE, Defendant.	No. 15C0000 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF OPPOSITION TO MOTION FOR SUMMARY JUDGMENT BY DEFENDANT JANE DOE**

4. The following types of documents may or must be filed conventionally unless otherwise required by the Court:

A. A motion to file documents under seal must be filed electronically. Sealed documents must be filed and lodged conventionally.

B. Exhibits to declarations or other documents that are non-text articles, physical objects, or other documents not readily susceptible to electronic filing may be filed or lodged conventionally and in accordance with the direction of the Clerk. A notice of such filing must be filed and served electronically.

C. Documents served by hand in open court during trial (including motions, memoranda of points and authorities, and other matters presented to the Court in writing for decision) may be served conventionally. The document and proof of service must be e-filed before the close of business on the court day following service by hand in open court. In addition, the proof of service must reference the date the document was originally served in open court.

D. Requests for exemption from the Court's e-filing requirements and, when filed simultaneously with such Request, a party's initial pleading or initial responsive pleading in a case.

5. All electronically filed documents must be formatted in a manner that allows the court and its judicial officers to conduct word searches of the text.

D. Time of Filing. Electronically filed documents filed prior to 4:00 p.m. on a court day will be deemed filed as of that day. (Cal. Code of Civ. Proc. §1010.6(b)(3) and California Rules of Court, rule 2.253(b)(7). For purposes of this Rule, filing occurs at the time the document is received by the court and a confirmation of receipt is created. (*See*, Cal. Rules of Court, rule 2.259(a)(1) and (c).) Any electronically filed document received by the Court after 4:00 p.m., or filed on a non-court day, will be deemed filed on the first court day after it is received. This provision concerns only the method and effective date of filing; any document that is electronically filed must satisfy all other legal filing deadlines and requirements. This Rule does not affect the timing requirements for any

documents that must be filed by a set time on the due date. In addition, all documents filed after 3:00 p.m. will be processed consistent with Local Rule 124.

E. Technical Problems.

1. At certain times, unexpected technical problems may temporarily preclude a User from electronic filing or serving one or more documents. Only those unexpected technical problems occurring at the fault of the Vendor or the Court will provide "good cause" for an automatic one court-day extension of an electronic filing or service deadline. In such circumstances, the document must be served or filed on the next court-day; electronically or, if the system remains inoperable, by conventional means.

2. Maintenance or other system issues requiring a period of inoperability of the e-filing system for which notice has been posted by the Vendor or on the Court's website, does not provide "good cause" for an automatic extension of any filing or service deadline. During noticed periods of inoperability, documents may be filed by conventional means.

3. Technical errors on the part of the User do not provide "good cause" for an automatic one court-day extension of relevant electronic filing or service deadlines, nor an excuse from e-filing requirements. Users are encouraged to take appropriate steps to avoid last-minute filings and service. Counsel error in connection with e-filing requirements must be addressed under California Code of Civil Procedure Section 473, subdivision (b).

F. Obligation to Keep Information Current. A party whose electronic notification address changes while the action or proceeding is pending must promptly file a notice of change of address with the court electronically and must serve this notice on all other parties or their attorneys of record. An electronic notification address is presumed valid for a party if the party files electronic documents with the court from that address and has not filed and served notice that the address is no longer valid.

G. Responsible for Redaction. The responsibility for redacting personal identifiers and privileged or confidential information rests solely with counsel and the parties. The Clerk will not review each pleading or other paper for compliance. The court may impose sanctions for violation of these requirements.

H. Confirmation of Receipt of Lodged and Filed Documents. Vendor is hereby appointed the agent of the Clerk as to the electronic filing, receipt, service and/or retrieval of any document in the e-file system. Vendor must promptly send Users confirmation of the receipt of any document that Users have transmitted to Vendor for filing or lodged with the Clerk. Such confirmation must indicate the date and time of receipt stated in Pacific Time. The Clerk must review the document and transmit to the Vendor confirmation that the document has been reviewed, accepted, or rejected by the Clerk. The Clerk must electronically endorse any document accepted for filing in accordance with CRC 2.259(e), or must promptly transmit the Clerk's notice of rejection or amendment to the User through Vendor.

I. Payment of Statutory Filing Fees. Vendor is hereby appointed as the agent of the Clerk with respect to collecting statutory filing fees for any electronically filed document. Each User must pay all required filing fees for electronically filed documents to Vendor. Vendor must remit filing fees to the Clerk. At such time, those fees are the sole property of the Clerk of the Superior Court of California, County of Kings. All requests for refunds of filing fees must be addressed to the Clerk and may be submitted electronically in the manner prescribed by the Clerk.

J. Signatures on E-Filed Documents.

1. Every item which is electronically filed or served is deemed to have been signed by a licensed attorney, court official, or person authorized to execute proofs of service if it bears a typographical signature of such person, e.g., “/s/ Adam Attorney,” along with the typed name, address, telephone number, and State Bar of California number of a signing attorney. Such typographical signatures are personal signatures for all purposes under the California Code of Civil Procedure. Judges may use graphic signatures.

2. Electronically filed documents requiring a signature under penalty of perjury may be filed consistent with paragraph 1, however, the actual handwritten signature page of the documents must be made available for inspection by other parties and/or the court consistent with California Rules of Court, rule 2.257(a).

3. Electronically filed documents which do not require a signature under penalty of perjury are deemed signed by the submitting party if it bears a typographical or graphic signature**.**

4. All electronically filed or served documents including original signatures must be retained for the time period set forth in California Rules of Court, rule 2.251.

K. Electronic Service of Documents and Proof of Service

1. Except as provided in A(1) or upon order of the court, Users must electronically serve all electronically filed documents on all parties. Users may electronically serve other documents not electronically filed upon other Users. Users must receive electronically served and filed documents via access to the Vendor's system. This Rule does not modify the obligations of service as set forth in the California Code of Civil Procedure.

2. A party may choose to serve documents required to be electronically filed under these Rules by means in addition to electronic service, but not instead of e-service. The time for response to documents shall be the earlier of those attributable to the various means of service.

3. Any proof of electronic service must comply with CRC 2.251(i).

L. Effect of Electronic Service. The e-service of a document is effective service on all Users. Documents electronically served by the close of business on court days are deemed to have been served on that day. Otherwise, they are deemed served the next court day. The filing and service provisions of CCP § 1010.6 and CRC 2.250, *et. seq*. apply.

M. Electronic Filing and Service of Orders and Other papers by Court. The Court may issue, file, and serve notices, orders, and other documents electronically subject to the provisions of these e-filing rules, CCP § 1010.6, and CRC 2.250, *et. seq*.

N. Official Record of the Court. The electronic record created by the electronic filing or maintenance of pleadings and other documents, along with any documents and/or exhibits conventionally filed and/or maintained by the court, shall constitute the official record of the court for all purposes.

O. Failure to Comply. Any document which fails to comply with this Rule, California Rules of Court and/or applicable statutes, may be refused or rejected filing by the Clerk and/or his designated agent. (Eff. 10/1/14, Amended 1/1/17)

RULE 127 – Submission of Documents for Filing

A. Except as otherwise ordered by a judicial officer, parties may not submit documents to courtroom clerks and/or judicial officers for filing. All documents to be filed with the court must be submitted via the Clerk's Office or the court's electronic filing system.

B. Documents allowed by a judicial officer to be submitted for filing in a courtroom may experience a delay in being entered into the court's electronic records system. The providing of conformed copies may also be delayed.

C. Regarding conventionally filed documents:

1. All documents must comply with the requirements of California Rules of Court, rule 2.100, et. seq., and be in a condition which allows them to be scanned into the court's electronic case management system. Light-colored pencil writings, physical objects, pages measuring more or less than 8 ½" x 11" and, without limitation, pages which have been excessively folded or creased, are generally unable be entered into the court's electronic system.

2. 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

3. 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.

4. 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).

5. 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.

6. 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:

Description	**Location**	**Page**
Contract	Exhibit 1 to Declaration by John Doe	23
Statement	Exhibit 2 to Declaration by John Doe	25

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

D. Conventionally filed 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.

E. Documents electronically filed with the court must comply with the requirements set forth in Local Rule 126. (Eff. 7/1/15; as amended, 7/1/16.)

RULE 128 – Interlineation of Documents

No complaint, information, petition, application or other document may be amended by interlineation. Unless specifically allowed by a judicial officer, changes to documents must be made via the filing of an amended pleading or document. (Eff. 1/1/15)

RULE 129 – Proposed Orders

Any proposed order submitted to the court must be submitted as a stand-alone document. This rule does not apply to Judicial Council forms. (Eff. 7/1/15)

(RULES 130 - 199 Reserved)

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF KINGS

CHAPTER 2: ADMINISTRATION OF CIVIL CASES

RULE 200 – Applicability

Unless otherwise specified, the provisions of this Chapter shall apply to all general civil cases, as defined in Rule 102. (Eff. 1/1/99)

RULE 201 - Case Disposition Time Standards

The Kings County Superior Court adopts the case disposition time standards set forth in sections 2.1 and 2.2 of the California Standards of Judicial Administration and the Economic Litigation Act. (Eff. 1/1/99; as amended, eff. 7/1/08)

RULE 202 - Service of Summons and Filing of Proof of Service

A. A plaintiff shall serve all named defendants, return and file the original summons and proof of service within 60 days from the date the complaint is filed.

B. The Court may extend any time requirement for service of process or for filing a proof of service or responsive pleadings upon a showing of good cause on noticed motion or by ex-parte application. The motion or application must be filed before the expiration of the initial time period within which the act is required to be done. When a request for an extension is filed, the Court may deny the request, grant an extension of time to a specified date, or conduct a hearing on the matter.

C. When applying to the Court to extend time to file the return of the summons and proof of service based upon the conditions stated in Code of Civil Procedure Section 583.240, the plaintiff shall set forth in the motion the earliest date within which service may reasonably be achieved so that the Court may set a date certain for service and filing of a proof of service.

D. In personal injury cases, “good cause” for an extension of time to serve a named defendant may be established where the plaintiff’s declaration affirmatively shows that the defendant’s insurance carrier has been advised that an action has been filed and that settlement negotiations are in progress which are likely to resolve the case without further litigation. Upon such showing, the Court may extend the time for service of the complaint to a date certain within which time it appears reasonable that negotiations can be concluded. (Eff. 1/1/99; as amended, eff. 7/1/08)

RULE 203 - Uninsured Motorist Cases

An action for personal injury or property damage against an uninsured Defendant may be designated an “uninsured motorist case” upon application or declaration of the Plaintiff filed at the time of filing the complaint or at any time thereafter. Said application or declaration should state the following:

A. All of the named Defendants are believed to be uninsured and the action is filed to protect the running to the statute of limitations in the event that insurance is later discovered or Plaintiff, after filing the action, has learned that all of the Defendants are uninsured;

B. In resolving the case with the Defendants, it has been determined that Defendants were underinsured within the meaning of Plaintiff's policy, which provides underinsured motorist coverage; and

C. Plaintiff is proceeding in action with his or her insurer under the insured or underinsured motorist provision of the insurance policy, and does not intend to proceed in the action against the uninsured Defendants.

D. Upon the filing of such an application or declaration by Plaintiff, the Court shall designate the case an uninsured motorist case and shall place it on a review calendar. Further, Plaintiff need not comply with Rule 202 upon said designation. Plaintiff shall file with the Court a certificate of progress every ninety days, advising the Court of the status of his claim against his insurer and the progress of the arbitration proceeding, if any.

E. In the event that Plaintiff's claim against his insurer is not resolved within one year of the filing of the action, the Court may require Plaintiff or Plaintiff's counsel to appear for a hearing to determine when the matter will be resolved and/or if the action should be dismissed or reclassified as general civil litigation.(Eff. 1/1/99 as Rule 202.5; as renumbered, eff. 7/1/08)

RULE 204 – Tracking Cases

All pending cases shall be calendared for a future event. No pending case shall go off calendar without a future event being set. (Eff. 7/1/08)

RULE 205 - Case Management Conference

A. At the time the complaint is filed, the Clerk will issue a Notice of Case Management Conference to plaintiff, designating a date for a Case Management Conference that is no less than 120 days after the filing of the complaint. Plaintiff shall serve a copy of the Notice of Case Management Conference on each defendant along with the summons and complaint.

B. Any party who files and serves a cross-complaint prior to the Case Management Conference shall serve on each cross-defendant who is a new party to the action, a copy of the Notice of Case Management Conference along with the summons and cross-complaint. If a new cross-defendant is served after the initial Case Management Conference, the cross-complainant shall serve the new cross-defendant with notice of any pending Case Management Conference, any assigned trial or settlement conference dates, and any other dates set by the Court or orders made at the Case Management Conference.

C. If the plaintiff adds a new defendant or identifies a fictitiously named defendant after the initial Case Management Conference, along with the summons and complaint, plaintiff shall serve the newly named defendant with notice of any pending Case Management Conference, any assigned trial and settlement conference dates, and any other dates set by the Court or orders made at the Case Management Conference.

D. Proof of service of notice of a Case Management Conference shall be filed with the Court within 60 days from the date the complaint is filed and may be included in the proof of service of the summons and complaint or cross-complaint.

E. All parties are required to appear at the Case Management Conference. Unless the Court determines otherwise, all cases except complex litigation are deemed at issue and will be assigned a date for trial, mandatory settlement conference, and trial readiness hearing.

F. At the Case Management Conference, the Court may make such orders as the Court deems appropriate including, but not limited to, setting a further Case Management Conference, setting deadlines for the completion of discovery and pre-trial motions, scheduling a dismissal hearing, and/or imposing sanctions, including dismissal of the case.

G. A Case Management Conference will be taken off calendar only if the case has been disposed of or has received a trial date prior to the Conference. For purposes of this rule, a case is disposed of if a judgment or dismissal of the entire action has been filed. If the case has been stayed or a notice of conditional settlement has been filed, the Conference will be continued. If any of these conditions have been met, it is the responsibility of the parties to notify the Clerk in writing and ask that the Conference be taken off calendar or continued.

H. Failure to timely file and serve a Case Management Statement may result in the imposition of sanctions by the Court. (Eff. 1/1/99 as Rules 204, 205; as amended and renumbered, eff. 7/1/08)

RULE 206 - Complex General Civil Cases

Complex general civil cases shall be exempt from the Court's policy to dispose of all general civil cases within 24 months after filing. Upon the Court's finding of exemption, the Court shall establish a regular monitoring program for the case to assure that it is progressing to a disposition in a timely fashion consistent with its particular needs. (Eff. 1/1/99 as Rule 206; as amended and renumbered, Eff. 7/1/08)

RULE 207 - Mandatory Settlement Conference

A. In all general civil matters, at the time the Court sets the case for trial, a settlement conference shall also be set at least 15 calendar days prior to the trial date.

B. All parties, except those under the custody of the California Department of Corrections and Rehabilitation, shall be personally present at the settlement conference except that an insured party is not required to appear where that party's insurance carrier admits coverage for all causes of action alleged against that party, full authority has been granted by such insured party to the carrier and attorney to settle within policy limits, and the highest demand for settlement is within policy limits. A party who is not an individual shall appear by a representative who shall be fully familiar with the facts of the case and have full authority to settle.

C. Unless the assigned Judicial Officer for good cause shown orders otherwise, a party who is under the custody of the California Department of Corrections and Rehabilitation shall appear by telephone. When a non-custodial litigant is represented by the Office of the Attorney General in the litigation, the Attorney General is to make arrangements for the inmate's telephonic appearance at least five days before the settlement conference. When the Office of the Attorney General does not represent any of the parties to the matter, the Clerk of the Court shall issue an order for telephonic appearance upon request made by any litigant at least five days before the settlement conference.

D. In any case which requires consent of an insurance carrier to settle, an employee of the insurance carrier who is fully familiar with the case and who has full authority to settle shall be personally present at the settlement conference. A claims adjuster retained only for the purpose of attending the settlement conference will not be deemed to comply with this Rule.

E. To ensure a meaningful settlement conference prior to trial, the Court may set the matter for further settlement conferences prior to the date set for trial, or may remove the case from the trial calendar and order the parties to obtain a new settlement conference and trial date.

F. A party's failure to comply with one or more of the state or local Court rules pertaining to settlement conferences and settlement conference statements may result in an order for a further settlement conference with the offending party being required to pay the costs and attorney fees incurred by other parties due to the non-adherence to the rules.

G. Notification of any settlement shall be given in the manner provided for in California Rules of Court, Rule 3.1385. (Eff. 1/1/99 Rules 207-211, as amended and renumbered, eff. 7/1/08)

RULE 208 - Continuances

A. No time standard or deadline specified in these rules, nor any schedule, date, time limitation or other requirement imposed by any order made pursuant to these rules may be modified, extended or voided by any stipulation or agreement of the parties unless a written order approving it is obtained from the Court. Continuances, extensions or modifications may be obtained by noticed motion or ex-parte application, on a showing of good cause.

B. No trial date may be vacated or continued, except for good cause upon a duly noticed motion in a manner consistent with the provisions of California Rules of Court, Rules 3.1332 and 3.1335. (Eff. 1/1/99 as Rule 212; as amended and renumbered, eff. 7/1/08)

(RULES 209 - 299 Reserved)

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF KINGS

CHAPTER 3: CIVIL LAW AND MOTION

RULE 300 - Applicability of Chapter

This chapter is applicable to all non-criminal and non-family law cases. (Eff. 1/1/99)

RULE 301 - Setting Law and Motion Hearing

Prior to the filing of any law and motion matter, a date and time for hearing shall be reserved with the Clerk. Matters will be formally set by the Clerk for hearing upon receipt of a notice of motion and supporting documents, with the hearing date and time specified in accordance with the date and time reserved. Motions received without prior reservation with the Clerk, shall be set in accordance with the convenience of the Court. (Eff. 1/1/99; as amended, eff. 7/1/08)

RULE 302 - Moving Party's Duty to File Proof of Service

Failure to timely file such proof of service in accordance with California Rules of Court, Rule 3.1300, may result in the matter being dropped from calendar or continued, at the Court's option, as well as an order for sanctions payable to other parties inconvenienced by the offending party. This rule does not apply to ex-parte matters. (Eff., 1/1/99; as amended, eff. 7/1/08)

RULE 303 - Taking Law and Motion Hearing Off Calendar

A. Unless otherwise ordered by the Court, any moving party who wishes to have a law and motion matter taken off calendar shall give written notice to all parties, and shall notify the Clerk and assigned judge in writing at least five (5) Court days before the scheduled hearing date with proof of notification to all parties. Proof of notification to all parties may be made by proof of service by mail, or by letter indicating that a copy thereof has been sent to all parties and that all parties have also been notified by telephone, or by a declaration indicating when, and in what manner, notice was given to all parties.

B. A law and motion matter may also be taken off calendar by stipulation of the parties, with written notice received by the Court at least five (5) Court days before the scheduled hearing.

C. Within five (5) Court days of the hearing, permission to take the matter off calendar must be obtained from the assigned judge, upon request of all parties in person, by conference call, or in writing. (Eff. 1/1/99)

RULE 304 - Continuing a Law and Motion Hearing

Any request for continuance of a law and motion hearing shall be made by stipulation or motion setting forth good cause before the assigned judge at least five (5) Court days before the scheduled hearing with proof of notification to all parties. (Eff. 1/1/99)

RULE 305 - Telephonic Appearances

A. General Policy: For a fee, any party may appear telephonically with prior approval of the assigned Court. "Court Call" [(888) 882-6878], a private vendor, is available in all departments, but its ability to be utilized by a party is dependent upon the individual policies and preferences of the assigned Judicial Officer. Whether or not to use "Court Call," and whether or not a conference call is necessary, shall be determined at the time of pre-approval. Additional information about telephonic appearances can be obtained from the Court's website or the Clerk of the Court.

B. Incarcerated Individuals: Due to security, transportation costs and staffing considerations, it is the standing order of the Court that civil litigants under the custody of the California Department of Corrections and Rehabilitation are to appear at all pre-trial hearings by telephone. The assigned Judicial Officer may alter this standing order in his or her discretion for good cause shown. This rule does not apply to proceedings under California Penal Code Section 2625.

At the time a civil law and motion matter is filed, an order for telephonic appearance by an inmate will be issued and served by the Clerk of the Court on the litigants and the litigation coordinator at the prison facility where the litigant in custody is housed. The order allowing a telephonic appearance by the litigant in custody will contain instructions on how to place the conference call into the Court. It may be necessary for the Clerk of the Court to select a hearing date that differs from the requested date on the pleading when the inmate is the moving party. The hearing date on the order for telephonic appearance will take precedence over any other date that may appear on the pleadings. (Eff. 1/1/99; as amended eff. 7/1/08)

RULE 306 - Preparation and Approval of Orders

Unless the parties waive notice or the Court orders otherwise, the party prevailing on any motion must prepare, serve and file the proposed order in the manner provided for in California Rules of Court, rule 3.1312. It is the policy of the Kings County Superior Court not to sign orders or judgments unless some portion of the text of the order or judgment appears on the page to which the judicial officer's signature is affixed, so that the connection between the signature page and the remainder of the order or judgment is apparent. (Eff. 1/1/99; as amended eff. 7/1/08)

RULE 307 - Filing Proof of Publication Five Days Before Hearing

In any matter, including probate petitions, petitions for change of name, or other civil matters, where notice or service by publication is a prerequisite for the Court's ability to entertain the petition, motion, or proceeding, proof of publication shall be filed with the Court at least five (five (5)) Court days before the motion is to be heard. Failure to comply with this rule may result in removal of the matter from calendar, a continuance of the hearing in question, and sanctions payable to any party inconvenienced by the offending party. (Eff. 1/1/99 as former Rule 310; as amended and renumbered, eff. 7/1/08)

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF KINGS

RULE 308 – Prerogative Writs

A. Service of Petition - Code of Civil Procedure Section 1107 requires service of the verified petition before it is filed, and also requires that the application for a writ be accompanied by proof of service of a copy of the application upon the respondent and the real party in interest. The petition may be filed without a proof of service, but no action (other than summary denial) can be taken on the petition unless there is compliance with the service provisions of Code of Civil Procedure Sections 1107 and 1088.5 and (E) below.

B. Manner of Service - A petition must be served in the same manner as summons and complaint.

C. Persons to be Served - Where the respondent or real party of interest is a board or commission, service must be made upon the presiding officer, or upon the secretary, or upon a majority of the members of such board or commission.

D. Orders to Show Cause and Motions.

1. Motions - The hearing on a petition is the trial of the case. It may be set by noticed motion in the manner generally governing motions. Absent a need to appear ex-parte for a stay or other temporary order, use of the motion procedure is preferred.

2. Order to Show Cause - The hearing on a petition may be set by order to show cause but this is rarely done.

E. Alternative Writs.

1. Prior Service of Application - Absent a showing of good cause or waiver by the responding party, an alternative writ will not issue unless the application is served at least five days before the *ex-parte* hearing.

2. Briefing Schedule and Hearing Date - Issuance of the alternative writ places the matter on the Court's calendar for hearing; it does not, in and of itself, accomplish a stay or afford any affirmative relief. It may issue without notice but not without compliance with proper *ex-parte* notification. If issued, it must be served in the same manner as a summons in a civil action unless the Court orders otherwise. (*See*, Code Civ. Proc., § 1073.) A briefing schedule will be set by the Court at the time the alternative writ is issued.

F. Pleadings - The Rules of practice governing civil actions are generally applicable. The respondent may file a demurrer, motion to strike or answer, or otherwise appear. A writ of mandate cannot, however, be granted by default; the case must be heard by the Court whether the adverse party appears. (Code Civ. Proc., § 1088.)

G. Evidence - In administrative mandate proceedings (Code Civ. Proc., § 1094.5) the evidence before the Court is confined to the administrative record, unless the exception in subdivision (e) of Section 1094.5 applies and a declaration establishes the application of the exception. In other kinds of writ proceedings, evidence is presented by way of

declarations, deposition testimony, etc., and not by oral testimony unless the Court, in its discretion, permits it. Setting the writ for hearing before the record is prepared or before the evidence is gathered serves only to unnecessarily clog the Court's calendar since the hearing must be continued if the record is not available or the evidence otherwise is incomplete.

H. Scope of Review - The scope of the Court's review (i.e., "substantial evidence" vs. "independent judgment") depends upon the nature of the relief sought and a variety of other factors. The parties must state their position on this issue in the memoranda filed in support of and in opposition of the issuance of the writ.

I. Summary Denial – Petitions that are defective, incomplete, lack adequate supporting documentation, fail to state a prima facie claim for relief, or fall outside the scope of the Court's jurisdiction may be summarily denied. Abuse of the writ process may subject the petitioner to appropriate sanctions. (Eff. 7/1/08)

RULE 309 – Legal Research Copy

In connection with ex-parte applications to be heard by the Court within 24 hours of filing, the moving party and any party opposing the application, shall lodge an additional copy of all filed documents and exhibits with the Clerk. The additional copy provided for under this Rule shall be a complete unaltered photocopy of the documents and exhibits filed. Legal research copies are not required in connection with regularly noticed motions, ex-parte applications for orders shortening time, and ex-parte applications filed with more than 24 hours notice to the Court. (Eff. 7/1/08.)

RULE 310 – Joining Motions of Other Parties

If a party desires to receive the same relief as another party and files papers "joining" another party's motion, the court will not consider the papers to be a separate motion and will not grant relief to the party joining the motion unless that party has complied with all procedural requirements for the filing of motions, including the payment of filing fees, proper notice, format of motion and method of service. (Eff. 1/1/10)

RULE 311 – Motions in Limine

A. All motions in limine and any opposition thereto must be lodged with the court *in the format set forth in Section (B)*, not less than five (5) court days prior to date on which they will be considered by the court. The court reserves the right to modify such deadline to meet the particular case management needs of any action. Any failure by a party to comply with the deadlines set forth herein and/or alternate deadlines set by the assigned trial judge, may result in the non-compliant pleading being disregarded by the court.

B. Prior to lodging any motion in limine with the court, the parties to all civil cases must meet and confer, as follows:

1. The parties must exchange their in limine motions not less than fifteen (15) court days prior to the motion in limine hearing date. The court encourages parties to utilize available forms of electronic transmission.

2. The parties must discuss orally or in writing the exchanged motions with an eye towards limiting the disputes or issues to be addressed by the court.

3. The parties shall draft a stipulation and proposed order to be lodged not less than five (5) court days prior to the motion in limine hearing date, setting forth all motions that the parties agree should be granted by the court.

4. As to all motions in limine to which opposition will be lodged, the parties shall submit to the court in a binder, a document which includes a not more than three (3) page argument for, and a not more than three (3) page argument against, each of the motions. The six pages per motion limitation provided for herein is exclusive of exhibits and any table of contents or table of authorities offered by the parties.

5. All documentary evidence relied on in support of or in opposition to a motion in limine regarding which an opposition has been offered, must be compiled into a single binder. The exhibits shall be tabbed to correspond with each of the motions and shall be clearly identified so that the court can easily determine the motion or opposition to which such evidence is directed. The binder shall be lodged with the clerk of the courtroom in which the motions will be heard. The binder must be lodged not less than five (5) court days prior to the scheduled motion in limine hearing date.

6. A proposed order must be submitted for each motion to be ruled on by the court. The proposed order shall be submitted with the motion in limine to which it applies. The proposed order, which may be submitted at the end of the relevant motion or as a separate pleading, shall include blank boxes so that the court may mark the motion granted, denied, denied without prejudice to renew at an appropriate time, or modified (with space for the modification).

C. In cases where one party is unrepresented and/or opposing counsel is refusing to comply with the requirements set forth in paragraph B, the party filing a motion in limine must submit a declaration with their motion setting forth good cause for their failure to comply with this local rule of court. The declaration must set forth in specific detail all attempts made by the filing party to comply with paragraph B. (Eff. 1/1/13)

Rule 312 – Tentative Rulings

The court adopts the tentative ruling procedure set out in California Rules of Court, rule 3.1308(a)(2). The tentative ruling or notice to appear will generally be available by 4:00 p.m. the court day before the hearing. Unless the court directs otherwise, the court's

tentative ruling will be available on the court's website or by calling (559) 582-1010, Ext 5002. (Eff. 1/1/13.)

(RULES 313 - 399 Reserved)

CHAPTER 4 – MISCELLANEOUS CIVIL RULES

RULE 400 - Interpreters

Except as provided for by law or ordered by the Court, interpreters will not be provided for civil or small claims matters. Upon request, the Clerk will provide the names of authorized interpreters with whom a party may make arrangements for interpreting services, or may refer the party to the Court's Interpreter Coordinator. Any party requiring the services of an interpreter is responsible for arranging and paying for the services of such interpreter. Information regarding the fee for interpreter services is available from the Interpreter Coordinator and Clerk of the Court. (Eff. 1/1/99, as amended, eff. 7/1/08)

RULE 401 - Attorney Fee Schedule

Except as otherwise ordered by the Court, Attorney's fees in default cases, when allowable in designated cases, shall be fixed in accordance within the Court's fee schedule. A copy of the Court's Attorney Fee Schedule is set forth herein as Addendum 1. (Eff. 1/1/99; as amended, eff. 1/1/09)

RULE 402 - Eminent Domain Pleadings

A. In eminent domain cases involving more than one parcel of property, the plaintiff's complaint shall set forth parcel numbers or symbols to identify each parcel of property. A defendant's answer, demurrer or written appearance shall set forth, in the space below the number of the case and in parentheses, the parcel numbers or symbols that identify the property claimed or owned by him or her.

B. The Clerk shall include in the index opposite the name of each defendant the parcel numbers or symbols that identify the property in which the defendant is alleged to have an interest.

C. The Court may, for good cause shown, order any paper to be filed without a parcel number or symbol. (Eff. 1/1/99 as former Rule 404; as renumbered, eff. 7/1/08)

RULE 403 - Procedures in Small Claims Matters

A. Case Disposition Time - The Court shall endeavor to dispose of all small claims cases as follows: 90% within seventy-five (75) days after filing; and, 100% within ninety-five (95) days after filing.

B. Unserved Defendants - If proof of service on any defendant in a small claims case has not been filed by the date set for trial, the Court may order a continuance of the trial date for up to 30 days to enable the plaintiff to effectuate service, upon showing of good cause and due diligence in attempting to effectuate service on the defendant. If proof of service has not been filed by the continued trial date, or if the plaintiff does not appear for

trial, the Court may dismiss the case with or without prejudice or render judgment for the defense.

C. Continuances - Any request for a continuance must be in writing and served on the opposing party or parties pursuant to Code of Civil Procedure Section 116.570.

D. Untimely Appeals - No notice of appeal from a small claims judgment shall be accepted for filing after the statutory period for filing such appeal has expired, unless a writ of mandate ordering the Clerk to file the notice of appeal has been issued. Any untimely notice of appeal from a small claims judgment erroneously accepted for filing may subsequently be rejected or stricken *sua sponte* by the Court.

E. Incarcerated Plaintiffs – Pursuant to Code of Civil Procedure Section 116.540(f), a party incarcerated in a penal institution need not personally appear at the trial of a small claims action and may submit evidence by declaration or may authorize another individual to appear and participate on his behalf if the representative is serving without compensation and has appeared for others no more than four times during the calendar year. Due to significant security and safety concerns that generally arise in connection with the transportation and production of incarcerated individuals, and unless an order for telephonic appearance has been issued by the court, incarcerated individuals shall appear at all small claims hearings in one of the manners provided for by Code of Civil Procedure Section 116.540(f). Declarations submitted pursuant to Code of Civil Procedure Section 116.540(f), should be filed at least five court days prior to the hearing. Where a declaration has not been received by the court and no representative appears at a small claims hearing on behalf of an incarcerated individual, dismissal of the action and/or entry of default judgment may occur. Unless good cause has been shown to exist, a copy of the declaration and all attachments thereto must be served prior to the hearing upon all opposing parties. A sample "Declaration in Support of Plaintiff's Claim" is available on the court's website and/or upon request. (Eff. 1/1/99 as Rule 405; as amended and renumbered, eff. 7/1/08; as further amended, eff. 1/1/10)

RULE 404 - Procedures in Unlawful Detainer Cases

A. Case Disposition Time – The Court shall endeavor to dispose of all unlawful detainer cases as follows: 90% within 30 days after filing; and 100% within 45 days after filing.

B. Service and Filing of Proof of Service – Within 15 days from the date the unlawful detainer complaint was filed, a plaintiff shall either serve all named defendants and file a proof of service with the Court, or file an application for service by posting. If service is made by posting, proof of service must be filed within 15 days of issuance of the order.

C. Status Conference – Within 45 days from the filing of the Complaint, a status conference will be conducted in all pending unlawful detainer cases where a default has not been entered and/or a trial date has not been set by the Court. Notice of the date, time and location of the status conference shall be served by the plaintiff upon all named defendants in the same manner as the unlawful detainer complaint.

1. Parties are required to appear at the conference ready to advise the Court as to the status of the litigation. No written statements need be filed by the parties prior to the conference, however, any party wishing to appear at the conference by telephone must schedule such appearance with the Court's designated vendor prior to the noticed hearing date.

2. If the Complaint has been served, but the deadline for the filing of a responsive pleading thereto will not lapse by the date on which the conference is scheduled to occur, plaintiff and/or plaintiff's counsel may appear at the conference via the filing of a declaration setting forth all facts demonstrating that good faith efforts are being taken by him/her to comply with the case disposition standards set forth above. The declaration must be filed with the court at least five (5) court days prior to the scheduled conference. In addition, the declaration must be accompanied by a proposed order resetting the conference to a date beyond the applicable responsive pleading deadline. If such declaration cannot be timely filed, plaintiff and/or his attorney of record shall appear at the conference as provided in Paragraph 1 above.

D. Request to Set Trial Date – Within 15 days from the date the unlawful detainer answer is filed, the plaintiff shall file a Request to Set Case for Trial (UD-150), unless a judgment, request for dismissal, or notice of conditional settlement has been filed. By filing a Request to Set Case for Trial, a party represents that the case is at issue and will be ready to proceed to trial on the date assigned. The opposing party may object to the Request to Set Case for Trial in an unlawful detainer action by serving and filing a counter request within five (5) days.

E. Dismissal Hearing – Failure to comply with this rule will result in the scheduling of a dismissal hearing requiring the attendance of all counsel and any unrepresented parties who have appeared in the case to show cause why the case should not be dismissed. Failure of the plaintiffs to appear shall result in dismissal of the case. A dismissal hearing will be taken off calendar if a judgment, request for dismissal, notice of conditional settlement or a Request to Set Case for Trial is filed with the Court prior to the date of the dismissal hearing.

F. Defaults of DOE Defendants – Before any default or default judgment will be entered by the Court against a fictitiously named defendant, a proof of service must be filed which fully complies with the provisions of California Code of Civil Procedure Section 474 or otherwise demonstrates personal service upon the fictitiously named defendant of a copy of the Complaint, Summons, and Amendment to Complaint providing adequate notice to the fictitiously named defendant of his involvement in the litigation. All proofs of service reflecting service of the Complaint, Summons and/or Amendment to Complaint upon a fictitiously named defendant shall include a physical description of the individual served. Service of any documents following the entry of default against one or more named defendants in the litigation shall comply with the provisions of Code of Civil Procedure Section 1010.

G. Hearing to Prove Damages – After a Clerk's judgment for restitution of the premises has been entered, a plaintiff seeking to recover money damages must set the case for a

hearing within 6 months after the judgment is entered. A personal appearance will not be required if a declaration is submitted pursuant to Section 585(b) and (d) of the Code of Civil Procedure.

H. Undertaking For Immediate Possession of Premises – Unless otherwise ordered by the Court, the minimum amount of undertaking required for an order for immediate possession of premises, pursuant to Section 1166a of the Code of Civil Procedure, shall be ten (10) times the amount of monthly rental, but not less than $2500.00.

I. Judgment – When a judgment for restitution or possession of the premises under Code of Civil Procedure Section 1169 or 1174 is prepared and submitted by plaintiff, it shall describe with reasonable certainty the real property that is the subject of the judgment, giving its street address (including the zip code), if any, or other common designation, if any. (Eff. 1/1/99 as Rule 406; as amended and renumbered, eff. 1/1/17)

RULE 405- Compromise of Minors or Incompetent Adults

A. The person compromising the claim on behalf of the minor or incompetent adult must be in attendance at the hearing of the petition, unless the court orders otherwise. At the time of the hearing, the court will determine the amount of costs, expenses, and attorney's fees to be allowed from the proceeds of the settlement in the manner set forth in California Rule of Court, rule 7.955. This necessitates submission of an account of the services rendered, hourly fee charged and itemization of the costs incurred. If a contingency agreement was entered into, a reasonable fee for compromise of a claim of a minor or incompetent adult is normally 25% of the proceeds of the settlement when trial has not commenced, one- third after a trial has commenced and 40% when settlement is entered into after filing appellant's opening brief on appeal. The court may award more or less than these amounts if such fees are found reasonable by the court.

B. Any compromise of a settlement contemplating the creation of a trust from the settlement proceeds or a special needs trust as set forth in Probate Code section 3600 et; seq. must comply with California Rule of Court, rule 7.903. A copy of the trust is to be provided to the judge in the civil proceeding hearing the matter, who shall review the trust terms for compliance with the law. The judge shall supervise the setting and posting of any trustee bond required under the terms of the trust or by law, prior to the transmittal of the settlement proceeds to the trustee.

C. If the order of the court provides that the trust is subject to the provisions of Probate Code section 17200 and California Rule of Court, rule 7.903, the trustee shall open a new probate proceeding and pay a "first petition" filing fee. The trustee shall file a petition in the probate file entitled "Petition for Review of Compliance with Order pursuant to Probate Code section 3602 or 3604," attach a copy of the order approving the compromise of the minor or incompetent adult's claim as an exhibit and cause the petition to be set for a noticed hearing. Such petition will then be reviewed for compliance with the orders compromising the claim, funding of the trust, and setting of future dates for the filing of the first annual account. The hearing on the petition may

then be ordered off calendar by the court if all the pleadings appear to be in order and no objection has been filed. (Eff. 1/1/10)

RULE 406 – Petition for Change of Name

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 407 – Court Policy on Inmate Personal Property Claims

The Court receives numerous personal property-related claims from inmates under the custody of the California Department of Corrections and Rehabilitation and/or Kings County Jail. These claims seek monetary damages or replacement of personal property alleged to have been damaged, lost or destroyed by prison/jail officials. (Hereafter "inmate personal property claim".) Such claims are often plagued by defects which ultimately frustrate litigants and result in unnecessary delays and the expenditure of limited inmate and public resources. These policies have been developed in an effort to guide plaintiffs/petitioners towards the most effective and efficient manner of addressing their inmate personal property claims.

Where the value of the property placed at issue in an inmate personal property claim is less than $10,000.00, IT IS THE PREFERENCE OF THE COURT THAT THE CLAIM BE PURSUED IN ITS SMALL CLAIMS DIVISION. (Cal. Code of Civ. Proc. §116.221.) The summary nature of trials in the Small Claims Division makes the resolution of inmate personal property claims less time consuming and a less expensive remedy for litigants to pursue. Small claims court actions by inmates are resolved without the assistance of counsel and by declaration and/or authorized appearance of another individual. (*See*, Cal. Code of Civ. Proc. §§116.530(b), 116.540(f); Rule 403(E).) In addition, the filing fee for a claim pursed in the Small Claims Division is significantly less than that charged in connection with petitions for writ of mandate or a civil complaint for damages. [In 2014, Small Claims Division filing fees ranged from $25 to $75. (Cal. Code of Civ. Proc.§116.230(b).]

Inmates choosing to pursue their inmate personal property claim via a petition for writ of mandate or civil complaint for damages will be charged the full amount of the filing fee required by statute. A granted Fee Waiver does not excuse an inmate from paying the required fee. (Cal. Govt. Code §68635.) The fee is collected by installment payments paid from the inmate's trust account. The entire filing fee must be paid even if the petition is summarily denied, or judgment is entered due to a motion for judgment on the pleadings before a hearing on the merits. [Unlimited civil complaints/ writ of mandate filing fee in 2014 was $435.]

Any inmate personal property claim pursued as a civil complaint for damages shall be reviewed for sufficiency prior to a case management conference being set. A pretrial order may issue when it is apparent on the face of the pleading and its exhibits that the inmate has failed to exhaust administrative remedies, or failed to file a government claim as required by Government Code section 911.2, et seq. The exception to the filing of a government claim set forth in *Escamilla v Department of Corrections & Rehabilitation* (2006) 141 Cal.App.4th 498, is limited to bailment situations. It does not apply to disputes concerning property declared by the prison authorities to be contraband, or disputes about the value of replacement property offered to the inmate by prison authorities. (*See, Flores v Department of Corrections & Rehabilitation* (2014) 224 Cal.App.4th 199, 208.)

Inmate personal property claims pursued as petitions for writ of mandate shall be reviewed for sufficiency prior to any hearing or case management conference being set. The court may deny a petition for a writ of mandate "out of hand" when it appears from the face of the petition that a peremptory writ will not be issued. The court may do so even though the defendant has not appeared by answer or demurrer. (*Kingston v. Dept. of Motor Vehicles* (1969) 271 Cal. App. 2d 549, 552; *Lewis v. Superior Court* (1999) 19 Cal. 4th 1232, 1269 (dis. opn. of Kennard, J.).) The most common ground for summary denial of a petition for writ of mandate is a failure by the inmate to demonstrate exhaustion of administrative remedies prior to seeking judicial relief.

In regards to all inmate personal property claims, some showing of a pre-filing exhaustion of administrative remedies is required. It is recommended that litigants make such showing by attaching copies of relevant administrative decisions to their initial pleading.

Except in the rarest circumstances, petitions for writ of mandate and/or civil complaints addressing inmate personal property claims are resolved via declaration or other means not requiring the personal appearance of the inmate. The Court does not have statutory authority to transport an inmate to court in connection with a civil complaint for damages. (*Swarthout v Superior Court* (2012) 208 Cal.App.4th 701, 707 [there is no non-statutory power for courts to order inmate transfers]; *Wood v Superior Court* (1974) 36 Cal.App.3d 811, 813-814 [state inmate does not have a guaranteed right to be personally present at civil trial proceedings]; *Payne v. Superior Court of Los Angeles County* (1976) 17 Cal. 3d 908, 924-925 [except in a few specified circumstances, a court has no statutory authority to command the Department of Corrections and Rehabilitation to transport a prisoner to a civil courtroom; if a court determines due

process requires the inmate's personal testimony, the court may employ other alternatives to transporting the inmate].) The trial court determines the appropriate remedy to secure access to the civil courts in the exercise of its sound discretion. Access may be achieved by a variety of procedures including, but not limited to, deferral of the action until the inmate is released and/or telephonic appearances.
The Court will not grant a motion for appointment of counsel in connection with an inmate personal property claim. The appointment of counsel in connection with a civil action is considered a gift of public funds. In addition, at present time the Court does not possess sufficient monetary resources to make an appointment of counsel in connection with inmate personal property claims and Kings County lacks an active pro bono attorney program from which such appointments can be made.

Should the inmate file a writ of mandate or civil complaint relating to personal property worth less than $10,000, the court will stamp the pleading as received and send the inmate a copy of this local rule. The clerk will keep the pleading for 21 calendar days. If within such period a letter of intent to pursue recovery in the small claims court is received from the plaintiff/petitioner, one of the following will occur:

1. If a postage-prepaid envelope is included, the clerk will return the pleading and all its copies to the inmate; or,

2. If a postage-prepaid envelope is not received along with the letter, the pleading and all its copies will be disposed of.

The time between when the pleading was received and when it was returned or disposed of (plus five days for mailing) will not count towards any time deadline in filing the small claims court complaint. (Cal. Code Civ. Proc. §1013.) If no letter of intent to pursue remedy in the small claims court is received within the 21 day period set forth above, and provided that all filing fees have been paid in full or addressed under California Government Code Section 68635, the complaint or petition will be filed. The filing date of the pleading will be backdated to the date the document was received by the Court. No extensions of time will be granted in connection with the 21 calendar day period.

This rule is intended to apply to any individual within the custody of the California Department of Corrections and Rehabilitation, any out-of-state correctional facility, and any jail. (Eff. 1/1/15)

(RULES 408 - 499 Reserved)

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF KINGS

ADDENDUM 1

RULE 401 – Attorney Fee Schedule

In default cases in which attorney's fees are awardable, the Court may consider the following schedule, but shall not be bound by it:

TOTAL AMOUNT OF DEMAND	ATTORNEY'S FEES
$0 - $1,000	25% of the demand.
$1,001 - $7,500	15% of the amount in excess of $1,000, plus $250.
$7,501 - $15,000	10% of the amount in excess of $7,500, plus $1,225.
$15,001 - $25,000	4% of the amount in excess of $15,000, plus $1,975.
Over $25,000	2% of the amount in excess of $25,000, plus $2,275.

(Adopted 7/1/08; amended, eff. 1/1/09)

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF KINGS

CHAPTER 5: CRIMINAL RULES

Part 1 - Rules Applicable to All Criminal Proceedings

RULE 500 - Appointed Counsel For Indigent Defendants

A. Contract Counsel – The Court will endeavor to appoint to represent indigent defendants those counsel who have contracted with the County to provide such representation. In the event no such counsel is available to accept appointment, the Court may appoint counsel from its appointment list.

B. Appointment List – The Court shall maintain a list of counsel who desire to receive appointments to represent indigent parties in criminal matters. To be included on the list counsel may be required to submit a written application and to satisfy the Judicial Officers of the Court that counsel possess sufficient knowledge, education, experience, judgment and ability to defend persons accused of serious crimes. The Juvenile Court shall maintain a separate Court appointment list. Nothing in this rule is intended to limit the discretion of the Court to appoint counsel deemed appropriate by the Court to represent an indigent defendant. The Court retains full discretion to remove from the appointment list any counsel who fails to appear for Court appearances, fails to follow these Rules or the California Rules of Court or fails to demonstrate the minimum level of proficiency in legal work deemed appropriate by judges of the Court. (Eff. 1/1/99)

RULE 501 - Discovery

A. Discovery in criminal actions is reciprocal in nature and is governed by Penal Code Sections 1054 through 1054.7. There shall be a standing order in each criminal action requiring all parties and their attorneys to comply with Penal Code Sections 1054-1054.7. The order is deemed to have been made and communicated to all counsel at the time of arraignment. Before a party may seek enforcement of any of the disclosures required by law, the party shall make an informal request of opposing counsel for desired materials and information in the manner required by Penal Code Section 1054.5(b). Failure to make such request shall be grounds for denial of a discovery motion. Informal requests should be presented to opposing counsel in writing.

B. Should either party to a criminal action fail to provide the information or material listed in Sections 1054.1 or 1054.3 of the Penal Code after agreeing to an informal request to provide the same, the Court may proceed with remedies and sanctions as provided in Section 1054.5 of the Penal Code. (Eff. 1/1/99; as amended, eff. 7/1/08)

RULE 502 - Expert and Investigative Fees

Expert and investigative fees for indigent defendants shall not normally be paid or reimbursed unless prior approval for the expenditures has been obtained by Court order, which may be issued ex-parte and kept confidential until the conclusion of the case. A copy of the order authorizing the fee shall be attached to each claim form requesting payment for

such fee. The claim shall disclose all amounts of fees previously requested pursuant to the attached order and indicate whether the request was granted or denied. (Eff. 1/1/99)

RULE 503 - Criminal Trials - Duty of Counsel

A. Witnesses – Each attorney is responsible for having witnesses available at the time their testimony is required. No trial will be delayed because of incorrect scheduling of witnesses unless counsel can show to the Court that due diligence was exercised in obtaining the presence of the absent witness and that the witness's presence is necessary to secure a fair trial.

B. Interpreters – Counsel planning to call a witness who needs the assistance of an interpreter is required to make all necessary arrangements prior to trial for the presence of an appropriate interpreter at the time the witness is to be called. If given adequate advance notice, the Court will assist criminal defendants in arranging for the presence of needed interpreters.

C. Transcripts of Recordings – Prior to the commencement of any trial, a typed transcription of any sound recording which counsel expects to offer into evidence shall be prepared at the direction and expense of the proponent of the evidence and shall be certified by the preparer as containing a true transcription of such recorded statement. The proponent of such recording shall prepare a sufficient number of copies of such transcript for each of the following persons to have a copy: each juror and alternate juror, the Judicial Officer, each opposing party, each opposing counsel, the Court reporter, and the clerk. (Eff. 1/1/99; as amended, eff. 7/1/08)

RULE 504 - Applications For Modification of Sentence or Terms of Probation

A. Motions for modifications of sentence or probation shall be in writing and directed to the sentencing judge.

B. Notice of the motion shall be given to the People at least fifteen (15) days prior to any hearing date for such motion. Moving party must also deliver a copy of the motion to the probation department at least fifteen (15) days prior to the date for hearing. (Eff. 1/1/99 as Rule 505; as renumbered, eff. 7/1/08)

RULE 505 - Renewal of Motions

Motions decided prior to trial shall not be renewed unless based upon new facts or law which could not, with due diligence, have been known at the time of the original motion. Any renewed motion shall be supported by a declaration showing such diligence and setting forth the new facts and/or law. (Eff. 1/1/99 as Rule 506; as renumbered, eff. 7/1/08)

RULE 506 – Reporters

A verbatim record of proceedings involving any misdemeanor or infraction matter is not generally required. Parties wishing a verbatim record of such proceedings must submit to

the Clerk, at least five days prior to the hearing, a written request and all required deposits in accordance with California Penal Code Section 1045. Any party requesting any reporting, recording, or transcript pursuant to this rule shall pay the entire cost of such reporting, recording, or transcript. (Eff. 7/1/08.)

RULE 507 – Negotiated Plea Agreements

Absent exceptional circumstances, the Court will not accept a negotiated plea agreement in any case after a final trial readiness hearing has been held. (Eff. 1/1/09)

RULE 508 – Jury Instructions

A. Jury instructions shall be prepared by counsel in accord with California Rules of Court, rule 2.1055 and rule 2.1058.

B. Upon order of the court, jury instruction may be submitted to the court electronically.

C. Where there is a trial by jury, the parties shall request instructions by submitting proposed instructions to the trial judge on the first day of trial or at such earlier date as set by the court.

D. The party requesting a CALCRIM instruction which contains one or more blanks shall type in the blank space all the words required to adapt the form for use in the pending case. The latest edition of CALCRIM forms shall be used whenever possible. (Eff. 7/1/15)

(RULES 509 - 519 Reserved)

Part 2 - Rules Applicable to Felony Cases and Misdemeanor Cases Joined or Consolidated with a Felony for Trial

RULE 520 - Proceedings Through Preliminary Examination

A. Early Disposition – At the time of initial arraignment on a felony matter, a defendant may choose to attempt settlement of the case prior to the setting of a preliminary examination. Upon the defendant providing an appropriate waiver of time, the Court will set the matter into a designated department for an early disposition hearing. If the matter is resolved at that hearing by way of a plea, sentencing will take place in a department to be assigned. If the matter is not resolved and a preliminary hearing is not waived, the case will be calendared in the appropriate department for preliminary examination.

B. Setting Case for Post Preliminary Hearing Arraignment – Upon conclusion of the preliminary examination, for those persons held to answer, the matter will be certified to a designated department for arraignment.

C. Setting Case for Sentencing – Upon entry of a plea of guilty or nolo contendere to a felony charge, the case will be referred to the Probation Office for a pre-sentence investigation and report and the Court shall appoint a time for pronouncement of judgment and sentencing in the designated department. However, if the parties stipulate to a sentence and the Court permits, upon entry of appropriate waivers, the Court may pronounce sentence immediately. If the defendant is committed to prison the Court will order the Probation Office to prepare a report pursuant to Penal Code Section 1203.

D. Competency Certification – A Court which has suspended criminal proceedings pursuant to Penal Code Section 1368 shall appoint a psychiatrist or licensed psychologist or two such professionals in accordance with Penal Code Section 1369(a) and refer the matter to the designated department for further hearing. (Eff. 1/1/99 as Rule 521; as renumbered, eff. 7/1/08)

RULE 521 - Post Preliminary Examination Arraignment

A. Appearance by Counsel – Unless relieved of the obligation by Court order, counsel representing a defendant when the defendant is held to answer shall appear at the date and time of the defendant's post-preliminary hearing arraignment.

B. Future Appearance Dates – Defense counsel intending to set trial dates shall appear 15 minutes prior to calendar call and confer with the Clerk of the department to which the case has been assigned for the purpose of arranging tentative dates for trial and other appearances. In any case in which the District Attorney wishes to have a voice in the setting of dates for further appearances, the District Attorney shall also appear for the pre-calendar conference with the Clerk. Actual dates for further appearances will be set by the judge in open Court.

C. Mandatory Appearances – In each felony case, unless otherwise ordered by the Court, dates for the following mandatory appearances shall be set:

1. Settlement conference.

2. Trial readiness hearing.

3. Trial confirmation hearing.

4. Trial.

D. Bail/Own Recognizance Release – Unless otherwise ordered by the Court, a defendant's bail or own recognizance release status shall remain as previously ordered. Conditions of own recognizance release imposed by previous order shall remain in effect unless changed by Court order. (Eff. 1/1/99 as Rule 522; as amended and renumbered, eff. 7/1/08).

RULE 522 - Presence of Trial Counsel and Defendant Mandatory

The presence of defendant and trial counsel (or in the case of the District Attorney, a supervisor of trial counsel or other deputy who is familiar with the case and possessed of full authority in the case) is required at each mandatory appearance unless otherwise authorized by the Court. It is not acceptable for defense counsel to send in his/her place a partner, associate or other lawyer who is not sufficiently versed in the matter to provide a meaningful appearance and/or who is otherwise not vested with the full authority to bind defense counsel and the defendant to future dates for appearance, admissions and/or stipulated resolutions of issues which may arise during the hearing. By prior approval of the Court, telephone appearances may be made by counsel in exceptional circumstances. (Effective 1/1/99 as Rule 523; as amended and renumbered, eff. 7/1/08)

RULE 523 - Felony Settlement Conference

A settlement conference shall be scheduled in every felony case. Except where prohibited by Penal Code Section 1192.7 or other statute, counsel for both sides shall be prepared to discuss the issues of the case and negotiate its possible disposition without trial at the settlement conference. In cases where plea negotiation is arguably prohibited by statute, counsel shall be prepared to discuss whether any statutory exception to the prohibition is present. Counsel shall also be prepared to discuss and endeavor to enter into agreements and stipulations, which may eliminate or determine issues not in dispute and thus shorten the trial. (Eff. 1/1/99 as Rule 524; as renumbered, eff. 7/1/08)

RULE 524 - Felony Trial Readiness Hearings

A trial readiness hearing shall be scheduled in every felony case and shall be calendared between 1 and 14 days prior to the trial date. It shall be the duty of all counsel to prepare their cases so that by the trial readiness hearing they are able to represent that; (1) all non-in-limine pre-trial motions have been heard, (2) all witnesses are subpoenaed and available, (3) trial counsel is prepared for trial and has no conflicts, and (4) the defendant knows of no reason why the case should not go to trial as scheduled. Additionally, trial

counsel shall notify the Court of any non-perfunctory in-limine motions to be brought at trial and provide a time estimate for such motions. (Eff. 1/1/99 as Rule 525; as renumbered, eff. 7/1/08)

RULE 525 - Felony Trial Confirmation Hearings

A. At the trial confirmation hearing counsel will be asked if he/she can represent that there is no reason why the matter will not proceed to trial as scheduled. Opposing counsel shall be served with a copy of any transcript of any sound recording which recording counsel expects to play and/or offer into evidence. Counsel shall also be prepared to inform the Court as to the following matters:

1. The nature and duration of any motions in limine.

2. The anticipated length of the trial.

3. Any anticipated problems with scheduling of witnesses.

4. Any motions to amend the information.

5. Whether any witnesses need an interpreter.

6. Any other matters which may adversely affect the orderly presentation of the trial.

B. It is the affirmative duty of trial counsel to bring to the Court's attention any matters discussed above which may cause delays in the conduct of the trial. (Eff. 1/1/99 as Rule 526; as renumbered and amended, eff. 7/1/08)

RULE 526 - Felony Pre-Trial Motions

A. Pre-trial motions other than motions in-limine should be orally noticed and scheduled at the post preliminary examination arraignment. This oral notice is supplemental to any notice required by statute or California Rules of Court. If not orally noticed at arraignment, pre-trial motions may be scheduled by written noticed motion to be heard no later than the trial readiness hearing. Pre-trial motions will not be set or heard after the readiness hearing date except upon an affirmative showing of good cause in a written declaration. The Court may impose sanctions against any attorney unreasonably delaying the bringing of any pre-trial motion including Penal Code Sections 995 and 1538.5 motions and motions of a constitutional dimension. If a motion requires the taking of evidence, counsel shall confer with the Court Clerk of the department in which the case is calendared to obtain possible hearing dates and times prior to setting the motion.

B. All motions and oppositions shall be in writing and shall be accompanied by points and authorities in support thereof and proof of service on opposing counsel.

C. All motions and responsive pleadings thereto shall have prominently displayed on the face of the moving document the date and time of the hearing and a time estimate for the duration of the hearing.

D. All documents submitted for filing shall include the attorney's state bar number.

E. All documents shall be typewritten or mechanically or electronically printed in a manner, which produces clear and permanent copies equally legible as letter quality printers. Pro-per defendants may file handwritten documents provided the documents are legible.

F. All documents shall be hole punched in accordance with directions from the clerk.

G. No memorandum of points and authorities or affidavit submitted in support of a motion, petition, warrant application, or other request shall be in excess of 10 pages. In connection with affidavits, such limitation is inclusive of attached exhibits. Parties wishing to exceed this limit must obtain prior leave from the Court.

H. A motion to dismiss pursuant to Penal Code Section 995 shall set forth with particularity the claimed deficiencies or irregularities in the proceedings. Moving papers and responses thereto, when making reference to the evidence, shall contain page and line citations to the reporter's transcript.

I. A motion to suppress evidence pursuant to Penal Code Section 1538.5 shall specifically describe and list the evidence which is the subject of the motion to suppress, shall specifically state the theory or theories which shall be relied upon for the suppression of evidence, and shall cite the specific authority or authorities which support the motion. Moving and responding parties shall state in their pleadings whether they are (a) willing to stipulate that the preliminary hearing transcript may be considered as evidence at the hearing on the motion and/or, (b) whether witnesses are proposed to be called. (Eff. 1/1/99 as Rule 527; as amended and renumbered, eff. 7/1/08, amended 1/1/14)

RULE 527 - Felony Sentencing

A. Letters – Written statements of defendants and letters of reference or recommendation on behalf of defendants are to be submitted to the probation officer, not to the Court. Any such items must be submitted to the probation officer no later than 14 calendar days following conviction in order to be considered by the probation officer or Court. Written communications submitted ex-parte to the Court by or on behalf of defendants or victims will be rejected. No more than 5 (five) letters of reference on behalf of a defendant are to be attached to a probation report. Where in excess of 5 (five) such letters of reference are timely received by the probation officer, they shall be summarized in a paragraph in the probation report. Letters of reference or recommendation presented for the first time at the sentencing hearing may, in the discretion of the Judicial Officer, be rejected.

B. Notice of Intention to Present Evidence – A party seeking consideration of circumstances in aggravation or mitigation may file and serve a statement complying with the requirements of Penal Code Section 1170(b) and Rule 4.437 of the California Rules of Court. The facts contained in the probation report's "Summary of Offense" shall be considered to be the operative facts surrounding the offense absent any notice of intention to dispute facts. (Eff. 1/1/99 as Rule 528; as amended and renumbered, eff. 7/1/08)

(RULES 528-529 Reserved)

Part 3 - Rules Applicable to Misdemeanor Cases

RULE 530 - Misdemeanor Arraignment

At arraignment the Court will set appearance dates for one or more of the following:

1. A pre-trial hearing.
2. A motion hearing.
3. A trial readiness hearing.
4. A trial confirmation hearing.
5. Trial. (Eff. 1/1/99 as Rule 531; as renumbered, eff. 7/1/08)

RULE 531 - Misdemeanor Pre-Trial Hearing

At the pre-trial hearing the Court will hear all pretrial motions and conduct settlement negotiations. If a trial date was not previously set, one will be assigned. If no disposition is reached at the pre-trial hearing, the Court may set a trial readiness hearing. (Eff. 1/1/99 as Rule 532; as amended and renumbered, eff. 7/1/08)

RULE 532 - Misdemeanor Trial Readiness Hearing

The purpose of a trial readiness hearing is to verify that the parties will be ready on the trial date and that jury summons should issue. The Court may combine the trial readiness hearing with the pre-trial hearing. It is the duty of counsel to determine by the trial readiness hearing that all necessary witnesses will be available on the trial date and that there are no impediments to trial on the assigned trial date. (Eff. 1/1/99 as Rule 533; as amended and renumbered, eff. 7/1/08)

RULE 533 - Misdemeanor Trial Confirmation Hearing

A trial confirmation hearing will normally be scheduled one or two Court days prior to trial. It is the duty of counsel at a trial confirmation hearing to apprise the Court of any matters which might interfere with the expeditious trial of the case on the date assigned. (Eff. 1/1/99 as Rule 534; as renumbered, eff. 7/1/08)

RULE 534 - Misdemeanor Penal Code Section 1538.5 Motions

A motion to suppress evidence pursuant to Penal Code Section 1538.5 shall specifically describe and list the evidence which is the subject of the motion to suppress, shall specifically state the theory or theories which shall be relied upon for the suppression of evidence, and shall cite the specific authority or authorities which support the motion. (Eff. 1/1/99 as Rule 535; as renumbered, eff. 7/1/08)

(RULES 535 - 539 Reserved)

Part 4- Rules Applicable to Infractions

RULE 540 - Available Procedures for Persons Charged with Infractions

Persons charged with infractions only (i.e. these procedures are not available to those charged jointly with infractions and misdemeanors or felonies), may proceed as follows:

A. Persons desiring not to contest the citation, ticket, or complaint may plead guilty or no contest and pay a fine. These transactions may be handled through the mail, through an automated telephone system, or by going to the front window at the nearest Superior Court location.

B. Persons desiring to contest the citation, ticket, or complaint may plead not guilty and request a Court trial. Three types of trial procedures are possible, subject to the discretion of the Court:

1. A person desiring to personally appear before a judge and to confront and cross-examine witnesses in Court may request a regular Court trial.

2. A person desiring to personally appear before a judge, but who is willing to waive certain Constitutional rights (including the right to confront and cross examine witnesses) and permit the judge to consider as evidence the notice to appear (ticket) may request to proceed pursuant to Vehicle Code Section 40901. (*See*, Kings County Superior Court Rule 541.)

3. A person willing to waive certain Constitutional rights including the right to be personally present before the judge at trial may request to proceed by trial by written declaration pursuant to Vehicle Code Section 40902. (*See,* Kings County Superior Court Rule 542.*)*

C. In traffic cases, a written promise to appear in court may be complied with via an appearance by counsel. (California Vehicle Code Section 40507.) However, where identity is placed at issue, a defendant must be personally present at trial for purposes of identification. (Eff. 1/1/99; amended, eff. 7/1/15)

RULE 541 - Trial Pursuant to Vehicle Code Section 40901

A. In the discretion of the Court, the Court may conduct the trial of a defendant charged with an infraction which is a violation of the Vehicle Code or of a local ordinance adopted pursuant to Vehicle Code Section 40901.

B. A defendant may appear at the Traffic Division window to request an appearance in Court. The defendant is given the Counter Arraignment of Contested Infractions form (locally prepared), which advises the defendant of procedures and rights. If the defendant elects to sign the declaration on the form, and post bail in advance, the matter will be scheduled by a Court clerk for a Court trial.

C. If the defendant wishes to appear in Court, on or before the citation appearance date, and knowingly waives all rights to retain counsel at his/her own expense, and to confront, cross-examine, and subpoena witnesses on his/her behalf, the matter may directly proceed before the judge hearing arraignments.

D. The Court may accept testimony or other relevant evidence introduced in the form of a notice to appear issued pursuant to Vehicle Code Section 40500 or any business record or receipt. (Eff. 1/1/99)

RULE 542 - Trial by Declaration (Vehicle Code Section 40902)

Pursuant to California Vehicle Code Section 40902 and consistent with the provisions set forth in California Rules of Court, Rule 4.210, defendants charged with Vehicle Code infractions or violations of local ordinances adopted pursuant to the Vehicle Code may waive their right to personally appear for trial, and may request trial by written declaration without a personal appearance. Trial by declaration is available to any defendant who, having not been notified that a personal appearance is mandatory, wishes to contest the citation and who requests trial by declaration, either by mail or in person, prior to the date set for his or her initial appearance in Court. (Eff. 1/1/99; as amended eff. 7/1/08)

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)

(RULES 544 - 579 Reserved)

Part 5 – Rules Applicable to Petitions for Writ of Habeas Corpus

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.)

(RULES 581 - 599 Reserved)

CHAPTER 6: JUVENILE COURT RULES

RULE 600 - Application and Definitions

These rules apply to Juvenile Court proceedings, but not juvenile traffic hearings or traffic hearing appeals. To the extent that any of these rules conflicts with either statutory requirements or the California Rules of Court, the local rule is of no legal effect. (Eff. 1/1/99; as amended, eff. 7/1/08)

RULE 601 - Standing Orders

The Presiding Judge of the Juvenile Court may issue such standing orders for the administration of the Juvenile Court as the Court deems appropriate. The Court may hereafter issue new or amended standing orders by filing the same with the clerk of the Court. The clerk of the Court shall keep and make available to the general public copies of any standing order and these rules. The clerk may charge for the cost of providing such copies. (Eff. 1/1/99)

RULE 602 - Attendance at Hearings

Unless excused by the Court, each party and attorney shall attend each scheduled Court hearing. (Eff. 1/1/99)

RULE 603 – Motion Requirements

A. No noticed motion will be accepted by the Court unless it is accompanied by proof of service.

B. All motions calendared in the Juvenile Court must comply with the requirements of the Code of Civil Procedure Sections 1010 et seq. and California Rules of Court, Rules 3.1110, 3.1113, 3.1115, 3.1320, and 5.544, except that written notice to opposing counsel and the Court may be reduced to five court days, and any opposition must be filed and served two court days before the scheduled hearing. Prior to giving notice, the moving party must reserve the hearing date with the calendar clerk for the Juvenile Court.

C. Notwithstanding the foregoing requirements, motions to continue a hearing, brought under Welfare and Institutions Code Section 352, are subject to the time limits set forth therein.

D. Papers that do not comply with these rules, the Code of Civil Procedure, and the California Rules of Court will not be considered by the Court unless good cause is otherwise shown. (Eff. 1/1/99 as Rules 603 and 605; as amended and renumbered, eff. 7/1/08)

RULE 604 - Ex-Parte Application and Orders

Any ex-parte application for order shall be presented to the Presiding Judge of the Juvenile Court or the designee of same. Whenever possible, the moving and responding papers and any declaration regarding notice must be served on the attorney for each parent, attorney for the child, county counsel, CASA, supervising social worker, and parents who are not represented by counsel. Notice may be excused if the giving of such notice would frustrate the purpose of the order and cause the child to suffer immediate and irreparable injury and/or if, following a good faith attempt, the giving of notice is not possible. (Eff. 1/1/99; Amended 1/1/11.)

RULE 605 - Pre-Hearing Discovery

A. Pre-hearing discovery shall be reciprocal and shall be conducted in the manner provided for within Rule 5.546 of the California Rules of Court. Except as protected by privilege, all relevant material shall be disclosed in a timely fashion to all parties to the litigation. For purposes of Rule 5.546(e) of the California Rules of Court, the term “parent or guardian” shall include de facto parent(s).

B. In the case of contested hearings, the parties shall exchange witness lists of all witnesses to be called, if not included in the social study report prepared by CPS, at least five Court days prior to the hearing.

C. Formal Discovery. Only after all informal means have been exhausted may a party petition the Court for discovery. Any noticed motion shall state the relevancy and materiality of the information sought and the reasons why informal discovery was not adequate to secure that information. The motion shall be served on all parties at least five Court days before the hearing date. The date for the hearing shall be obtained from the clerk of the Juvenile Court. Any responsive papers shall be filed and served two Court days prior to the hearing.

D. The Code of Civil Procedure authorizing interrogatories, depositions, requests for production of documents, subpoenas of juvenile records or other similar types of discovery shall not apply to Juvenile Court proceedings absent prior approval of a judge of the Juvenile Court upon noticed motion.

E. The names of any experts to be called by any party and copies of any reports, if not part of a social study report prepared by CPS, shall be provided to all counsel at least five court days before the hearing.

F. In delinquency proceedings, the Court Rules regarding discovery set forth in Penal Code Sections 1054 -1054.8 will apply. (Eff. 1/1/99 as Rule 617; as amended and renumbered, eff. 7/1/08)

RULE 606 - Access to Minors Subject to Section 300 of the Welfare and Institutions Code

A. No party or counsel in a dependency proceeding shall interview the minor about the events relating to the allegations in the petition(s) on file without permission of the minor's attorney or Court order.

B. No party or counsel in a dependency proceeding shall cause the minor to undergo a physical, medical or mental health examination or evaluation without Court approval and pursuant to a written noticed motion. This Rule does not apply to the CPS caseworker or other authorized CPS social worker. (Eff. 1/1/99 as Rule 611; as amended and renumbered, eff. 7/1/08)

RULE 607 - Interviewing Victims of Child Abuse

All counsel representing parties and other participants in a dependency case in which child abuse has been alleged shall attempt to minimize the number of interviews they take of the minor relating to the events surrounding the alleged abuse. To this end anyone wishing to learn facts about the alleged incident(s) shall first review any interviews taken or reports made by the investigating officer(s) or CPS social worker(s). (Eff. 1/1/99 as Rule 612; as renumbered, eff. 7/1/08)

RULE 608 - Guardian Ad Litem for Minors

Until such time as a trained volunteer court appointed special advocate (CASA) program is established in Kings County for purposes of the Federal Child Abuse Prevention and Treatment Act (42 U.S.C. Section 5101, *et. seq*.), California Rules of Court, Rule 5.660, and Welfare and Institutions Code Section 326.5, an attorney representative of the Minors Advocate Office of CPS shall be deemed to be the minor's guardian ad litem unless the Court orders otherwise. Upon establishment of a CASA program in Kings County, an approved CASA representative may be appointed by the court to serve as the minor's guardian ad litem. (Eff. 1/1/99 as Rule 613; as amended and renumbered, eff. 1/1/11.)

RULE 609 - Guardian Ad Litem for Parents

The Court shall appoint any person whom the Court deems qualified as a guardian ad litem to represent any incompetent parent or guardian whose child is before the Court pursuant to a petition under Welfare & Institutions Code Section 300. The determination of incompetence may be made by the Court at any time in the proceeding based upon evidence received from any interested party. The Court shall apply that test for mental competence set forth in Penal Code Section 1367. (Eff. 1/1/99 as Rule 614; as amended and renumbered, eff. 7/1/08)

RULE 610 - Guardian Ad Litem - Notice, Access to Records, Right to Appear

In all proceedings, the guardian ad litem shall be given the same notice as any party, and have the same access to all records relating to the case as would any party, and have the right to appear at all hearings. (Eff. 1/1/99 as Rule 615; as renumbered, eff. 7/1/08)

RULE 611 - Motion to Challenge Legal Sufficiency of Petition

A. In any dependency proceeding, the Court may entertain a pre-hearing challenge by motion to the legal sufficiency of the petition. Such a motion may be made in writing or orally, but must be made as early in the proceedings as possible. The Court may rule on the motion at the hearing at which it is made, or may continue the hearing on the motion to another date in order to receive briefing from counsel. If the Court sustains the motion, the Court may grant leave to amend the pleading in the petition upon any terms as may be just.

B. The provisions of Chapter 8 (commencing with Section 469) of Title 6 of Part 2 of the Code of Civil Procedure relating to variance and amendment of pleadings in civil actions shall apply to petitions and proceedings under this Chapter. (Eff. 1/1/99 as Rule 618; as amended and renumbered, eff. 7/1/08)

RULE 612 – Citations to Appear, Warrants and Subpoenas

The Court may issue citations to appear, warrants and subpoenas in accordance with the provisions of California Rules of Court, Rule 5.526. In the event that the Court orders a warrant to be issued, bail shall normally be set at not less than $5,000. (Eff. 1/1/99 as Rule 620; as amended and renumbered, eff. 7/1/08)

RULE 613 - Settlements

The Court recognizes that agreement between the parties with regard to the matters before the Court is not only beneficial to the children but also often contributes to the satisfactory reunification of the family. The Court encourages settlement discussions including Family Unity Meetings between the parties at any time prior to the hearing. In the event the case is set for Jurisdiction/Disposition hearing, the parties shall meet at least one half hour prior to the Jurisdiction/Disposition hearing to discuss settlement of the case. The Court shall be promptly advised of any proposed settlements, admissions or submissions of the entire hearing on reports. (Eff. 1/1/99 as Rule 621; as renumbered, eff. 7/1/08)

RULE 614 - Standards of Representation

A. All counsel appearing in dependency proceedings shall meet the requirements for competent counsel set forth in Rule 5.660(d) of the California Rules of Court. In any case where a client's whereabouts is unknown, an attorney should immediately inform the Court. Upon such showing of good cause, the Court may excuse an attorney from the requirement of regular client meetings set forth in Rule 5.660(d)(4) of the California Rules of Court.

B. In addition to the requirements set forth in Rule 5.660(d) of the California Rules of Court, all Court-appointed attorneys appearing in a dependency matter before the Juvenile Court must complete either of the following minimum training and educational requirements:

1. Participated in at least eight hours of training or education in juvenile dependency law, which training must have included information on the applicable case law and statutes, the Rules of Court, Judicial Council forms, motions, writs, mediation, child development, child abuse and neglect, family reunification and preservation, restraining orders, rights of de facto parents, and reasonable efforts; or

2. At least six months experience in dependency proceedings in which the attorney has had primary responsibility for representation of his or her clients in said proceedings. In determining whether the attorney had demonstrated competence, the Court will consider whether the attorney's performance has substantially complied with the requirements of these rules.

C. Each court-appointed attorney who practices before the juvenile dependency Court must complete within every three-year period at least eight hours of continuing education related to dependency proceedings. Evidence of completion of the required number of hours of training or education must be retained by the attorney and may include a copy of a certificate of attendance issued by a California Mandatory Continuing Legal Education (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 an MCLE provider. Attendance at a Court sponsored or approved program will also fulfill this requirement.

D. The attorney's continuing training or education must be in the areas set forth in paragraph (B) above, or in other areas related to juvenile dependency practice.

E. Each Court-appointed counsel, including those employed by county offices, must annually complete and file a "Certificate of Competency", and file it with the Presiding Judge of the Juvenile Court. A copy of a form "Certificate of Competency" can be found on the Court's website. (Eff., 1/1/99 as Rules 623 through 625; as amended and renumbered, eff. 7/1/08)

RULE 615 - **Procedures for Reviewing and Resolving Complaints**

A. Any party to a Juvenile Court proceeding may lodge a written complaint with the Court concerning the performance of his or her appointed counsel in a Juvenile Court proceeding. In the case of a complaint concerning the performance of counsel appointed to represent a minor, the complaint may be lodged on the child's behalf by the social worker, a caretaker relative or a foster parent. Any complaints shall be lodged separately in the Juvenile Court file in a sealed envelope.

B. Counsel shall be provided with a copy of the complaint. The Court shall review any complaint within ten days of receipt and may determine based upon that complaint that a prima facie case does not exist to believe that counsel has failed to act competently or has

violated these rules. In that event, no further action is required by the Court, however, the Court shall notify the party and counsel in writing of its decision. This shall constitute a final decision on the matter.

C. If the Court determines that the complaint presents a prima facie case that the attorney may have failed to act competently or has violated local rules, the Court may request an informal response from counsel or may conduct a hearing in order to make a determination on the issue. If ordered, a hearing shall be held as soon as practicable. The complainant and counsel shall each be given at least five days notice of the hearing. The hearing shall not be open to the public or other parties to the Juvenile Court proceeding. The Presiding Judge of the Juvenile Court may designate a commissioner, referee or judge pro tempore, or any qualified member of the Bar to act as hearing officer. The hearing officer may conduct the hearing with that degree of formality he or she deems appropriate.

D. Any complaints, written responses to the complaints, or written notification of the Court's determination rendered pursuant to this rule shall be subject to the confidentiality requirements established under Welfare & Institutions Code Section 827 (Eff. 1/1/99 as Rule 626; as amended and renumbered, eff. 7/1/08; Amended 1/1/12)

RULE 616 - Procedures for Informing the Court of Other Forum Interests of a Dependent Child

At any time during the dependency proceedings, counsel for the minor or any interested person may notify the Court that the minor may have an interest or right which needs to be protected or pursued in another judicial or administrative forum as soon as it is reasonably possible for counsel to do so. Notice to the Court may be given orally or by the filing of a declaration. The person giving notice shall set forth the nature of the interest or right which needs to be protected or pursued, the name and address, if known, of the administrative agency or judicial forum in which the right or interest may be affected and the nature of the proceedings being contemplated or conducted there.

The Court may set a hearing on the notice if the Court deems it necessary in order to determine the nature of the child's right or interest or whether said interest should be protected or pursued. (Eff. 1/1/99 as former Rule 627; as renumbered, eff. 7/1/08)

RULE 617 - Release of Information Relating to Juvenile

Juvenile Court records are confidential by statute and case law. Disclosure and use of such records shall be governed by California Rules of Court, Rule 5.552, California Welfare and Institutions Code Sections 825-830.1. (Eff. 1/1/99 as Rule 628; as amended and renumbered, eff. 7/1/08; Amended 1/1/12)

RULE 618 - Requests for Transcripts

Any party wanting the Court to pay for a reporter's transcript shall apply in writing to the judicial officer who heard the matter in question or to the Presiding Judge of the Juvenile

Court. Alternatively, a party may orally request at a Court hearing that the Court order a transcript be prepared at Court expense. In order to obtain transcripts at Court expense, a party must demonstrate a legal necessity for the transcript and that he or she is receiving financial assistance under SSI and SSP, TANF, the Food Stamp Program, General Assistance, or meets the gross monthly income criteria as set out in Judicial Council Form FW-001-INFO entitled, "Information Sheet on Waiver of Court Fees and Costs". (Eff. 1/1/99 as Rule 629; as amended and renumbered, eff. 7/1/08)

RULE 619 - Appointment of Child Advocates (CASA)

A. At any time during a dependency proceeding pursuant to Welfare and Institutions Code section 300 et seq. or at any time following a declaration of wardship at a disposition hearing during delinquency proceedings pursuant to Welfare and Institutions Code section 601, et. seq. a trained CASA volunteer may be appointed by the court to provide all the services contemplated by Welfare and Institutions Code sections 102(c) and 104, and to represent the best interests of children in juvenile court proceedings. In order to qualify for appointment, the child advocate must be trained and function under the auspices of a CASA program, formed and operating under the guidelines established by the Judicial Council of California (Welf. & Inst. Code, §§ 100 and 103(a)).

B. A CASA volunteer is a sworn officer of the court having taken an oath which describes the duties and responsibilities of the volunteer. CASA volunteers serve at the pleasure of the court and are bound by all court rules.

C. The Kings County CASA Program will function under and pursuant to the program guidelines of CASA Programs as from time to time may be adopted or amended by the Judicial Council of the State of California, pursuant to Welfare and Institutions Code section 100, and will comply generally with the provisions of Welfare and Institutions Code sections 100-109, and California Rules of Court, rule 5.655.

D. CASA volunteers are appointed only on behalf of children, and only in such proceedings as authorized by Welfare and Institutions Code sections 100-109 and the program guidelines established pursuant to these sections.

E. CASA volunteers must have access to all documents, case files, and other documents which relate to the child before the court as authorized by Welfare and Institutions Code section 107.

F. A CASA volunteer's personnel file is confidential. No one will have access to the volunteer's personnel file with the exception of the volunteer, the CASA program director or their designee, and the presiding judge of the juvenile court.

G. CASA shall receive notice of all court proceedings involving persons for whom they have been appointed.

H. CASA shall have reasonable access to the children for whom they have been appointed.

I. CASA shall be served with a copy of all documents filed with the court as to a child for whom they have been appointed. The party filing said document is responsible for service on CASA.

J. There must be ongoing, regular communication concerning the child's best interests, current status, and significant case developments maintained among the advocates, case manager, child's attorney, attorney(s) for parents, social worker, county counsel, relatives, foster parents, and any therapist for the child.

K. A child advocate may petition the court to set the child's case for hearing. (

L. All court reports submitted by CASA shall be submitted and served on all parties through their counsel, Child Welfare Services, and Probation in a timely fashion, at least 10 court days prior to the scheduled hearing unless otherwise ordered by the court. (Eff. 1/1/11)

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.)

(RULES 621 - 699 Reserved)

CHAPTER 7: FAMILY COURT RULES

Part 1 - General Rules

RULE 700 – Enforcement

Failure to comply with these rules may result in an award of attorney fees and costs pursuant to Family Code Section 271 and/or any of the sanctions set forth in the Superior Court of Kings County, Local Rules, Rule 103. (Eff. 1/1/99 as Rule 701; as amended and renumbered, eff. 7/1/08)

RULE 701 – Setting Matters for Hearing

A. All family law matters must be set pursuant to The Superior Court of Kings County, Local Rules, Rule 301. Failure to be in the Courtroom on time may result in a continuance and appropriate sanctions.

B. No matter shall be calendared on the Family Law and Motion Calendar when both sides are represented by counsel without first calling opposing counsel and attempting to clear a hearing date, unless notice is otherwise excused by these rules or if opposing counsel is the District Attorney. (Eff. 1/1/99 as Rule 710; as amended and renumbered, eff. 7/1/08.)

RULE 702 - Presentation of Documents

All documents submitted in family law matters must comply with California Rules of Court as to motion practice, as well as the following:

A. Without prior approval, the Court will not consider more than ten (10) typewritten, double-spaced pages of declarations including attachments but excluding financial, medical, psychological, and educational documentation. No reply or closing declaration shall exceed five (5) pages. No foundation will be required for medical, psychological, educational, mediation, probation, or civil investigation reports unless there is an issue as to the authenticity of the documents.

B. Photocopies of forms adopted by the Judicial Council and used in family law matters must be legible and tumbled if two sided. (Eff. 1/1/99 as Rule 711; as amended and renumbered, eff. 7/1/08; Amended, 7/1/12.)

RULE 703 - Matters Off Calendar

A. After service of the moving papers, but before responsive pleadings are filed, no matter will be taken off calendar without notice to the responding party or attorney.

B. If responsive pleadings have been filed, the responding party or attorney must consent before the matter may be taken off calendar. (Eff. 1/1/99 as Rule 712; as amended and renumbered, eff. 7/1/08)

RULE 704 - Continuances

A. Continuances must comply with The Superior Court of Kings County, Local Rules, Rule 304, An Order to Show Cause will only be continued with a Stipulation and Order or by submitting an Application and Order for Reissuance of Order to Show Cause [Judicial Council Form Number FL-306].

B. An Order to Show Cause Re: Contempt and Order for Examination of Judgment Debtor will not be reissued. If an Order to Show Cause Re: Contempt or Examination of Judgment Debtor is not served, the moving party shall take the hearing off calendar. If a new hearing date is sought, a new Order to Show Cause Re: Contempt or Application for Examination of Judgment Debtor must be submitted to the Court.

C. After service of an Order to Show Cause Re: Contempt or Order for Examination of Judgment Debtor, a continuance will not be granted without a Court appearance. (Eff. 1/1/99 as Rule 714; as amended and renumbered, eff. 7/1/08)

RULE 705 - Hearings Estimated to Take More Than 20 Minutes

After consulting with counsel for the parties or self-represented parties, if it is apparent to the presiding family law judge or commissioner that a matter will take more than 20 minutes, and notice of the same was not provided to the Clerk or the court at the time the matter was scheduled for hearing, such matter may be continued by the court to accommodate its calendar. Nothing contained herein shall alter, modify or amend applicable notice requirements set forth in the California Family Code, including Family Code Section 215. (Eff. 1/1/99 as Rule 715; as amended and renumbered, eff. 7/1/08; Amended 1/1/12)

RULE 706 - Family Centered Case Resolution Plan Conference

All dissolution of marriage, legal separation, nullity of marriage, and uniform parentage actions may be set for a family centered case resolution plan conference. Unless otherwise ordered by the Court, a family centered case resolution plan conference shall be set not more than one year after the filing of the initial Petition. (Eff. 7/1/08; Amended 1/1/12)

RULE 707 - Emergency Short Notice (Ex-Parte) Hearings

A. Procedure and Notice - The procedure and notice of an emergency short notice (ex-parte) hearing must be pursuant to the California Rules of Court, Rules 3.1200 through 3.1207. Any application under this section must make an affirmative factual showing in a declaration containing competent testimony based on personal knowledge of irreparable harm, immediate danger, or any other statutory basis for granting relief on short notice.

1. An order requested at an emergency short notice (ex-parte) hearing will be issued only upon a factual showing that great or irreparable injury will result to the applicant before the matter can be heard upon a regularly noticed motion (Fam. Code § 241).

2. An attorney requesting an emergency short notice (ex-parte) hearing must contact the Hanford Division calendar clerk to schedule an emergency hearing. The moving documents must be submitted to the Clerk's Office no later than 9:00 a.m. the day prior to the hearing. Failure to do so shall cause the short notice (ex-parte) hearing to be taken off calendar. Notice shall be provided to all other parties no later than 10:00 a.m. the Court day before the short notice (ex-parte) appearance, unless there is a showing of exceptional circumstances. (Cal. R. Ct., Rules 3.1200 through 3.1207).

3. An attorney requesting temporary orders without notice to the other party/counsel and without a hearing must submit his or her declaration to the clerk's office for review by the appropriate judicial officer.

4. A self-represented litigant requesting temporary orders without notice to the other party and without a hearing or requesting that an emergency order notice (ex-parte) hearing be set, must submit his/her documentation to the Clerk's Office, which will then be sent to the appropriate Judicial Officer for review. The litigant will be contacted via telephone if a hearing is set by the Court.

B. Declaration - Any declaration in support of a short notice (ex-parte) hearing order requesting to change the status quo, must reveal this fact, describe the existing situation, and set forth facts justifying the change. There is an absolute duty to disclose the fact that there is an existing Court order or that a requested short notice (ex-parte) hearing order will result in a change of status quo.

C. Child Custody - No order granting temporary custody of a minor child will be granted without a supporting declaration stating the following:

1. The date of separation, or if a custody order has previously been issued, a copy of that order (if from another County or State), a summary of the custody/visitation practices of the parties in the past, and if there is an existing Juvenile Court order regarding custody, a copy of that order.

2. The name of the parent the child/ren is/are currently residing with. If different from any prior order or practice, how that parent obtained custody; and

3. If a short notice (ex-parte) change in status quo is requested, clear and specific facts demonstrating that the health and welfare of the child/ren will be in danger without a change of custody (including flight from the area). A temporary order for child custody will not issue without an accompanying order restricting all parties from removing the child/ren from California except for good cause shown.

D. Exclusive Use of Vehicle - A short notice (ex-parte) order granting exclusive use of a vehicle will not be granted unless a declaration demonstrates that the opposing party has suitable transportation available, or requires no such transportation, or such order is necessary for the immediate best interests of the child/ren, and who has current possession of the vehicle.

E. Removal from Residence – Unless a declaration is submitted that clearly states that the excluded party has previously voluntarily vacated the residence, a short notice (ex-parte) order removing a party from a residence will not issue without facts demonstrating violence or threats of violence and the date or dates thereof, and fear that physical harm will result.

F. Payment of Obligations - A short notice (ex-parte) order requiring the payment of obligations will not issue without financial facts justifying the order, plus a completed Income and Expense Declaration with at least an estimate of opposing party's gross income.

G. Modified Orders - If the Court modifies any requested orders, it is the responsibility of the applicant, or attorney, to conform all copies with the changes before filing and service.

H. Set Aside of Ex-parte or Emergency Short Notice Orders - If a responding party requests an ex-parte or emergency short notice order be set aside prior to the date set for hearing, notice must be given to the moving party. The Court may order an earlier hearing date, or modify the orders, on a proper showing, in lieu of setting aside the orders. (Eff. 1/1/99 as Rule 717; as amended and renumbered, eff. 7/1/08)

RULE 708 - Family Law Temporary Restraining Orders at Initial Filing

A. Pursuant to Family Code Section 2040, in actions for dissolution, annulment, and legal separation, certain temporary restraining orders issue automatically (Automatic Temporary Restraining Orders [ATROs]). These orders are mutual and bind both the petitioner and respondent. The ATROS remain in effect until modified. They include, but are not limited to:

1. Removing the minor child/ren of the parties from the state without the prior written consent of the other party or an order of the Court;

2. Cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of any insurance or other coverage including life, health, automobile, and disability held for the benefit of the parties and their minor child/ren; and

3. Transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, without the written consent of the other party or an order of the Court,

except in the usual course of business or for the necessities of life. Each party shall notify the other party of any proposed extraordinary expenditures at least five (5) days before incurring those expenditures and account to the Court for all extraordinary expenditures made after service of the Summons on that party. However, nothing shall preclude the use of community property to pay reasonable attorney fees in order to retain legal counsel in the action.

B. Under Uniform Parentage or Petition for Custody and Support matters, certain temporary restraining orders issue automatically (Automatic Temporary Restraining Orders [ATROs]). These orders are mutual and bind both the petitioner and respondent. They include:

1. Removing from the state, the minor child or children for whom the action seeks to establish a parent-child relationship, without the prior written consent of the other party or an order of the Court. (Eff. 7/1/08)

RULE 709 – Orders to Show Cause Issued by the Clerk

A. For the convenience of counsel and litigants who are self represented, the Clerk's Office has been authorized to issue Family Law Orders to Show Cause not requesting temporary orders or an Order Shortening Time for hearing or service, and set the Order to Show Cause for a hearing date.

B. The clerk may also reissue Orders to Show Cause in Family Law, Domestic V Violence, Civil Harassment, and Parental Relationship matters, provided that an Order Shortening Time has not been requested. (Eff. 7/1/08)

RULE 710 - **Applications for Family Law Court Orders** (Eff. 1/1/99 as Rule 720; as amended and renumbered, eff. 7/1/08; Repealed 1/1/12)

RULE 711 - Attorney Fees

A. Except as provided in Kings County Local Rules 103 and 700, or as otherwise allowed by statute, attorney fees and costs will not be awarded unless an Income and Expense Declaration is filed *by the requesting party*, with Item *15* fully and accurately completed.

B. If attorney fees and/or costs of litigation (including fees for experts) are requested in a combined amount in excess of $2,500.00, the request must be supported by a separate declaration signed by the attorney, describing services performed, time expended, hourly rate, and all reasonably anticipated fees and/or costs. In the absence of such declaration, no award in excess of $2,500.00 for fees and costs will be granted.

C. Without compliance with The Superior Court of Kings County, Local Rules, Rule 712, no attorney fees under Family Code Section 271 will be awarded at any hearing. (Eff. 1/1/99 as Rule 702; as amended and renumbered, eff. 7/1/08)

RULE 712 - Meet and Confer Requirement/Settlement Efforts

A. Except for proceedings under the Domestic Violence Prevention Act and the Kings County Department of Child Support Services calendar, counsel must meet and confer prior to the beginning of a contested hearing to resolve or limit the disputed issues. Failure to conduct such settlement discussions in good faith may have a bearing on attorney fees to be awarded and may result in a Court-ordered continuance.

B. All parties are required to provide copies of documentary evidence to opposing parties and not wait until the time of the hearing to “surprise” the opposing party with proffered documentary evidence except where a document clearly and substantially impeaches the veracity of a party or witness, and the document is used primarily for that purpose. This document exchange must occur prior to or at the meet and confer session.

C. No case on the family law Order to Show Cause calendar will be heard unless counsel, with their respective clients either physically present or immediately physically available, have met and conferred in good faith and attempted to resolve all disputed issues.

D. When counsel cannot reasonably or economically meet prior to the hearing date due to geographical distances, counsel may meet on the day of the hearing prior to the call of the calendar, or in the discretion of the Court, after the calendar is called but prior to the matter being heard.

E. When counsel is appearing at a mandatory settlement conference on behalf of clients who cannot be present at the hearing, counsel must arrange for the absent client to be on telephone standby. (Eff. 1/1/99 as Rule 722; as amended and renumbered, eff. 7/1/08)

RULE 713 - Stipulations in Open Court

The settlement of matters resulting in stipulations is favored and will take precedence on the calendar over contested matters. (Eff. 1/1/99 as Rule 723; as amended and renumbered, eff. 7/1/08)

RULE 714 - Failure to Appear/Tardiness

A. Failure of the moving party or attorney to be present at the calendar call, or failure to have informed the bailiff or clerk of his or her location, may result in the matter being removed from the calendar. If the responding party has appeared, attorney fees and costs may be awarded to the appearing party.

B. In the event the responding party or attorney fails to appear or to have informed the bailiff or clerk of his or her location, the Court may continue the matter, award attorney fees, or enter an order on the pleadings and/or testimony of the moving party. (Eff. 1/1/99 as Rule 724; as renumbered, eff. 7/1/08)

RULE 715 – Preparation of Order After Hearing

A. Unless otherwise ordered, the findings and decisions of the Court in connection with any hearing shall be set forth in a minute order to be prepared, filed and served by the Clerk ("Family Law Minute Order"). The Clerk will serve a copy of the filed Family Law Minute Order upon all parties. No further notice of the Court's decisions and findings after hearing will be given. It is the responsibility of each party and/or counsel to keep the court informed as to their current mailing address.

B. In any matter where the court orders a party to prepare a written order following hearing:

1. It is the policy of the Kings County Superior Court not to sign orders or judgments unless some portion of the text of the order or judgment appears on the page to which the Judicial Officer's signature is affixed so that the connection between the signature page and the remainder of the order or judgment is apparent.

2. The party preparing the order must mail the proposed order to opposing counsel or self-represented party for approval within ten (10) calendar days of the hearing.

3. The attorney or party who receives the proposed order must either:

(a) Return the order signed as approved within ten calendar days of the date the proposed order was mailed by the preparing attorney or party, or

(b) If the preparing party does not receive a response within ten calendar days of having mailed the proposed order to the opposing attorney or self-represented party, the preparing party may submit the order directly to the Court with correspondence advising the Court of the situation.

(Eff. 1/1/99 as Rule 725; as renumbered, eff. 7/1/08, as amended eff. 10/31/11)

RULE 716 - Adoption of Schedule for Temporary Spousal Support Awards

It is the policy of this Court that parties be treated fairly and uniformly in determining their temporary spousal support obligations. Accordingly, the temporary spousal support guidelines used by the Court will be those known as "Kings County Superior Court Guidelines" as calculated by a certified software program designated in the California Rules of Court. These schedules are subject to change. (Eff. 7/1/08)

RULE 717 - Income and Expense Declaration/Financial Statement

A. An Income and Expense Declaration (Judicial Council Form FL150) must be filed and served with the moving and responsive papers in all matters when child support, spousal support, attorney fees, or payment of obligations is at issue. This provision shall not apply to individuals who are subject to contempt proceedings for non-payment of support.

B. The failure to complete the Income and Expense Declaration fully, or attach the required pay stubs or income information, may result in sanctions as set forth in The Superior Court of Kings County, Local Rules, Rules 103 and 700.

C. If an Income and Expense Declaration is more than 90 days old, the party must file a current Income and Expense Declaration. If there has been no change within the previous 90 days, a declaration under penalty of perjury to that effect must be filed with the Court. In either case, current verification of earnings or income must be attached as set forth in subdivision (D) below.

D. For wage earners, pay stubs for the immediately preceding three months, or one pay stub showing year-to-date information, and W2 forms for the prior year, must be attached to all Income and Expense Declarations.

E. For self-employed persons, their previous year's federal income tax return, including all Schedules, 1099 forms, and supporting Partnership or Corporate returns/schedules and a profit and loss statement for the current year, through the last quarter, showing income and deductions, must be attached to all Income and Expense Declarations.

F. If documents are not available (*i.e.,* they are in the possession and control of the other party), a declaration under penalty of perjury must state that fact. (Eff. 1/1/99 as Rule 730; as amended and renumbered, eff. 7/1/08)

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 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.)

RULE 720 - Custody Orders and Agreements

As allowed by Family Code Section 3024, all custody agreements and orders must contain language that is in substantial conformity to the following:

> "If either parent plans to change the residence of a child, subject to this order, for more than thirty (30) days, and that change will affect the ability of either parent to fulfill this parenting plan, unless there is a written agreement of the parties, the parent contemplating the move shall notify the other parent of said move by mail, return receipt requested and postage prepaid, to the last known address of the parent to be notified. A copy of the notice shall also be sent to that parent's attorney of record. To the extent feasible, the notice shall be provided within a minimum of 45 days prior to the proposed change of residence so as to allow time for mediation of a new agreement concerning custody and visitation. "

Failure to comply with this notice requirement is not in and of itself sufficient to change an existing order of custody and visitation. (Eff. 1/1/99 as Rule 743; as amended and renumbered, eff. 7/1/08)

RULE 721 - Settlement Conference Statement

A. All parties and attorneys must attend a mandatory settlement conference prior to trial on a date designated by the Court, unless exempted from compliance with this rule. An exemption will be granted only upon a showing of good cause and leave granted by the Court. A motion for leave to dispense with any mandatory settlement conference requirement must be filed, calendared, and heard on or before the date of the settlement conference.

B. At least ten (10) days before the settlement conference, each party must file with the Court and serve on the opposing party a Settlement Conference Statement that must contain the following:

1. A list of all community assets and debts related to them, including the date of acquisition, purchase price, and present fair market value. If there is a dispute as to whether the asset is, in fact, community property, a tracing of the funds should be included.

2. A list of all property that the party claims is separate property, including the date and method of acquisition. The fair market value of separate assets should also be included.

3. Factual data upon which the parties rely in support of (or in opposition to) a claim for child support, and/or spousal support, and attorney fees. Any request for spousal support must be supported by a statement addressing all relevant facts as listed in Family Code Section 4320.

4. Where the parties possess real property, the same must have been appraised before the date of the settlement conference, and a copy of the appraisal must be attached to the statement.

5. Where the furniture has not been divided, a complete inventory of the furniture must be attached along with an appraisal.

6. Motor vehicles listed must be accompanied by the Kelly Blue Book valuations.

7. When the asset is a pension or retirement plan, unless the parties have agreed regarding the pension division, or anticipate it will be an in-kind division, an appraisal of the same must be attached to the statement; provided however, that if a party is willing to accept the “vested cash value,” such party may furnish a certified statement by the holder of the pension giving the “vested cash value” of the pension.

8. A list of the community obligations existing at time of separation. If a spouse is claiming credit for payment after separation, an itemized list, with proof of payment, must be attached.

9. Any party contending that community property or quasi-community property of the parties should be valued at a date after separation and before the trial must comply strictly with the provisions of Family Code Sections 2550-2552 with respect to notice of the other party. Such motion must have been made and heard before the date of the settlement conference.

10. A statement that the value of an asset or liability is unknown (without a showing that a good faith appraisal thereof could not be made), or that a valuation of the asset is not made because a party seeks a sale, a deferred sale of home order, or equal division of the asset, will be deemed a material failure to comply with these rules.

11. Where it is urged that the family home be retained pursuant to Family Code Section 3800, all facts relevant to this issue must be included in the statement.

12. A copy of the Declaration Regarding Service of Declaration of Disclosure (Family Law) (Judicial Council Form Number FL-141)

13. A Property Declaration (Judicial Council Form FL-160) or a statement as to the date the Property Declaration was previously filed with the Court. An Amended Property Declaration if any information has changed since the prior filing. (Eff. 1/1/99 as Rule 750; as amended and renumbered, eff. 7/1/08)

RULE 722 - Entry of Default

Envelopes provided to the Superior Court Clerk for mailing to parties on entry of default must contain the return address of the Superior Court Clerk, not the address of the moving party.

The Court's address is: Clerk of the Superior Court, 1640 Kings County Drive, Hanford, CA 93230. Case Number _____. (Eff. 7/1/08, as amended 7/1/16)

RULE 723 - Stipulation or Objection to Superior Court Commissioner(s)

A. Family law cases, uniform parentage actions, civil harassment actions, domestic violence cases and guardianships are routinely assigned to the family law commissioner for all purposes, including the power to make all rulings, decisions and to enter judgment in the case. Except as provided in Code of Civil Procedure §259, subdivisions (a), (b), (c), (e) and (f), matters assigned to the court commissioner require that the parties stipulate to the commissioner hearing the matter. The stipulation may be in writing, implied by conduct or entered on the record. (Cal. R. Ct., rule 2.816(d).)

B. If a party refuses to stipulate to having a proceeding heard by a commissioner acting as a temporary judge, the matter will be re-assigned and continued to the next available calendar date. In order to avoid the undue consumption of judicial resources and to minimize the inconvenience to the litigants, parties are advised to file any objection to the family law commissioner at least five court days before the hearing on the matter. Notice of the objection shall also be served on all parties who have appeared in the case by the person asserting the same at least five court days before the hearing on the matter.

C. An objection to a court commissioner acting as a temporary judge will be construed as an objection to the particular matter assigned to the court commissioner. A party who objects to a court commissioner acting as a temporary judge at all stages of the litigation in the case including trial and any ancillary matters must either file an objection before each hearing to which a stipulation would otherwise be required, or exercise a timely challenge under Code of Civil Procedure Sections 170.6 or, if appropriate, under 170.1. (Eff. 7/1/08)

RULE 724 - Parties Not Represented

A. Any proposed Marital Settlement/Termination Agreement in which only one party has legal counsel should contain language which is in substantial conformity with the following:

> "Petitioner/Respondent acknowledges by the initials at the end of this paragraph that she/he has been advised to obtain independent legal counsel and that she/he has voluntarily chosen not to do so; that she/he has read and understands the contents and

legal effect of this agreement and has entered into it and signed it freely and voluntarily." (Initials of party)

B. If an unrepresented party pays a fee for preparation of a document, the document must include the name of the preparer. (Prepared by XYZ Legal Services). (Eff. 7/1/08)

RULE 725 - Procedures for Entry of Judgment

A. All proposed judgments where child support is ordered shall contain the following language:

1. "Pursuant to Family Code Section 4062, each parent is responsible for one-half of all reasonable uninsured health care costs for the children. All judgments shall include a copy of the Judicial Council Form FL 192 entitled 'Notice of Rights and Remedies - Health Care Costs and Reimbursement Procedures' (the form is available on the Internet at www.Courtinfo.ca.gov/forms)"; and

2. "Pursuant to Family Code Section 4062, each parent is responsible for one-half of child care costs related to employment or to reasonably necessary education or training for employment skills. All expenses for child care shall be documented, including, but not limited to, name of care provider, facility license, contract for services, and monthly billing; and this document shall be provided to the obligor parent in a timely manner."

B. All stipulations waiving guideline child support shall include the following language:

"The parties are agreeing to an amount that is not pursuant to current guideline formula. The parties agree that, pursuant to Family Code Section 4065(a):

1. They are fully informed of their rights concerning child support.

2. The order is being made without coercion or duress.

3. The agreement is in the best interest of the child/ren involved.

4. The needs of the child/ren will be adequately met by the stipulated amount.

5. The right of support has not been assigned to the county pursuant to Welfare and Institutions Code Section 11477, and no public assistance application is pending."

C. Proof of any underlying child or spousal support order(s) must be submitted with all requested notice(s) to withhold wages.

D. All judgments and orders after hearings where a child support order is contained and where the Department of Child Support Services is enforcing the order, shall include the following language:

"All child support payments must be made to the California State Disbursement Unit at P.O. Box 989067, West Sacramento, CA 95798-9067. Parties must notify the Department of Child Support Services in writing within ten (10) days of any change of residence, income, or employment. " (Eff. 7/1/08)

RULE 726 – Domestic Violence Coordination Rules

A. Court Communication. It is this Court's goal to coordinate domestic violence orders. It is the clerk's responsibility, upon any request for protective orders, to determine if any such orders have already been issued as to the same parties or children in any other department by accessing the Court's case management system. The Court's family law department shall use all reasonable efforts to communicate and exchange information with other court departments regarding any domestic violence orders.

B. Avoiding Conflicting Orders. The Family Court shall not knowingly issue a protective order or custody order in conflict with an order of the criminal Court. If such an order issues inadvertently, the orders of the criminal law proceeding shall have priority.

C. Modification Of Criminal Orders. A Court issuing a criminal protective order may, after review of any existing Family or Juvenile Court orders, modify the criminal protective order to allow or restrict contact between the restrained person and his or her child(ren), spouse, or other protected person.

D. Coexisting Criminal, Family and/or Juvenile Orders. A Family or Juvenile Court order may coexist with a Criminal Court protective order, subject to the following:

1. Any order that permits contact between the restrained person and his or her children shall provide for the safe exchange of the child/ren and shall not contain language either printed or handwritten that violates a "no contact order" issued by a criminal Court.

2. Safety of all parties shall be the Courts' paramount concern. The Family Court order shall specify the time, day, place, and manner of transfer of the child/ren, as provided in Family Code Section 3100.

E. Issuance and Enforcement of Restraining Order. Upon granting of relief (through initial petition, modification, or termination), the clerk shall convey within 24 hours a file-endorsed copy of the order to the Kings County Sheriff's Department for input into CLETS (a statewide computerized registration system for restraining orders). (Eff. 7/1/08)

RULE 727 – Court Policies for Family Law

Introduction: The Court believes it is important for counsel and self-represented parties to know what the general policies of the Court are on certain issues that commonly arise in the family law area. Therefore, the Court has adopted certain "Court Policies" which it follows except in the unusual case. The Court reserves to itself the

continuing discretionary power it has in making any final determination on these issues on a case by case basis. The goal and intention of the "Court Policies for Family Law" is to encourage and enhance the ability of counsel and the parties to settle these matters whenever possible.

COURT POLICY #1: Allocation of child care costs related to employment or to reasonably necessary education or training for employment skills is generally limited to costs incurred with non-relative, licensed providers.

COURT POLICY #2: Additional child support amounts are generally divided one-half to each parent. (Fam. Code §4061.) "Additional child support amounts" shall include: (1) Child care costs related to employment or to reasonably necessary education or training for employment skills, (2) The reasonable uninsured health care costs for the children as provided in Section 4063, (3) Costs related to the educational or other special needs of the children, and (4) Travel expenses for visitation. (Fam. Code §4062.)

COURT POLICY #3: In determining the amount of temporary spousal support, the Court generally does not consider overtime earnings.

COURT POLICY #4: Within 15 days following the court's service of a filed Family Law Minute Order or Judgment containing an order for child support, spousal support, and/or family support, the prevailing party shall submit to the court an appropriate order form for wage withholding and, where child support is ordered, a Child Support Registry form.

COURT POLICY #5: Attorney fee orders under Family Code Section 2030 are viewed as a means to insure that each party has access to legal representation. Attorney fee orders are not a mechanism to equalize the relative wealth of the parties. It is the Court's view that attorneys should be held accountable to their own clients in justifying the necessity for and the amount of the services that they perform. Attorney fees are generally ordered payable over time and contain a ten day acceleration clause.

COURT POLICY #6: The Court will exercise its discretion in determining whether documents presented for filing on the day of a hearing will be filed and/or considered.

COURT POLICY #7: The Court generally does not distribute debts at a hearing for temporary orders during the pendency of the case. When orders are made for the temporary use of property, however, orders are generally included for payment of loans related to that property. (Eff. 1/1/99 as attachment to Local Rules; as numbered and amended, eff. 7/1/08; Policy #4 amended 10/31/11.)

RULE 728 – Dismissal of "Special Proceeding" Petitions

A. Where an adoption petition, a petition to have a child freed from parental custody and/or a petition in any other type of "special proceeding" to which California Code of Civil Procedure Section 583.310 would not usually apply ("petition") has not been brought to conclusion within five years of the date of its filing, the trial court may on its

own motion issue an Order to Show Cause ("OSC") to determine whether dismissal of the petition is appropriate. Upon failure of the parties to appear at the noticed OSC hearing, upon the pre-hearing filing of a request for dismissal of the petition by the petitioner and/or upon failure of the parties appearing at the OSC hearing to demonstrate that dismissal is inconsistent with the character of the petition, the trial court may in its discretion dismiss a petition which has been pending for a period of more than five years. All Orders to Show Cause issued under this Rule will be forwarded by the Clerk via first class mail to the last known mailing address of each of the interested parties and their attorney-of-record. In order to avoid the inadvertent dismissal of petitions pending before the Court, all parties and counsel must keep the Court advised of their current mail addresses.

B. No special proceeding dismissed by the Court in accordance with this Rule shall be reinitiated without the filing of a new petition and payment of new filing and investigation fees. (Eff. 1/1/09)

RULE 729 – Duties of the Family Law Facilitator

In addition to the duties mandated by the Family Law Facilitator Act, California Family Code § 10000 et. seq., the Family Law Facilitator shall have the following duties:

A. Meeting with litigants to mediate issues of child support, spousal or partner support, and maintenance of health insurance, subject to California Family Code § 10012.

B. Drafting stipulations, which may include issues other than those specified in California Family Code § 10003. If the parties are not able to resolve issues with the assistance of the Family Law Facilitator, the Facilitator, before or at the hearing, and at the Court's request, shall review documents, prepare support schedules, and advise the Court whether the matter is ready to proceed.

C. Assisting the clerk in maintaining records.

D. Preparing orders documenting the Court's announced order where both parties are self-represented or in those cases with one attorney where the Court refers the self-represented party because the order benefits that party.

E. Serving as a special master and making findings to the Court, unless the Facilitator has served as a mediator in the case.

F. Participating in the operation of the Family Court Clinic, including the training and supervision of volunteers.

G. Such additional duties as may be delegated by the Presiding Judge, Assistant Presiding Judge or Family Law Judge consistent with California Family Code Section 10005. (Eff. 7/15/11)

RULE 730 - Judicial Notice in Family Law Matters - Department 4

A. When appearing in **Department 4** of the Kings County Superior Court in connection with Family Law matters, all Requests for Judicial Notice must comply with the requirements set forth in subdivision (c) of Rule 3.1306 of the California Rules of Court, and relevant sections of the California Evidence Code.

B. Any party requesting that judicial notice be taken of a fact or document shall:

1. Simultaneously with the filing of the Request for Judicial Notice, provide the Clerk of the Court with a written list of those Kings County Superior Court hardcopy case files which will need to be delivered to the judicial officer ruling on the Request ("List"). The List *may* be formatted as a letter or a pleading, but **must** contain the case number, case name, name of the relevant document to be judicially noticed, and its filing date. If all documents to be judicially noticed are contained within the record of the case in which the Request is pending or in case files which are entirely within the electronic record of the court, a List is not required.

2. Include within the Request for Judicial Notice, a description of any fact to be judicially noticed and the specific document(s) evidencing such fact.

Example(s):

1. Conviction (Count 1 - Penal Code §182) - Abstract of Judgment filed 1/1/15 in Kings County Superior Court Case No. 14CM0000, *People v. John Doe*

2. Judgment entered in favor of John Doe for $10,000.00 - Notice of Entry of Judgment, filed 1/1/15 in Fresno County Superior Court Case No. 14CIV0000, *John Doe v. Sue Smith.*

3. John Doe's Purchase of Real Property located at 777 Cottonwood Lane, Hanford CA - Deed of Trust, recorded in Kings County on 2/1/15.

3. Include within the Request for Judicial Notice, the title and date of any document to be judicially noticed. If the document has been filed or recorded, the Request must include its filing/recording date, as well as other information relevant to identifying its location.

Example(s):

1. Abstract of Judgment filed 1/1/15 in Kings County Superior Court Case No. 14CM0000, *People v. John Doe*

2. Deed of Trust recorded on 3/1/15 in Fresno County

3. Contract for Sale signed on 5/1/15

4. Attach to the Request a certified copy of any document to be judicially noticed or referenced which is not already on file with the Kings County Superior Court.

C. The written list and Request for Judicial Notice must be served on all parties to the litigation. Proof of Service shall be filed with the court in a timely manner. (Eff. 1/1/17)

(RULES 731 - 739 Reserved)

Part 2 - Child Support and the Kings County Department of Child Support Services

The following procedures and rules apply to Paternity, Child Support cases and Spousal Support enforcement cases where the Department of Child Support Services (DCSS) is involved. These proceedings will normally be held in a specific Department of the Superior Court and absent exceptional circumstances shall be heard by the designated Child Support Commissioner.

RULE 740 – Child Support Commissioner as Temporary Judge

A. The Title IV-D Child Support Commissioner shall act as a temporary judge unless an objection is made by the Local Child Support Agency (DCSS) or a party. The parties shall be advised by the Court prior to the proceeding that the matter is being heard by a commissioner who shall act as a temporary judge, unless any party objects to the commissioner acting as a temporary judge. Failure to object to the Child Support Commissioner hearing the matter prior to the hearing shall be deemed consent for the Commissioner to act as a temporary judge.

B. If any party objects to the Commissioner hearing the matter as a temporary judge, the Commissioner, notwithstanding such objection, may hear the matter and make findings of fact and a recommended order. Within ten (10) Court days, a judge shall ratify the recommended order unless either party objects to the recommended order, or where the recommended order is in error. In both cases, the judge shall issue a temporary order and schedule a *de novo* hearing within 10 Court days. Any party may waive his or her right to a review hearing at any time.

C. Nothing in this rule displaces any rights provided for in the Code of Civil Procedure Section 170 *et seq*. (Eff. 7/1/08)

RULE 741 - DCSS Involvement in Title IV-D Proceedings

A. In all cases where DCSS is involved pursuant to Family Code Section 17400, whether filed by DCSS or a party other than DCSS, all hearings related thereto affecting the establishment of parentage or child support, the modification or enforcement of child support and the enforcement of spousal support shall be conducted in a department of the Superior Court designated to hear these matters.

B. The DCSS shall be treated as a party in those hearings, and all notices required by law shall be tendered to DCSS accordingly. The hearing shall be held by the Child Support Commissioner. (Eff. 7/1/08)

RULE 742 - Custody and Visitation Issues at Title IV-D Proceedings

A. Except as otherwise permitted by law, child custody and visitation issues shall not be heard by the Child Support Commissioner in Title IV-D proceedings.

B. However, the Child Support Commissioner may entertain, clarify and make orders approving the parties' stipulations for custody and visitation. (Eff. 7/1/08, amended 1/1/14)

RULE 743 – Rules Related to the Conduct of Title IV-D Hearings

A. Court hearings occur as matters are ready to be heard. The Court may not do a calendar call at the beginning of each hearing session.

B. Matters proceeding by complete agreement of the parties are given preference on the Court calendar and are heard first.

C. Parties shall meet and confer with the DCSS attorney or DCSS representative on the date of the hearing, prior to entering the courtroom. This requirement applies to parties who are represented by an attorney.

D. DCSS does not represent any of the parties in a Title IV-D action, inside or outside of Court, even when it brings a motion, responds, or files pleadings at the request of one of the parties.

E. Only those declarations under penalty of perjury which have been filed and served in accordance with Code of Civil Procedure Section 1005 and other applicable sections, are assured of consideration on the hearing date.

F. The Court, in its discretion, may consider un-filed or late filed papers which substantiate income, expenses, ability to work or other factors necessary to set child support, if such papers have been shown to the parties present at the hearing.

G. If child support and attorney fees are in issue, a current (less than 90 days old) Income and Expense Declaration form FL-150 must be completed, including the other party's income, or a fair estimate thereof. If only child support is in issue, then the Financial Statement (Simplified) Judicial Council form FL-155 may be substituted. In either case, the following information shall be attached:

1. Wage earners shall attach a pay stub showing year-to-date income covering the last 90 days, or sufficient pay stubs without year-to-date information to cover the last 90 days of employment.

2. Self-employed persons shall attach copies of their previous year's Federal Income Tax return and a profit and loss statement for the current year, through the last quarter, showing income and applicable deductions.

H. DCSS records of a party's income available to the Department as obtained from the EDD or other public agencies, will generally be considered by the Court without the need for further foundation. The DCSS shall not be required to file an Income and Expense Declaration for any party as a prerequisite for obtaining a child support order.

I. In Title IV-D proceedings, the DCSS may state their position on any case without having to file a pleading. (Eff. 7/1/08, amended 1/1/14.)

RULE 744 – Telephonic Appearance at Title IV-D Hearings

A. The telephonic appearance by a party at hearing must be approved and conform with the provisions of California Rules of Court, Rule 5.324.

B. Among other requirements, the rule requires that application for appearance be filed on the Request for Telephonic Appearance (Governmental) Form FL-679. The Request must be filed with the Court clerk at least 12 Court days before the hearing, and served on all other parties or their attorneys and DCSS, so that objections can be made, if any.

C. The service of the request by mailing or personal delivery on the other parties or their attorneys and DCSS must be reasonably calculated to apprise the recipient of the Request by the close of the next Court day.

D. The Court, on its own motion, may allow a telephonic appearance. (Eff. 7/1/08)

(RULES 745 – 799 Reserved)

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF KINGS

Local Forms Index

(All Forms are For Optional Use)

Form Name
Adoption check-list for Petitioners
Adoption Questionnaire (Stepparent or DP Adoption)
Alleged Natural Father's Consent To Adoption (In or Outside of California) (AD 594)(State Form)
Application for Judicial Consent to Marry (underage marriage)
Application to Attend Mediation
At Issue Memorandum (family law)
At Issue Memorandum Check-List (Family Law)
Consent to Adoption by Parent Retaining Custody (Stepparent Adoption) (AD 2)(State Form)
Consent to Adoption by Parent In or Outside of California Giving Custody to Husband or Wife or Domestic Partner of Other Parent (Stepparent Adoption) (AD 2A/2B)(State Form)
Consent to Adoption by Parent Outside California in Armed Forces Giving Custody to Husband or Wife or Domestic Partner of Other Parent (Stepparent Adoption) (AD 2D)(State Form)
Consent to Marriage (underage marriage)
Conservatorship Check-List
Conservatorship Questionnaire
Court Report of Adoption INFO ONLY sheet (State Form)
Declaration of Diligent Search (for Guardianship)
Declaration of Premarital Counseling (underage marriage)
Declaration in Support of Defense to Claim
Declaration in Support of Plaintiff's Claim
Exparte Hearing Instruction
Guardianship Investigation Letter
Guardianship Questionnaire (for relative cases)
Guardianship Termination Questionnaire
Instructions on Completing a Three Day Notice to Pay Rent or Quit
Name change letter (CLETS)
Petition for Resentencing (Pen. Code §1170.18)
Petition for Resentencing – Response (Pen. Code §1170.18)
Pleading Paper Coversheet
Pleading Paper (Blank)
Personal Reference Questionnaire
Presumed Father's Consent to Adoption (In California) (AD 165)(State Form)
Proof of Service for a 30 or 60 Day Notice to Quit

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF KINGS

Proof of Service for Personal Service or by Notice and Acknowledgement of Receipt
Proof of Service of a Three Day Notice to Pay Rent or Quit
Proof of Service by mail or personal (generic)
Refusal to Give Consent to Adoption (AD 20)(State Form)
Refusal to Give Consent to Adoption - Alleged Natural Father (AD 20B)(State Form)
Proof of Notice of Exparte Hearing for Temporary Restraining Orders and Child Custody
Three Day Notice to Pay Rent or Quit
Tips for Filling Out Your Forms
Withdrawal of Request for Order
Unlawful Detainer Default Timeline

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF KINGS

Subject Matter Index

Subject	Rule	Page
Access to Minors (Welf. & Ins. Code §300)	606	54
Appeals to the Appellate Division – Record	120	10
Appearance and Conduct of Counsel	105	4
Applications for Modification of Sentence or Terms of Probation	504	40
Appointed Counsel (Criminal)	500	39
Appointment of Child Advocates (CASA)	619	58
Appointment of Medical Examiners	123	11
Attorney Fee Schedule	401	31, 38
Attorney Fees (Family)	711	64
Case Disposition Time Standards (Civil)	201	20
Case Management Conference		
Civil	205	21
Family	706	61
Child Custody Recommending Counseling	718	67
Citation of Rules	100	1
Complaints Re: Appointed Counsel (Juvenile)	615	56
Complex General Civil Cases	206	22
Construction, Scope and Effect of Rules	101	1
Continuances (Civil)	208	23
Court Attire and Conduct	104	3
Court Commissioner(s)		
Child Support Commissioner	740	80
Stipulation/Objection (General)	114	8
Stipulation/Objection (Family)	723	73
Court Records	107	5
Court Reporters		
Civil Fees and Availability	113	7
Criminal Cases	506	40
Criminal Trials – Duty of Counsel	503	40
Compromise of Minors or Incompetent Adults	405	34
Computers and Electronic Equipment in Courtroom	117	9
Court Policies (Family Law)	727	75
Custody and Visitation (Title IV-D)	742	80
Custody Evaluation	719	69
Custody of Court Files	107	5
Custody Orders and Agreements	720	71
DCSS Involvement in Title IV-D Proceedings	741	80
Definitions		
General	102	1
Juvenile	600	52
Discovery (Criminal)	501	39
Domestic Violence Coordination Rules	726	75

Electronic Equipment in Courtroom	117	9
Electronic Filing	126	13
Eminent Domain Pleadings	402	31
Enforcement of Family Court Rules	700	60
Entry of Default (Family)	722	73
Entry of Judgment (Family)	725	74
Exhibits		
Exhibits/Dangerous Evidence	108	5
Sound Recording Evidence/Transcripts	109	6
Filing with the Court	113	7
Expert and Investigative Fees	502	39
Failure to Comply with Rules	103	3
Facsimile Machine (Fax) Filing	112	7
Family Court Hearings		
Continuances	704	61
Court Policies	727	75
Failure to Appear	714	65
Emergency Short-Notice	707	61
Judicial Notice	730	78
Matters Off Calendar	703	60
More Than 20 Minutes	705	61
Presentation of Documents	702	60
Setting for Hearing	701	60
Stipulations in Open Court	713	65
Title IV-D Hearings	743	81
Family Law Facilitator	729	77
Felony Pre-Trial Motions	526	44
Felony Sentencing	527	45
Felony Trial Confirmation Hearings	525	44
Felony Trial Readiness Hearings	524	43
Filing of Documents for Ex-Parte Hearings	115	8
Filing of Documents after 3:00 p.m.	124	12
Filing of Documents – Submission	127	18
Guardian Ad Litem		
For Minors	608	54
For Parents	609	54
Notice, Access to Records, Right to Appear	610	55
Interlineation of Documents	128	19
Interviewing Victims of Child Abuse	607	54
Judicial Notice	110	6
Income and Expense Declaration	717	67
Infractions		
Available Procedures	540	49
Trial By Declaration	542	50
Trial Pursuant to Veh. Code §40901	541	49

Inmate Personal Property Claims	407	35
Interpreters	400	31
Jury Instructions	508	41
Juvenile Hearings		
Attendance	602	52
Challenge Legal Sufficiency of Petition	611	55
Citations to Appear, Warrants and Subpoenas	612	55
Ex-Parte Applications and Orders	604	53
Motion Requirements	603	52
Judicial Assignments	620	59
Informing Court of Other Forum Interests	616	56
Pre-Hearing Discovery	605	53
Law and Motion		
Continuing a Hearing	304	25
Duty to File Proof of Service	302	25
Joining Motions of Other Parties	310	28
Setting Hearing	301	25
Taking Hearing Off Calendar	303	25
Tentative Rulings	312	29
Legal Research Copy	309	28
Local Forms	122	11
Misdemeanor Arraignment	530	47
Misdemeanor Penal Code §1538.5 Motions	534	47
Misdemeanor Pre-Trial Hearings	531	47
Misdemeanor Trial Confirmation Hearing	533	47
Misdemeanor Trial Readiness Hearing	532	47
Motions in LImine	311	28
Negotiated Plea Agreements	507	41
News and Media	116	8
Orders		
Preparation/Approval (Civil)	306	26
Preparation After Hearing (Family)	715	66
Proposed Orders	129	19
Order to Show Cause Issued by Clerk	709	64
Parties Not Represented (Family)	724	73
Payment of Bail (Traffic Infraction Cases)	543	50
Payment of Fees and Fines	106	4
Petition for Change of Name	406	35
Petitions for Writ of Habeas Corpus	580	51
Pleadings Prepared by Third-Parties	125	13
Prerogative Writs	308	27
Presence of Trial Counsel and Defendant	522	43
Proceedings Through Preliminary Examinations	520	42
Proof of Publication	307	26

Post Preliminary Examination Arraignment	521	42
Release of Information Relating to Juvenile	617	57
Renewal of Motions (Criminal)	505	40
Request for Reporters	506	40
Service of Summons and Filing of Proof of Service (Civil)	202	20
Settlement Conference/Meet and Confer		
Civil	207	22
Family	712	65
Felony	523	43
Juvenile	613	55
Settlement Conference Statement (Family)	721	71
Signatures	118	10
Small Claims	403	31
Special Proceeding Petitions, Dismissal	728	76
Spousal Support (Adoption of Schedule)	716	66
Standards of Representation (Juvenile)	614	55
Standing Orders (Juvenile)	601	52
Subordinate Judicial Officers	121	11
Telephonic Appearances (Civil)	305	26
Telephonic Appearances (Title IV-D)	744	82
Temporary Restraining Orders (Family)	708	63
Time for Filing	111	6
Tracking Cases	204	21
Transcripts (Juvenile)	618	57
Unavailability of Counsel	119	10
Uninsured Motorist Cases	203	20
Unlawful Detainer	404	32

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF KINGS

LIST OF EFFECTIVE DATES

Chapter	Rule No.	Rule Title	Effective Date	Amended Effective Date
1	**-**	**CHAPTER 1: GENERAL AND ADMINISTRATIVE RULES**	**-**	**-**
1	100	Citation of Rules	1/1/99	-
1	101	Construction, Scope and Effect of Rules	1/1/99	7/1/08
1	102	Definitions	1/1/99	7/1/11
1	103	Failure to Comply with Rules	1/1/99	7/1/08
1	104	Court Attire and Conduct	1/1/99	7/1/16
1	105	Appearance and Conduct of Counsel	1/1/99	-
1	106	Payment of Fees and Fines	1/1/99	7/1/08
1	107	Custody of Court Files	1/1/99	7/1/15
1	108	Exhibits/Dangerous Evidence	1/1/99 as Rule 109	7/1/08
1	109	Sound Recording Evidence/Transcripts to be Offered as Exhibits	1/1/99 as Rule 110	7/1/08
1	110	Judicial Notice	1/1/99	1/1/17
1	111	Time for Filing	7/1/08	7/1/15
1	112	Facsimile Machine (Fax) Filing	1/1/99	7/1/08
1	113	Filing Exhibits to Documents with the Court	7/1/15	1/1/16
1	114	Stipulation or Objection to Superior Court Commissioner(s)	7/1/08	-
1	115	Filing of Documents for Ex-Parte Hearings	7/1/08	1/1/09
1	116	News and Media	1/1/09	-
1	117	Computers and Electronic Equipment in Courtroom	7/1/09	-
1	118	Color of Print/Original Signatures	1/1/10	-
1	119	Notice of Unavailability of Counsel	7/1/10	-
1	120	Record on Appeals to the Appellate Division	7/1/10	-
1	121	Complaints Concerning Subordinate Judicial Officers	7/1/11	7/1/16
1	122	Mandatory Local Forms	7/1/11	-
1	123	Appointment of Medical Examiners	1/1/13	7/1/16

1	124	Filing Documents After 3:00 p.m.	1/1/14	-
1	125	Pleadings Prepared by Third Parties	1/1/14	-
1	126	Electronic Filing	10/1/14	1/1/17
1	127	Submission of Documents for Filing	1/1/15	7/1/16
1	128	Interlineation of Documents	1/1/15	-
1	129	Proposed Orders	7/1/15	-
1	-	**(Rules 130 - 199 Reserved)**	-	-
2	**-**	**CHAPTER 2: ADMINISTRATION OF CIVIL CASES**	**-**	**-**
2	200	Applicability	1/1/99	-
2	201	Case Disposition Time Standards	1/1/99	7/1/08
2	202	Service of Summons, and Filing of Proof of Service	1/1/99	7/1/08
2	203	Uninsured Motorist Cases	1/1/99 as Rule 202.5	7/1/08
2	204	Tracking Cases	7/1/08	-
2	205	Case Management Conference	1/1/99 as Rules 204, 205	7/1/08
2	206	Complete General Civil Cases	1/1/99	7/1/08
2	207	Mandatory Settlement Conference	1/1/99 as Rules 207-211	7/1/08
2	208	Continuances	1/1/99 as Rule 212	7/1/08
2	-	**(Rules 208 - 299 Reserved)**	-	-
3	**-**	**CHAPTER 3: CIVIL LAW AND MOTION**	**-**	**-**
3	300	Applicability of Chapter	1/1/99	-
3	301	Setting Law and Motion Hearing	1/1/99	7/1/08
3	302	Moving Party's Duty to File Proof of Service	1/1/99	7/1/08
3	303	Taking Law and Motion Hearing Off Calendar	1/1/99	-
3	304	Continuing a Law and Motion Hearing	1/1/99	-
3	305	Telephonic Appearances	1/1/99	7/1/08
3	306	Preparation and Approval of Orders	1/1/99	7/1/08
3	307	Filing Proof of Publication Five	1/1/99 as	7/1/08

		Days Before Hearing	Rule 310	
3	308	Prerogative Writs	7/1/08	-
3	309	Legal Research Copy	7/1/08	-
3	310	Joining Motions of Other Parties	1/1/10	-
3	311	Motions in Limine	1/1/13	-
3	312	Tentative Rulings	1/1/13	-
3	-	**(Rules 313 - 399 Reserved)**	-	-
4	**-**	**CHAPTER 4: MISCELLANEOUS CIVIL RULES**	**-**	**-**
4	400	Interpreters	1/1/99	7/1/08
4	401	Attorney Fee Schedule	1/1/99	1/1/09
4	402	Eminent Domain Pleadings	1/1/99 as Rule 404	7/1/08
4	403	Procedures in Small Claims Matters	1/1/99 as Rules 405	1/1/10
4	404	Procedure in Unlawful Detainer Cases	1/1/99 as Rule 406	1/1/17
4	405	Compromise of Minors or Incompetent Adults	1/1/10	-
4	406	Petition for Change of Name	7/1/11	1/1/16
4	407	Court Policy on Inmate Personal Property Claims	1/1/15	-
4	-	**(Rules 408 - 499 Reserved)**	-	-
4	-	Addendum 1 – Rule 401 Attorney Fee Schedule	7/1/08	1/1/09
5	**-**	**CHAPTER 5: CRIMINAL RULES**	**-**	**-**
5	-	*Part 1 – Rules Applicable to All Criminal Proceedings*	-	-
5	500	Appointed Counsel for Indigent Defendants	1/1/99	-
5	501	Discovery	1/1/99	7/1/08
5	502	Expert and Investigative Fees	1/1/99	-
5	503	Criminal Trials – Duty of Counsel	1/1/99	7/1/08
5	504	Applications for Modification of Sentence or Terms of Probation	1/1/99 as Rule 505	7/1/08
5	505	Renewal of Motions	1/1/99 as Rule 506	7/1/08
5	506	Reporters	7/1/08	-
5	507	Negotiated Plea Agreements	1/1/09	-
5	508	Jury Instructions	7/1/15	-
5	-	**(Rules 508 - 519 Reserved)**	-	-

5	-	*Part 2 – Rules Applicable to Felony Cases and Misdemeanor Cases Joined or Consolidated with a Felony for Trial*	-	-
5	520	Proceedings Through Preliminary Examination	1/1/99 as Rule 521	7/1/08
5	521	Post Preliminary Examination Arraignment	1/1/99 as Rule 522	7/1/08
5	522	Presence of Trial Counsel and Defendant Mandatory	1/1/99 as Rule 523	7/1/08
5	523	Felony Settlement Conference	1/1/99 as Rule 524	7/1/08
5	524	Felony Trial Readiness Hearings	1/1/99 as Rule 525	7/1/08
5	525	Felony Trial Confirmation Hearings	1/1/99 as Rule 526	7/1/08
5	526	Felony Pre-Trial Motions	1/1/99 as Rule 527	1/1/14
5	527	Felony Sentencing	1/1/99 as Rule 528	7/1/08
5	-	**(Rules 528 - 529 Reserved)**	-	-
5	-	*Part 3 – Rules Applicable to Misdemeanor Cases*	-	-
5	530	Misdemeanor Arraignment	1/1/99 as Rule 531	7/1/08
5	531	Misdemeanor Pre-Trial Hearing	1/1/99 as Rule 532	7/1/08
5	532	Misdemeanor Trial Readiness Hearing	1/1/99 as Rule 533	7/1/08
5	533	Misdemeanor Trial Confirmation Hearing	1/1/99 as Rule 534	7/1/08
5	534	Misdemeanor Penal Code Section 1538.5 Motions	1/1/99 as Rule 535	7/1/08
5	-	**(Rules 535 - 539 Reserved)**	-	-
5	-	*Part 4 – Rules Applicable to Infractions*	-	-
5	540	Available Procedures for Persons Charged with Infractions	1/1/99	1/1/15
5	541	Trial Pursuant to Vehicle Code Section 40901	1/1/99	-
5	542	Trial by Declaration (Vehicle Code Section 40902)	1/1/99	7/1/08
5	543	Payment of Bail in Traffic	1/1/16	-

		Infraction Cases		
5	-	**(Rules 544 – 579 Reserved)**	-	-
5	-	*Part 5 – Rules Applicable to Petitions for Writ of Habeas Corpus*	-	-
5	580	Petitions for Writ of Habeas Corpus	7/1/11	1/1/16
6	**-**	**CHAPTER 6: JUVENILE COURT RULES**	**-**	**-**
6	600	Application and Definitions	1/1/99	7/1/08
6	601	Standing Orders	1/1/99	-
6	602	Attendance at Hearings	1/1/99	-
6	603	Motion Requirements	1/1/99 as Rules 603, 605	7/1/08
6	604	Ex-Parte Application and Orders	1/1/99	1/1/11
6	605	Pre-Hearing Discovery	1/1/99 as Rule 617	7/1/08
6	606	Access to Minors Subject to Section 300 of the Welfare and Institutions Code	1/1/99 as Rule 611	7/1/08
6	607	Interviewing Victims of Child Abuse	1/1/99 as Rule 612	7/1/08
6	608	Guardian Ad Litem for Minors	1/1/99 as Rule 613	1/1/11
6	609	Guardian Ad Litem for Parents	1/1/99 as Rule 614	7/1/08
6	610	Guardian Ad Litem – Notice, Access to Records, Right to Appear	1/1/99 as Rule 615	7/1/08
6	611	Motion to Challenge Legal Sufficiency of Petition	1/1/99 as Rule 618	7/1/08
6	612	Citations to Appear, Warrants and Subpoenas	1/1/99 as Rule 620	7/1/08
6	613	Settlements	1/1/99 as Rule 621	7/1/08
6	614	Standards of Representation	1/1/99 as Rules 623, 624, 625	7/1/08
6	615	Procedures for Reviewing and Resolving Complaints	1/1/99 as Rule 626	1/1/12
6	616	Procedures for Informing the Court of Other Forum Interests of a Dependent Child	1/1/99 as Rule 627	7/1/08

6	617	Release of Information Relating to Juvenile	1/1/99 as Rule 628	1/1/12
6	618	Requests for Transcripts	1/1/99 as Rule 629	7/1/08
6	619	Appointment of Child Advocates	1/1/11	-
6	620	Judicial Assignments	1/1/16	-
6	-	**(Rules 621 - 699 Reserved)**	-	-
7	**-**	**CHAPTER 7: FAMILY COURT RULES**	**-**	**-**
7	-	*Part 1 – General Rules*	-	-
7	700	Enforcement	1/1/99 as Rule 701	7/1/08
7	701	Setting Matters for Hearing	1/1/99 as Rule 710	7/1/08
7	702	Presentation of Documents	1/1/99 as Rule 711	7/1/12
7	703	Matters Off Calendar	1/1/99 as Rule 712	7/1/08
7	704	Continuances	1/1/99 as Rule 714	7/1/08
7	705	Hearings Estimated to Take More Than 20 Minutes	1/1/99 as Rule 715	1/1/12
7	706	Case Management Conference	7/1/08	1/1/12
7	707	Emergency Short Notice (Ex-Parte) Hearings	1/1/99 as Rule 717	7/1/08
7	708	Family Law Temporary Restraining Orders at Initial Filing	7/1/08	-
7	709	Orders to Show Cause Issued by Clerk	7/1/08	-
7	710	Applications for Family Law Court Orders	1/1/99 as Rule 720	Repealed 1/1/12
7	711	Attorney Fees	1/1/99 as Rule 702	7/1/08
7	712	Meet and Confer Requirements/Settlement Efforts	1/1/99 as Rule 722	7/1/08
7	713	Stipulations in Open Court	1/1/99 as Rule 723	7/1/08
7	714	Failure to Appear/Tardiness	1/1/99 as Rule 724	7/1/08
7	715	Preparation of Order After Hearing	1/1/99 as Rule 725	10/31/11
7	716	Adoption of Schedule for Temporary Spousal Support	7/1/08	-

		Awards		
7	717	Income and Expense Declaration/Financial Statement	1/1/99 as Rule 730	7/1/08
7	718	Child Custody Recommending Counseling in Child Custody and/or Visitation Matters	1/1/99 as Rule 740	1/1/16
7	719	Custody Evaluation	1/1/99 as Rule 741	1/1/16
7	720	Custody Orders and Agreements	1/1/99 as Rule 743	7/1/08
7	721	Settlement Conference Statement	1/1/99 as Rule 750	7/1/08
7	722	Entry of Default	7/1/08	7/1/16
7	723	Stipulation or Objection to Superior Court Commissioner(s)	7/1/08	-
7	724	Parties Not Represented	7/1/08	-
7	725	Procedures for Entry of Judgment	7/1/08	-
7	726	Domestic Violence Coordination Rules	7/1/08	-
7	727	Court Policies for Family Law	1/1/99	7/1/08
7	728	Dismissal of “Special Proceeding” Petitions	1/1/09	-
7	729	Duties of Family Law Facilitator	7/15/11	-
7	730	Judicial Notice in Family Law Matters	7/1/16	1/1/17
7	-	**(Rules 730 - 739 Reserved)**	-	-
7	-	*Part 2 – Child Support and the Kings County Department of Child Support Services*	-	-
7	740	Child Support Commissioner as Temporary Judge	7/1/08	-
7	741	DCSS Involvement in title IV-D Proceedings	7/1/08	-
7	742	Custody and Visitation Issues at Title IV-D Proceedings	7/1/08	1/1/14
7	743	Rules Related to the Conduct of Title IV-D Hearings	7/1/08	1/1/14
7	744	Telephonic Appearances at Title IV-D Hearings	7/1/08	-
7	-	**(Rules 745 - 799 Reserved)**	-	-