

## **PROPOSED LOCAL RULES**

(Effective 7/1/15 if adopted)

*The Kings County Superior Court intends to make the following amendments or additions to the January 1, 2015 version of its Local Rules (changes are in bold):*

### **RULE 107 - Custody and Maintenance of Court Records**

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<sup>1</sup>, 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. 7/1/15)**

### **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 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**

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<sup>1</sup> For example, original wills and codicils must be maintained by the court in the manner required by California Government Code Section 68150(b)(2).

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:*

<u>Description</u>	<u>Location</u>	<u>Page</u>
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 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)

#### **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)**

**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; As amended, eff. 7/1/15)**

*In addition, the Kings County Superior Court proposes to add to its list of optional local forms, the following:*

**Petition for Resentencing (Pen. Code §1170.18)**

**Petition for Resentencing – Response (Pen. Code §1170.18)**