SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN FRANCISCO

UNIFORM LOCAL RULES OF COURT

Website: www.sfsuperiorcourt.org
For civil and probate fee schedules: **www.sfgov.org/site/courts_page.asp?id=3802**

Effective: July 1, 1998
Revised: July 1, 2010

State of California
County of San Francisco

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Superior Court of California
County of San Francisco

UNIFORM LOCAL RULES OF COURT

Rule 1 - General Rules

1.0 Scope of Rules And Citation. These rules apply to the San Francisco Superior Court and are known and cited as the "Local Rules of Court for the San Francisco Superior Court." These rules may also be referred to as "LRSF". The California Rules of Court are abbreviated here "CRC" and the Code of Civil Procedure is abbreviated as "CCP".

1.1 Sanctions for Failure to Comply with Rules. Any counsel, party represented by counsel, or self represented litigant, who fails to comply with any of the requirements set forth in the rules will, upon motion of a party or the Court, be subject to the sanctions set forth in CCP § 575.2. Other sanctions provided by statute or the CRC may also apply.

1.2 Definitions.

"BASF" means the Bar Association of San Francisco.
"Day" means a calendar day unless otherwise indicated.
"Declaration" means either a declaration which complies with CCP § 2015.5 or an affidavit.
"Exempt" in reference to a case means a case designated as involving exceptional circumstances under CRC §3.714.
"General Civil Case" is defined at CRC §1.6.
"Limited jurisdiction" is defined at CCP §86.
"Presiding Judge" includes the designee of the Presiding Judge.
"Self represented litigant" or "Pro Per" or "in pro per" means a party not represented by counsel.
"Unlimited jurisdiction" means small claims appeals and all cases not within the meaning of CCP § 86.

Rule 1 amended effective July 1, 2006; adopted July 1, 1998.

Rule 2 - Administration of the Superior Court

2.0 Departments of the San Francisco Superior Court. There are as many departments of this Court as there are judicial officers. The Departments include the Presiding Judge, Law and Motion (and Writs & Receivers), Juvenile, Criminal, Family Law, Discovery, Probate, and Complex Civil. The Presiding Judge will from time to time designate the classes of cases to be handled in the several courtrooms and designate the related departments.

- **A. Official Hours.** The official hours of the San Francisco Superior Court are determined by the Presiding Judge and posted at the clerk's offices at each facility and on the Court's website.
- **B. Civil Courthouse Sessions.** A daily calendar of cases will be posted outside each Courtroom.
- **C. Criminal Court Sessions.** Criminal and Traffic department calendars are posted outside the Court clerks' office, Hall of Justice, Room 101, and outside each Courtroom.

2.1 Official Newspapers and Publisher.

- **A.** *The Recorder* and *The San Francisco Daily Journal*, newspapers of general circulation, published in the City and County of San Francisco, are each designated an official newspaper of the Superior Court.
- **B.** *The Recorder* is designated the official publisher of the Court's rules pursuant to CRC §10.613.

2.2 Trial Court Records.

- **A. Official Trial Court Records.** The following are the official Court records for the particular proceedings in this Court.
  1. **Civil Proceedings:** register of actions.
  2. **Criminal Proceedings:** misdemeanors and felony matters: docket. Infraction matters: citation.
- **B. Maintenance of Trial Court Records**. Dockets or registers of actions may be maintained by means of photographing, microphotographing, or mechanically or electronically storing the whole content of all papers or records, or any portion thereof as will constitute a memorandum, necessary to the keeping of a docket or register of actions so long as the completeness and chronological sequence of the records are not disturbed. Such photograph, microphotograph, microphotographic film or photocopy must be made in a manner and on paper or film in compliance with the minimum standards of quality approved by the National Bureau of Standards.
- **C. Off-Site Document Retrieval Fee.** A request for retrieval of court records housed off-site shall be subject to a fee not to exceed the Court's cost of retrieving and subsequently returning the records to the off-site storage facility. This fee shall be published in the Court's fee schedules and updated on an annual basis.

2.3 Advertising Matters in Court. No written advertising including that on calendars may be displayed in any courtroom.

2.4 Insufficient Funds Checks. The Court charges a redeemed check fee (bail/fine) on insufficient funds checks. Papers requiring a filing fee may be stricken if payment is tendered by an insufficient funds check or invalid check. Such checks received by the Superior Court may be referred to the District Attorney for prosecution or may be prosecuted civilly.

2.5 Fairness in Trial Court Proceedings.

A. Policy. All Court, courtroom clerks, court reporters, bailiffs, court support staff (together, "Court Staff"), judicial officers, counsel, jurors, witnesses and all other participants in judicial proceedings must not engage in any conduct, including any comment, which exhibits bias or prejudice based on ancestry, race, gender, religion, sexual orientation, national origin, age, disability, marital status or socioeconomic status except where such conduct is relevant to the issues in the courtroom proceeding. Presiding judicial officers must enforce this policy in proceedings before them.

B. Filing a Complaint. Any person who believes that he or she has been subjected to conduct by a judicial officer or Court Staff in violation of LRSF 2.5(A) may file a complaint either with the Presiding Judge or with the Court's Fairness Committee.

C. Written Complaints. Complaints must be in writing. The Fairness Committee may be reached through the Bar Association of San Francisco (BASF) at (415) 982-1600. A written complaint form and assistance may be obtained at the BASF office at 301 Battery Street, San Francisco or from the Court Clerk's office. The submission of a complaint to the Committee does not preclude the submission of a complaint to any other appropriate disciplinary authority.

D. Review of Complaints. Complaints filed with the Fairness Committee will be reviewed by the Committee according to the policies and procedures specified in subsection E below. The Fairness Committee consists of five members, is chaired by the Court's Presiding Judge and includes the senior judge, the immediate past Presiding Judge and two members of the local bar selected by the Presiding Judge after consultation with the president of the BASF. If one of these judges is the subject of the complaint, that judge must be replaced by a judge selected by the remaining judges on the Committee.

E. Procedures.

1. One or more members of the Committee must receive and screen complaints. If a majority of the Committee finds that a complaint warrants investigation, a subcommittee must be formed to conduct the investigation, including contacting the person alleged to have engaged in improper conduct. No Committee member may participate in the review or investigation of any complaint if that person is the subject of the complaint or a percipient witness to the complained-of conduct.
2. The subcommittee must report its findings and recommendations to the Committee. The actions, if any, of the Committee must be directed at assisting judicial officers and Court staff in recognizing, confronting and eliminating bias in their work. The actions of the Committee may be in addition to and do not preclude the Court or other disciplinary authority from taking action regarding the complaint. If the Committee concludes

that action is warranted, the Committee must recommend one or more of the following actions:

a. Privately advise the offending party why the conduct is unacceptable, and provide a warning that future unacceptable conduct may subject the offending party to discipline;

b. Require or recommend that the person receive education or counseling in recognizing, confronting, and eliminating bias; other appropriate counseling in her or his work; and/or make an appropriate entry in the offending party's personnel record; or

c. impose other discipline;

3. The complainant must be advised of the results of the investigation and subsequent action taken, if any.

4. The completed complaint forms and all investigatory files must be kept by the Fairness Committee chair for the period required by law. All records and files of the Committee and subcommittees are confidential and will not be revealed except as required by law.

2.6 Presentation and Filing of Court Papers.

A. Format of Papers. See CRC §§2.100-2.119, §§3.1110-3.1116.

B. Courtesy Copy. A file-endorsed courtesy copy of any case management statement, response to order to show cause, brief, memorandum, motion or response thereto with supporting papers must be lodged with the clerk of the department (including Law and Motion, Discovery, Presiding Judge, and departments of judges assigned to a case for all purposes) to which the matter has been assigned.

C. If a motion challenges the sufficiency of a pleading already on file, the moving party must also supply a courtesy copy of that pleading**.**

D. Facsimile Filing. The Court does not accept direct filing of fax documents under CRC §2.304. Facsimile produced documents may not be transmitted for filing directly to any fax machine owned or operated by the Court or clerk's office. In order to be filed with the Court, all facsimile produced documents must be presented for filing at the filing window or by mail. All required fees must be paid at the time of filing.

E. Drop Box. The Court's drop box for civil filings is available during Court days 8:00 a.m. to 4:00 p.m. When the Clerk's office is open during Court hours the drop box is Window #1, Civil Filing Office, Room 103. When the Clerk's office is closed and the Court is otherwise open, the drop box is located immediately behind the Sheriff's security check in at the main entrance of 400 McAllister Street.

2.7 Application by Vexatious Litigant to File Complaint. A person who has been found to be a vexatious litigant and is subject to a prefiling order pursuant to CCP § 391.7(a) may apply to the Presiding Judge for leave to file a complaint pursuant to CCP § 391.7(a). The application for such leave must be in writing and must be accompanied by:

A. A copy of the proposed complaint,

B. A declaration setting forth:

1. The court name and number of all prior actions which the applicant previously has filed against each defendant named in the proposed complaint and the disposition of each such action,
2. The reasons the proposed complaint has merit, and
3. The applicant's reasons why leave to file the proposed complaint is not requested for the purposes of harassment or delay, and

C. A proposed order with a blank to be completed by the Presiding Judge indicating that the application is granted or denied, and a second blank indicating the amount of security, if any, that must be furnished for the benefit of the defendant(s) as a condition of filing the proposed complaint, pursuant to CCP § 391.7(b).

D. If the application is granted and the applicant furnishes the required security, the application, all supporting papers and the order granting the application must be filed by the clerk. If the application is denied, or if the application is granted upon the condition that security be furnished and the applicant fails to furnish the required security, the application, all supporting papers and the order, initialed by the Presiding Judge or the clerk, must be returned to the applicant.

2.8 Judges' Vacation Day. Vacations. Judges' vacation days and use are authorized consistent with CRC §10.603(c)(2). A judge's vacation day is defined as follows:

"A day of vacation for a judge of the Superior Court of California, County of San Francisco, is an approved absence from the Court for one full business day. Absences from the Court listed in CRC §10.603(c)(2)(H) are excluded from this definition."

Rule 2 amended effective January 1, 2010; adopted effective July 1, 1998; amended effective January 1, 2000; amended effective January 1, 2005; amended effective July 1, 2006; amended effective January 1, 2008; amended effective January 1, 2009.

Rule 3 – Civil Case Management

3.0 Establishment of Case Management.

A. General Civil Case Management. Pretrial management of general civil cases not assigned to a single judge is conducted in Department 212.

B. Uninsured Motorist. At the time the complaint is filed, or within 10 days after discovering that the case is an uninsured motorist case, plaintiff must file in Department 212 an ex parte application with a supporting declaration requesting that the case be designated as an uninsured motorist case. To allow for arbitration of the plaintiff's claim, the Civil Case Management Rules do not apply to a case designated by the Court as "Uninsured Motorist" as defined in Government Code §68609.5 and Insurance Code §11580.2 until 180 days after the designation.

C. Order to Show Cause/Sanctions.

1. Upon failure of any party, including the party's counsel, to comply with any provision of LRSF 3 or the applicable CRC or statute, the Court may issue an order to show cause to determine the reason for non-compliance and whether sanctions should be imposed.
2. The Court may impose reasonable monetary or non-monetary sanctions for any violation of a lawful court order or any provision of these rules done without good cause or substantial justification. Sanctions may be imposed for a violation committed by a party, a party's attorney, or both. Monetary sanctions are payable to San Francisco Superior Court.
3. Any request to vacate sanctions imposed by the Civil Case Management Department (Pretrial) must be brought on noticed motion in that Department.

3.1 Exemption of Exceptional Cases (CRC §3.714).

A. Procedure. An application, declaration, proof of service and proposed order designating a case as exceptional must be filed in Room 103 and a courtesy copy must be delivered to Department 212. The application must address the relevant standards and factors set forth in CRC §§3.714 and 3.715.

B. Opposition. Any party may, within ten (10) days of the service of the application for exemption, file and serve a joinder in, or opposition to, the request, accompanied by a proof of service. A courtesy copy must be delivered to Department 212.

C. Ruling. The Court will notify the requesting party of the ruling. The requesting party must notify all other parties of the Court's ruling within five (5) days.

3.2. Single Assignment to One Judge For All or Limited Purposes.

A. Court Motion. The Presiding Judge may assign any case to a single judge at any time on the Court's own motion.

B. Noticed Motion. The Presiding Judge will hear motions for assignment to a single judge. CRC §3.734. Those motions must be accompanied by a proposed order. The moving papers must include discussion of the relevant factors set forth in CRC §3.715 as well as the length of time reasonably required to dispose of the case.

C. Disqualification. Any party seeking to disqualify the single assignment judge pursuant to CCP §170.6 must do so within ten (10) days of notice of single assignment.

D. Procedures Applicable to Single Assignment Cases. Case Management Conference. Upon assignment to a judge the Presiding Judge must schedule a case management conference with the assigned judge. The case management conference date designated by the clerk pursuant to LRSF 3.4 (A) is thereby vacated.

3.3 Service of Complaint, Responsive Pleading, and Cross-Complaint (CRC §3.110).

A. Application for Order Extending Time. Extension to Serve Summons And Complaint. A written application must be filed in Room 103 and a courtesy copy with a proposed order delivered to Department 212.

B. Extension To Respond. A written application must be filed in room 103 and a courtesy copy delivered to Department 212. Opposition to a request for extension of time to respond must be filed within two (2) Court days of service of the request and a courtesy copy with a proposed order must be delivered to Department 212.

C. Other Orders Concerning Service. An application for leave to serve a summons and complaint in a manner for which Court authorization is required must be made to the Presiding Judge. These applications include:

1. An application for leave to serve a corporation or a limited liability company by service on the Secretary of State, pursuant to Cal. Corp. Code §1702(a);
2. An application for leave to serve a summons by publication, pursuant to CCP §415.50; or
3. An application for leave to serve a summons in an action for unlawful detainer by posting, pursuant to CCP §415.45.

3.4 Case Management Conference (CRC §§3.720-3.730).

A. Case Management Conference Date. When a complaint is filed, the clerk will designate on the face of the complaint a case management conference date which paper plaintiff must serve on all defendants.

B. Case Management Statement. Although CRC §§3.720-3.730 requires the statement to be filed no later than 15 days before the conference, filing the case management statement **25 days** before the conference will facilitate the issuance of a case management order without an appearance.

C. Court Review of Case Management Statements. Prior to the case management conference the Court will review the case management statements and issue an order to show cause or a case management order. CRC §§3.720-3.730. The Court may either continue the conference or cancel the conference and enter any of the following orders:

1. Referral to pre-arbitration settlement conference and/or arbitration;
2. Assignment of a mandatory settlement conference date and/or trial date;
3. Referral to the BASF Early Settlement Program; or
4. Issuance of an order confirming voluntary mediation.

D. Objections. A party objecting to an order to arbitration or a trial setting, must file and serve a "Notice of Objection" and all parties must appear at the previously scheduled case management conference personally or through counsel.

E. Continuances. A request to continue a case management conference must be set forth in the case management statement or in a supplemental statement if the case management statement has already been filed.

F. Appearance by Telephone (CRC §3.670). Parties may elect to appear at a civil case management department conference by telephone through the facilities of COURTCALL, LLC. To do so, the participant must serve and submit to COURTCALL, not less than five (5) Court days prior to the hearing date, a request for telephonic appearance form and pay a fee for each COURTCALL appearance. Required submission and payment procedures are detailed in an instruction sheet entitled "How To Use COURTCALL." Requested forms and the instruction sheet are available in the clerk's office in Room 103 or by calling the COURTCALL program administrator at (310) 572-4670 or at 1-(888) 88-COURT. The person requesting to appear by telephone must be available for two (2) hours after the time noticed for the hearing.

3.5 Civil Case Management (Pretrial) Motion Calendar.

A. Hearing. Motions in both limited and unlimited jurisdiction cases are heard on Thursdays in Department 212 at 9:00 a.m., unless the following Friday is a holiday in which case no motions will be heard that week.

B. Orders Shortening Time. Parties may request an order shortening time by ex parte application. To schedule an ex parte appearance, parties must call the unlimited jurisdiction clerk at (415) 551-3712 or the limited jurisdiction clerk at (415) 551-3700.

C. Continuances. If parties stipulate to continuance of a motion, the party seeking the continuance must inform the Court clerk as soon as possible, and in any event, no later than 3:00 p.m. of the second Court day preceding the hearing. No continuances will be granted on the date set for hearing except upon appearance of counsel or a showing of good cause in writing. The Court may approve or deny a continuance, may rule on the merits of the motion, or take the matter off calendar despite agreement of the parties to the contrary.

D. Tentative Rulings. The San Francisco Superior Court adopts CRC §3.1308 as the tentative ruling procedure in pretrial matters.

1. **Obtaining Tentative Rulings.** Tentative rulings are available by 3:00 p.m. the day before the hearing. Counsel may obtain a tentative ruling issued by pretrial by calling (415) 551-4000.
2. **Submitting To Tentative Rulings.** Parties are not required to submit by telephone. A party who fails to appear at the hearing is deemed to submit to the tentative ruling. However, no party may submit to a tentative ruling that specifies that a hearing is required.
3. **Appearing For Hearing And Giving Notice**. Parties who intend to appear at the hearing must give notice to opposing counsel by telephone no later than 4:00 p.m. the day before the hearing unless the tentative ruling has specified that a hearing is required. A party may not argue at the hearing if opposing counsel is not so notified and opposing counsel

does not appear. If no party appears, the tentative ruling will be adopted. If a party does not appear because the opposing party failed to give sufficient notice of intent to argue, the tentative ruling will be adopted.

3.6 Stipulation to Commissioners.

A. A party is deemed to stipulate that all matters heard in the Civil Case Management (Pretrial) Department may be heard by a Commissioner, acting as a temporary judge, by failing to file an objection in writing within thirty (30) days after the first pleading is filed in the action by that party, or at the first hearing in the Civil Case Management Department, if heard before the expiration of the thirty (30) days. Notice to this effect is provided to the parties pursuant to the "Notice To Plaintiff" provided at the filing of the complaint.

B. A party refusing to stipulate to pretrial case management before a commissioner acting as a temporary judge may:

1. submit the matter on the papers without oral argument, or
2. present oral argument before the commissioner.

Without further briefing or oral argument, a judge assigned to hear the matter, must make a determination on the issue before the Court and issue an order.

3.7 Courtesy Copies. File-endorsed courtesy copies of papers filed in relation to any order to show cause, motion, or case management conference to be heard in Department 212 must be lodged in Department 212 on the same day the papers are filed.

3.8 Ex Parte Applications. In Department 212, ex parte applications other than to shorten time are submitted on the papers and no personal appearance is required. Proposed orders and a self-addressed stamped envelope must be included. See LRSF 9.

Rule 3 amended effective July 1, 2008; adopted July 1, 1998; amended effective January 1, 2000; amended effective January 1, 2005; amended effective January 1, 2006; amended effective July 1, 2006; amended effective July 1, 2007.

Rule 4 - Alternative Dispute Resolution

4.0 Policy. Every long cause, non-criminal, non-juvenile case must participate either in voluntary mediation, arbitration, neutral evaluation, an early settlement conference or other appropriate alternative dispute resolution process prior to a mandatory judicial settlement conference set under LRSF 5.0 or trial.

4.1 Mandatory Judicial Arbitration.

A. Policy. All non-exempt at-issue long cause civil actions must be submitted to judicial arbitration. Short cause matters tried to the Court, and other matters excluded by statute and CRC §3.811, are not submitted to judicial arbitration.

B. Civil Action on the Mandatory Arbitration Hearing List. Each action ordered to arbitration will be placed on the arbitration hearing list and remain there until an arbitrator's award or a dismissal of the action has been filed, or the action is ordered restored to the civil active list by the arbitration conference judge.

C. Arbitration Conference Judge.

1. The Presiding Judge must designate one judicial officer as the arbitration conference judge who will decide:
   a. whether the action should be required to go to arbitration pursuant to CCP §1141.11(a), (c) or (d);
   b. whether a prayer for equitable relief is frivolous and insubstantial;
   c. all motions to delay arbitration hearings or to remove a case from the arbitration hearing list;
   d. all motions to continue an arbitration hearing to a date later than ninety (90) days after the date of mailing of the notice of appointment of arbitrator;
   e. all ex parte orders for extensions of time to file an award pursuant to CRC §3.825;
   f. all motions to resolve disputes as to the number and identity of sides pursuant to CRC §3.815;
   g. ex parte applications of arbitrators for payment of the arbitrator's fee when the award has not been timely filed pursuant to CRC §3.825;
   h. all motions for imposition of sanctions for violation of this rule;
   i. all motions relating to the arbitration procedure in actions which are on the arbitration hearing list and which are made prior to the filing of an award.

D. Motions to Vacate and Discovery Motions. All motions to vacate an arbitration award pursuant to CRC §3.825 are heard in the Law and Motion Department. All discovery motions are heard in the Discovery Department.

E. Selection of Arbitrator. Within fifteen (15) days after an action has been placed on the arbitration hearing list, the arbitration administrator will mail a list of three (3) names of prospective arbitrators to the parties, and each side will have ten (10) days from the date of mailing to reject one of those names. Rejections must be exercised in a letter to the arbitration administrator. This subsection does not apply to CCP §1141.11(d) cases.

F. Panel of Arbitrators. A list of members of the Court's arbitration panel is available for review by counsel and self-represented parties in Room 103, Window 27, Clerk's Office.

G. Order to Show Cause (OSC) Procedure. Upon appointment of the arbitrator, the Court will set the case for an OSC why the matter has not been arbitrated to be heard on or about thirty (30) days after the expiration of the arbitrator's jurisdiction. If the arbitration administrator receives written notification that the case has been arbitrated, settled or dismissed, then the matter will be dropped from the OSC calendar. This action can be confirmed by calling the tentative ruling line after Noon the Court day preceding the hearing date at (415) 551-4000.

H. Continuances of Arbitration Date Of More than 90 Days.

1. **From 90-120 Days After Appointment.** Counsel must submit a stipulation including the consent of the arbitrator to request an extension of the arbitrator's jurisdiction past the initial 90 days, together with a proposed order. Further requests require a noticed motion in Department 212.
2. **Beyond 120 Days From Appointment.** An initial request for extension of the jurisdiction of the arbitrator to a date beyond 120 days from appointment requires a Court order. Counsel must submit a stipulation including the consent of the arbitrator requesting an extension of the jurisdiction, a declaration stating good cause for the extension, and a proposed order. Further requests require a noticed motion in Department 212.

I. Failure to Arbitrate. Unless jurisdiction of the arbitrator has been extended by Court order, actions in which the arbitration hearing has not taken place within the period of time allowed will be subject to an order to show cause why the action should not be dismissed, the answer stricken or another appropriate sanction imposed.

J. Original Court File. The original Court file will remain in the possession of the clerk of the Court.

K. Economic Hardship Requests. The trial judge will hear all motions pursuant to CCP §1141.21 requesting a finding that the imposition of costs and fees would create such a substantial economic hardship as not to be in the interest of justice.

L. Mandatory Pre-Arbitration Settlement Conference.

1. The settlement calendar is a part of the arbitration facilities of this Court. A failure of any person to prepare for, appear at or participate in good faith in a settlement conference as required by these rules, will cause the action to be removed from the arbitration calendar and/or the civil active list or subject the failing party to sanctions under CCP §§177.5 or 575.2.
2. Cases will be assigned to settlement conferences at the discretion of the Court.
3. The date for the settlement conference will be assigned in a case management order sent to the parties prior to the case management conference date (see LRSF 3.4C).
4. Continuances may be granted at the discretion of the Court on its own motion or upon a showing of good cause set forth in a stipulation and declaration, accompanied by a proposed order. The date requested must

not be less than thirty (30) days from the expiration of the jurisdiction of the arbitrator. The application must be submitted to Department 212 at least seven (7) days before the original pre-arbitration settlement conference.

5. The parties must undertake good faith settlement discussions prior to the date of the pre-arbitration settlement conference. Plaintiff's counsel must make a settlement demand not less than ten (10) days prior to the settlement conference and defendant's counsel must make an offer not less than five (5) days prior to the conference.
6. Attendance of the attorney who will try the case and the principals, or in the case of an insured principal, the authorized representative (other than counsel), of the insurer is **mandatory**.
7. Settlement conference statements must be served upon opposing counsel and delivered to Department 212 not later than two (2) Court days prior to the settlement conference. The settlement conference statement must include the following:
   a. A written factual statement describing the case and all relevant issues and contentions.
   b. The most recent medical reports.
   c. A summary of injuries, residuals, specials, and loss of earning, if any.
8. Attorneys conducting arbitration settlement conferences must notify the Arbitration Conference Judge of any violation of the provisions of this rule. The Arbitration Conference Judge may impose appropriate sanctions for such violations.
9. The Court may remove a case from the pre-arbitration settlement conference program upon a showing of good cause set forth in an endorsed filed application and declaration accompanied by a proposed order. Any party may, within two Court (2) days of the request for removal, file and serve a joinder in, or opposition to, such request.

M. Failure to Participate. Willful failure to participate meaningfully in arbitration proceedings may result in the imposition of sanctions.

4.2 Voluntary Civil Mediation.

A. Civil Mediation Act. This program is not established pursuant to the Civil Mediation Act, CCP §§1775 et seq.

B. Types of Mediation Available And Eligible Cases.

1. **Private Mediation.** Parties to a civil action may agree to mediate their dispute with a mediator of their choice without Court assistance.
2. **Mediation Services of BASF.** Upon stipulation of the parties the BASF will administer the selection of a Court approved mediator who will provide three hours of free mediation. The goal of this program is to facilitate mediation of unlimited jurisdiction civil cases at the outset of the litigation. The program may also be utilized prior to the filing of a complaint or at any time throughout the litigation process.
3. **Judicial Mediation Program.** Selected cases will be mediated by a Judge of the San Francisco Superior Court. This program provides early

mediation of selected cases by volunteer judges of the San Francisco Superior Court. Cases considered for the program include construction defect, employment discrimination, professional malpractice, insurance coverage disputes, toxic torts and industrial accidents and other complex cases.

C. Election to Mediate. Parties may stipulate to a specific type of alternative dispute resolution. The applicable form is included in the alternative dispute resolution information packet received when the complaint is filed. The parties must deliver the completed form to Department 212.

D. Mediation in Lieu of Judicial Arbitration. Parties to any civil action assigned to judicial arbitration may elect voluntary mediation by filing a stipulation to mediate. The stipulation must be filed not later than 240 days after the complaint was filed. After the expiration of this 240 day period a party may file a noticed motion to mediate in Department 212.

E. No Tolling of Time Limits

1. The election to mediate in lieu of judicial arbitration will not suspend any time periods specified by statute, the CRC or these local rules.
2. Absent an order providing for additional time, actions in which mediation has not taken place within the period specified by the parties and approved by the Court will be subject to an order to show cause why the action should not be dismissed, the answer stricken, or other appropriate sanctions imposed.

F. Selection of Mediation Provider.

1. **Private Mediation.** The parties must select a mediator, panel of mediators or mediation program of their choice to conduct the mediation. The mediation provider need not be an attorney. The parties are not required to select a mediation provider from the list of Court approved mediation providers.
2. **Mediation Services of BASF.** After filing a stipulation to alternative dispute resolution with a mediation services designation and delivery of a copy to Department 212, BASF will contact the parties to assist in the selection of a mediator from the list of Court approved mediation providers.
3. **Judicial Mediation Program.** Upon the filing of a stipulation to alternative dispute resolution with a judicial mediation designation and delivery of a copy to Department 212, the Court will consider assignment of the matter to a mediation judge.

G. Payment of Mediation Provider.

1. **Private Mediation.** The cost of mediation must be borne by the parties equally unless the parties agree otherwise. A party or parties may request that the Court appoint a mediation provider selected by the parties from the Court's list to serve without compensation.
2. **Mediation Services of BASF.** The first three hours of the mediation are free. The hourly mediation fee beyond the first three hours must be borne by the parties equally unless the parties agree otherwise.
3. **Judicial Mediation Program**. There is no charge for judicial mediation.

H. Mediation Outcome Questionnaire. In order to assist the Court in evaluating the effectiveness of the mediation program, the mediator or the parties participating in the mediation must promptly complete the Mediation Outcome Questionnaire provided by the Court and return the questionnaire to the Court's Alternative Dispute Resolution Administrator.

I. Mediation Advisory Committee. The Court's Mediation Advisory Committee assists the mediation Program Judge in overseeing the operation and evaluation of the program and the maintenance of the Court's list of mediation providers. Committee members are appointed by the Presiding Judge for a term of no more than three (3) years. The Committee consists of judicial officers, attorney and non-attorney mediation providers including community programs, individual and organizational providers, and alternative dispute resolution program administrators.

J. Mediation Program Judge. The Presiding Judge designates a judicial officer as the mediation program judge who:

1. Oversees the implementation and operation of the mediation programs established pursuant to this rule.
2. Serves on the Mediation Advisory Committee.
3. With the assistance of Court staff and the Mediation Advisory Committee, evaluates the program and informs the Presiding Judge and the Court on the success of the program in meeting its objectives.

K. Civil Mediation Panel.

1. The Court maintains a list of mediation providers which is available to parties.
2. Mediation providers may be added to the list by the Court upon the recommendation of the Mediation Advisory Committee.
3. In order to be eligible for inclusion on the Court's list, an individual applicant must:
    a. Complete an application provided by the Court listing the applicant's education, training, experience and references.
    b. Provide evidence of satisfaction of one of the following three alternatives:
        (1) Have completed at least forty (40) hours of education or training in mediation and have participated as a mediator or co-mediator in at least five (5) mediations;
        (2) Have completed at least sixteen (16) hours of education and training in mediation and have participated as a mediator or co-mediator in at least fifteen (15) mediations; or
        (3) Provide other satisfactory evidence of mediation skills and experience;
    c. Provide evidence of insurance coverage;
    d. Agree to abide by the Standards of Conduct for Mediators;
    e. Be willing and able to conduct mediation in San Francisco;
    f. Agree to cooperate with the administration of the program, in particular, completion of forms and questionnaires related to the evaluation of the program and;

g. Agree to accept by Court assignment at least one case a year for mediation on an uncompensated basis.

4. In order to be eligible for inclusion on the Court's list as an organization providing mediation services, the organization must:
   a. Complete an application provided by the Court describing the organization, the mediation or other alternative dispute resolution services it provides, and the training provided to mediators, or the type of training required of mediators;
   b. Identify the mediators in the organization who are available to conduct mediation and who have the qualifications required for individual mediators;
   c. Provide evidence of insurance coverage;
   d. Agree that mediators will abide by the Standards of Conduct for Mediators;
   e. Have a San Francisco business address and be willing and able to conduct mediation in San Francisco;
   f. Agree to cooperate with the administration of the program, including the completion of forms and questionnaires related to the evaluation of the program; and
   g. Agree to accept by Court assignment for each mediator participating in the program at least one case a year for mediation on an uncompensated basis.
5. Individual mediation providers or members of a provider organization are not required to be attorneys.
6. Grounds for Resignation, Suspension and Removal from Civil Mediation Panel.
   a. A panel member may request to be removed at any time upon ten (10) days' advance notice submitted to the Court's ADR Administrator.
   b. A panel member may be summarily suspended by the Court for so long as there is failure to comply with the rules of the panel, including any reporting requirements.
   c. Any panel member may be removed from the panel or suspended for:
      (1) Failure to handle Court referred case with professional competence and diligence;
      (2) Charging unconscionable fees or other charges;
      (3) Failure to completely disclose all fees and charges at the outset of the case;
      (4) Falsification of any material statement made to qualify for any panel or made in any required report;
      (5) Violation of any rule of professional conduct applicable to the provider as determined by the applicable professional organization;
      (6) Commission of a crime involving moral turpitude;
      (7) Repeated failure to comply with these rules;
      (8) Loss or suspension of a professional license may be

grounds for removal;

(9) Violation of the Standards of Conduct for Mediators pursuant to CRC §3.850 et. Seq.

7. Complaint Procedures and Complaint Proceedings against Civil Mediation Panel Members

a. All inquiries and complaints lodged against a panel member must be submitted to the ADR Administrator who shall serve as the complaint coordinator pursuant to CRC §3.867.

b. Upon receipt of a complaint, the ADR Administrator shall send the complainant written acknowledgement that the Court has received the complaint.

c. The ADR Administrator shall conduct a preliminary review of all complaints to determine whether it can be informally resolved, closed, or warrants investigation.

d. If the complaint is not resolved or closed during preliminary review:

(1) The mediator shall be given written notice of the complaint and an opportunity to respond.

(2) The complaint shall be investigated and a written recommendation concerning court action on the complaint shall be made by a complaint committee. The complaint committee must include at least one member who has experience as a mediator and who has knowledge of the Standards of Conduct for Mediators.

(3) The final decision on the complaint shall be made by the Presiding Judge or his/her designee within thirty (30) days after the complaint committee's recommendation is submitted to the Presiding Judge.

(4) The Court shall send written notice of the final action taken by the court on the complaint to the complainant and to the mediator. The notice shall be sent no later than ten (10) days after the Presiding Judge or his/her designee makes a final decision on the complaint.

(5) After the decision on a complaint, the Presiding Judge or the designee selected pursuant to Rule 7d.(3) above may authorize public disclosure of the name of the mediator against whom action has been taken, the action taken, and the general basis on which the action was taken.

e. All complaint procedures and complaint proceedings shall be kept confidential. No information or records regarding the receipt, investigation, or resolution of a complaint may be open to the public or disclosed outside the course of the complaint proceeding except as provided in Rule 7d.(5) above or as otherwise required by law.

4.3 Early Settlement Conference Program ("ESP").

A. The Early Settlement Conference Program is available as one of the Court's alternative dispute resolution programs.

B. Complete information regarding the program including procedures, method of case selection and qualification and selection of panelists may be reviewed at the San Francisco Law Library, BASF and the Court's Alternative Dispute Resolution Administrator's office.

C. The Early Settlement Program endeavors to bring selected cases to an early settlement conference before a panel of two attorneys experienced in the area of the law involved. Members of the panels are deemed persons presiding at a quasi-judicial proceeding within the meaning of the Evidence Code § 703.5.

D. Unlimited jurisdiction cases which are not ordered to mandatory judicial arbitration or do not stipulate in writing to voluntary civil mediation, must participate in the ESP.

E. Attendance at the settlement conference by the attorney who will try the case is mandatory.

F. Attendance at the settlement conference by the parties is mandatory. In the case of an insured principal, the authorized representative of the insurer (other than counsel) must attend and have settlement authority. In any professional negligence case in which the defendant retains the right to refuse settlement, participation of that defendant in the settlement conference is mandatory.

G. The Court may exempt a case from the ESP upon submission of a written application to the Civil Case Management Department 212, with a copy to all parties and BASF, which recites facts demonstrating that the ESP would not reduce the probable time and expense necessary to resolve the dispute.

H. Parties ordered to the ESP may be excused from that program upon filing a written stipulation to mediate with the Court's Alternative Dispute Resolution Administrator and delivering a copy to the BASF.

I. The parties must undertake substantial good faith settlement negotiations prior to the settlement conference. These negotiations must include a written demand by the plaintiff no later than two (2) weeks prior to the conference and a written offer by the defendant no later than one (1) week prior to the conference. These must be followed by a meet and confer session.

J. Plaintiff must immediately notify the BASF Coordinator in writing (copying all parties) of any settlement or dismissal of the case which occurs prior to the scheduled date of the settlement conference.

K. All parties assigned to the ESP are required to prepare and submit a settlement conference statement. The statement must be sent by mail, hand-delivery or fax, insuring that the panelist(s), the BASF and all other parties receive it no later than the Monday before the ESP conference. The statement must include a proof of service.

L. The settlement conference statement must contain:

1. a written factual statement describing the case and all relevant legal issues and contentions;
2. information of sufficient scope and quality to enable the panelists to evaluate the various positions and thereby conduct effective settlement discussions;

3. an itemized statement of claimed special and future damages;
4. supporting data in the form of relevant excerpts. A hospital summary sheet rather than the entire record is acceptable;
5. an itemized statement of claimed injuries and residuals with the latest medical reports in injury cases;
6. a statement setting forth the latest demands and offers between the parties;
7. a copy of the complaint, the cross complaint and the answer.

M. The ESP is part of the settlement calendar of this Court. Failure to prepare for, appear at, or participate in good faith in any of the conference procedures as required by these rules may constitute an unlawful interference with the proceedings of the Court and may be subject to sanctions.

N. Plaintiff must immediately notify the BASF/ESP coordinator and all counsel in writing when a case is settled or otherwise disposed after the settlement conference. The notice must include the date of the settlement or other disposition.

O. In addition to the settlement conference statement, the parties must submit copies of the following to the BASF/ESP coordinator to the extent relevant to the merits or otherwise to settlement:

1. all Court orders to the parties;
2. any appeal, or writ contesting a Court order;
3. any release of the parties from participating in the program;
4. any stipulations.

P. The panelists must notify the Civil Case Management Judge of any violations of the provisions of Rule 4.3. The Civil Case Management Judge may impose appropriate sanctions.

Q. BASF must provide the Court with quarterly reports regarding the disposition of all cases referred to the ESP by the Court. For each case, the report must include the date of the conference and whether the case settled at the conference. The report must also document the disposition of any case referred by the Court which did not complete a settlement conference. These reports must be available for review at BASF and the Court's Alternative Dispute Resolution Administrator.

4.4 Voluntary Arbitration.

A. Parties may by written stipulation submit any civil action, regardless of the amount in controversy, to judicial arbitration. The stipulation must be filed with the first case management statement.

B. Parties may agree to submit any civil matter to either binding or non-binding private arbitration.

Rule 4 amended effective July 1, 2009; adopted July 1, 1998; amended effective January 1, 2001; amended effective January 1, 2003; amended effective January 1, 2004; amended effective January 1, 2005; amended effective July 1, 2006; amended effective July 1, 2007; amended effective July 1, 2008.

Rule 5 - Settlement Conference and Settlement Calendar

5.0 Mandatory Settlement Conference and Settlement Calendar

A. The settlement calendar is a part of the pretrial facilities of the Superior Court. A failure of any person to prepare for, appear at or participate in good faith in a settlement conference as required by these rules and the CRC may constitute an unlawful interference with the proceedings of the Superior Court and sanctions may be imposed.

B. Settlement conferences are mandatory in all unlimited cases with a trial time estimate of more than one day and in unlawful detainers where there is a jury demand.

C. In unlimited cases a mandatory settlement conference will be set within three (3) weeks of the date set for trial. Continuances may be had in the discretion of the judge to which it has been assigned; however, no continuance by the settlement conference judge will in any way affect the trial date. In limited jurisdiction unlawful detainer actions where there is a jury demand, a mandatory settlement conference will be set one week prior to the date set for trial.

D. A party to any limited or unlimited jurisdiction civil proceeding, short or long cause, may apply to the Presiding Judge for a specially set settlement conference by filing an ex parte application which must include a proof of service. A response to the application may be filed by opposing parties within two (2) Court days of being served with the application. LRSF 5.0 applies to any settlement conference so ordered.

E. Attendance at the settlement conference by the attorney who will try the case and each party is mandatory. In the case of an insured principal, the authorized representative of the insured's insurance company must also be present and must have authority to settle. In any professional negligence case in which the defendant retains the right to refuse settlement, participation of that defendant in the settlement conference is mandatory. A request to excuse attendance of any person whose attendance is required by these rules must be made to the settlement conference judge or to the Presiding Judge if the settlement judge is not known. Such request must be made not less than two (2) Court days before the date set for the settlement conference.

F. All counsel must ascertain whether there are claims or liens which may affect a settlement and meet and confer with lien holders and request in writing that the claimants or lien holders, or their representatives, attend the settlement conference. A copy of such written request must be attached to the settlement conference statement.

G. The parties must undertake good faith settlement discussions. Except in limited jurisdiction unlawful detainer actions, not less than five (5) Court days prior to the date of the conference, plaintiff must communicate a demand for settlement to defendant, and defendant must within two (2) Court days thereafter convey to plaintiff an offer of settlement. Not less than five (5) Court days prior to the scheduled conference, the parties must exchange and deliver to the settlement conference judge the following items, which are not filed with the clerk's office:

1. a statement describing the facts of the case and relevant legal issues and contentions; the latest demands and offers between the parties; and in the

plaintiff's statement, the percentage of liability attributed to each defendant for the purpose of allocation of non-economic damages;

2. a copy of the most recent medical reports;
3. a summary of injuries and residuals and a statement of economic and non-economic damages, including medical bills, loss of earnings and other claimed special damages, if any; and
4. the names, addresses, and specialties of any expert witness who will be called.
5. at the conclusion of the conference, the settlement statement and other material furnished the court must not be made part of the clerk's file;
6. the plaintiff must include in the statement an evaluation of the percentage of liability attributed to each defendant for the purposes of allocation of non-economic damages; and
7. a statement setting forth the latest demands and offers between the parties.

H. A judge assigned to the Unified Family Court will prescribe the required procedures for the mandatory settlement conference in contested dissolution of marriage cases.

Rule 5 amended effective July 1, 2006; adopted July 1, 1998; amended effective January 1, 2003; amended effective January 1, 2005.

Rule 6 - Civil Trial Setting and Related Civil Trial Matters

6.0 Civil Trial Calendar.

A. Trial Calendar. The trial calendar is maintained by the Presiding Judge, and includes all general civil cases in any case management plan, other than cases assigned to a single judge for all purposes. The trial calendar separately designates cases set for jury trial, cases set for non-jury trial, and short causes (any case with a time estimate of one day or less).

B. Continuances. The Presiding Judge determines motions for continuance of a case set for trial on the trial calendar. These motions must be accompanied by supporting declarations. No motion for continuance of a trial date may be made or heard in any other department. The Presiding Judge on stipulation of the parties may continue trial to a date convenient to the Court. Parties seeking a stipulated continuance of the trial date must submit (1) a stipulated ex parte application establishing good cause for the continuance, including a declaration that there have been no prior continuances or stating the number of prior continuances, the reasons for those, and the party seeking those, (2) a stipulation by all parties, and (3) a proposed order. No continuance will be granted except for good cause shown, such as serious accident, illness or death, or unanticipated unavailability of parties or witnesses. Without a showing of good cause, no case will be continued on the trial calendar on the ground that a date for a hearing in the Law and Motion Department or other department has not been scheduled or heard prior to the trial date.

C. Regular Assignment for Trial. All general civil cases on the trial calendar (jury and non-jury), including unlawful detainer actions, will be assigned for trial by the Presiding Judge, Monday through Friday. The calendar for limited jurisdiction cases is called at 9:00 a.m. The calendar for unlimited jurisdiction cases is called at 9:30 a.m. The Presiding Judge supervises the civil trial calendar and assigns and disposes of such cases in the manner best designed to accomplish the business of the Court. General civil cases may be assigned to a Court Commissioner, acting as a Temporary Judge. The parties are deemed to stipulate to the Court Commissioner, acting as a Temporary Judge, for the purposes of presiding over the trial by failing to file an objection in writing within thirty (30) days (or five (5) days for an unlawful detainer action) of receiving the case management order or notice of time and place of trial giving the first notice of setting of trial date.

D. Standby Assignment. Any unlimited jurisdiction jury or non-jury case called for assignment and not assigned must be on standby, and all attorneys and principals must remain available in accordance with instructions of the Presiding Judge. All other cases not assigned may be recalendared by the Presiding Judge.

E. Cases Ordered Off Calendar. All cases ordered off calendar or in which a mistrial has been granted, may in the discretion of the Presiding Judge be reset for trial, placed for hearing on a calendar to show cause why the action should not be dismissed, or otherwise assigned as the Presiding Judge determines.

6.1 In Limine Motions. All motions in limine at trial (except for unlawful detainer cases) must be in writing and served by mail on all parties at least ten (10) days before the date set for

trial or personally served at least five (5) days before the date set for trial. Courtesy copies must be provided to the trial judge as soon as the judge is known to parties. Failure to comply with rule 6.1 may preclude the bringing of motions in limine at the time of trial, subject to the Court's discretion.

6.2 Preparation of Deposition Extracts. Parties must meet and confer in advance of trial on the designation of depositions to be used at trial, other than those used for impeachment. At least ten (10) days prior to trial, or later as soon as the trial judge is known, the parties must lodge with the trial judge the designations and counter-designations of such testimony together with brief notations of all objections and responses thereto sufficient to allow the trial judge to rule on those objections.

6.3 Exhibit and Witness Lists. At least ten days prior to trial, or later as soon as the trial judge is known, the parties must lodge with the trial judge a list of proposed exhibits and a list of witnesses expected to be called (except for rebuttal witnesses). The witness list must include for each witness a brief statement of the expected area of testimony and time estimate for direct. A separate witness list need not be filed under this subsection if the parties file a Joint Statement Regarding Trial Time Limits under LRSF 6.8.

6.4 Jury Instructions.

A. In all jury trials, parties must deliver all proposed instructions to the trial judge pursuant to CCP § 607a.

B. In limited jurisdiction cases, prior to the conference to settle jury instructions, all parties must meet and confer and notify the trial judge in writing which of the proposed instructions are acceptable to all parties.

C. In unlimited jurisdiction cases, within two (2) Court days after the date of assignment, all parties must meet and confer and notify the trial judge in writing which of the proposed instructions are acceptable to all parties.

D. No proposed instruction may contain unfilled blanks or bracketed portions. Proposed instructions must be complete in all respects. Submission of BAJI, CACI, or CALJIC numbers is not sufficient. See CRC §2.1055, CCP § 607a.

E. Parties must provide the Court with one copy of each instruction containing appropriate points and authorities and one copy without such points and authorities or other writing thereon, the latter form appropriate for submission to the jury.

6.5 Setting Unlawful Detainer Actions for Trial. This rule applies to all limited and unlimited jurisdiction unlawful detainer actions where possession remains at issue.

A. Memorandum to Set for Trial. A case will be set for trial only if a party files a memorandum to set for trial which has been either (1) served on all parties or (2) is unserved if accompanied by a written stipulation for setting signed by all appearing parties.

B. Demand for Jury Trial - Unlawful Detainer. If a jury is demanded by any party in an unlawful detainer action, such demand must be made no later than five (5) days after time and place for trial is set by the clerk, if personally served with notice, or ten (10) days if notice is mailed by the clerk of the Court. The trial date is not affected by a jury trial demand.

6.6 Default and Default Judgment.

A. Due Diligence Requirement for Service of Process Prior to Entry of Default.

1. A party who submits an Application for Default in reliance upon service of summons by substituted service pursuant to CCP § 415.20(b) must submit a declaration by the process server indicating:
   a. The factual basis upon which the process server concluded that the place of service and mailing was either the "dwelling house, usual place of abode, usual place of business, or usual mailing address other than a United States Postal Service box" of the person served.
   b. That not less than three (3) attempts at personal service were made at three (3) different times of the day, on three (3) different days.

B. Entry of Default. All requests for entry of default must be submitted to the default unit for entry by the default clerk. Default must be entered before the clerk or court will consider entry of default judgment.

C. Default Judgment in Unlimited Jurisdiction Cases. Default judgment prove-ups are heard in Department 218 on Tuesdays and Thursdays at 9:00 a.m. Parties must call Department 218 at (415) 551-3713 after 2:00 p.m. in order to schedule a hearing date. An appearance by counsel and a witness is required. On a showing of good cause, the witness requirement may be waived. A party requesting waiver of a witness at the prove-up hearing must submit an ex parte request for waiver of witness and proposed order to Department 218 at least ten (10) days prior to the hearing.

D. Default Judgment in Limited Jurisdiction Cases.

1. Requests for default judgment in contract actions and unlawful detainer actions must be filed with the Court's default unit. Requests for default judgment in contract actions must be by declaration pursuant to CCP § 585(d).
2. Requests for default judgment in actions not based on contract are heard in Department 218 on Tuesdays and Thursdays at 9:00 a.m. Parties must call Department 218 at (415) 551-3713 after 2:00 p.m. in order to schedule a hearing date. An appearance by counsel and a witness is required.

E. Single Judgment Against All Defendants Including Some Who Have Defaulted. If a Plaintiff is seeking entry of a single judgment as to all Defendants, some of whom have appeared and some of whom have defaulted, Plaintiff must obtain an order allowing entry of judgment as to the appearing Defendant(s), including any terms to be included in the judgment. Then Plaintiff must obtain the judgment as to all Defendants from Dept. 218 or from the Court's default unit in appropriate limited jurisdiction cases.

F. Attorney Compensation in Limited Jurisdiction Cases. If the obligation sued upon provides for the recovery of a reasonable attorney's fee, the fee in each default case may be fixed by the fee schedule established in Appendix A. If an attorney claims entitlement to a fee in excess of the scheduled amounts, the attorney may apply to the Court by declaration to support the excess claim.

G. Dissolution Cases. See LRSF 11.15.

H. Default Judgment in Forfeiture Actions. See LRSF 8.8.

6.7 Temporary Judge Procedures.

A. Administration of the Program. Administrative duties for Temporary Judge proceedings are performed in the office of the Presiding Judge at (415) 551-5715 which makes available a list of attorneys and retired judges who have indicated a willingness to serve as Temporary Judges, as well as forms of stipulation acceptable to the Court.

B. Public Hearings. Every hearing before a Temporary Judge must be open to the public.

C. Exhibits. Exhibits may be marked and received in evidence by the Temporary Judge.

D. Files. The original Court file must remain in the possession of the clerk of the Court. All papers filed in the action must be filed with the clerk of the Court. Copies of any filed papers requested by the Temporary Judge must be provided by the parties.

6.8 Trial Time Limits.

A. Trial Time Limits. The Court may, but need not, set time limits for any trial. Such limits may include, but need not be limited to, voir dire, opening statements, examination of witnesses, and closing argument. In its discretion and in the interests of justice the Court may later depart from any limits set.

B. Statement Regarding Trial Time Limits – Content.

1. Parties in long cause unlimited jurisdiction cases, before the start of a trial and in sufficient time to meet the filing deadlines set out in C.1. and C.2. below, must confer and attempt to agree on the total number of hours they contend will be required to try the case, including voir dire if any, opening statements, examination of witnesses and closing arguments.
2. The parties must file a Joint Statement re Trial Time Limits (or separate statements if unable to agree), setting forth:
   (a) the total number of hours needed to try the case;
   (b) a witness list with the name of each witness to be called on direct, a brief description of the general subject matter of the witness' testimony, the number of hours of direct examination that will be required for that witness, and
   (c) the total number of hours of direct examination required by each party.
3. A party contending that trial time limits are not appropriate must state supporting facts in the statement.
4. In short cause and limited jurisdiction cases the parties may stipulate to comply with the procedures in this Rule.

C. Statement Re Trial Time Limits – Application.

1. The parties must file the joint statement or separate statements described above no less than five (5) days prior to the trial date. The Court will, after a hearing on the appropriate time limits held prior to the commencement of trial, impose time limits, if any, with due consideration of, among other things, the ability on short notice (or on such notice as is

provided) of the parties to structure the presentation of their case to meet the particular time limits imposed.

2. In cases assigned to a single judge, the parties must file the joint statement or separate statements described above no less than forty-five (45) days prior to trial date, or at a time and in a manner prescribed in any case management order. The Court will, after a hearing on the appropriate time limits at a status or pretrial conference, impose time limits, if any, no less than 30 days prior to the commencement of trial, or at a time and in a manner prescribed in any case management order.

D. Witnesses. The information in the joint statement or separate statements will not be used to exclude witnesses (including rebuttal witnesses) a party may call for direct examination.

6.9 Petitions For Appointment of Guardian Ad Litem And to Compromise Claims of Minors or Incompetents.

A. Appointment of Guardian Ad Litem.

1. **Pending Civil Case.** A Petition for Appointment of a Guardian Ad Litem must be filed with the Presiding Judge.
2. **No Pending Civil Case.** A Petition to Compromise the Claim of a Minor or Incompetent must be filed in Room 103. The Petition serves as the first paper.

B. Hearings to Approve Compromise

1. Petitions to compromise are heard in Department 218 on Tuesdays and Thursdays at 9:00 a.m. Counsel must call Department 218 at (415) 551-3713 after 2:00 p.m. to schedule a hearing date and to be placed on calendar. Counsel must lodge an endorsed copy of the petition and a proposed order with Department 218 at least two (2) Court days prior to the hearing.
2. Petitions to compromise may also be heard by the department in which the settlement was reached, at the discretion of that judicial officer. Counsel must call that department directly to determine if that department will hear the petition.

6.10 Trusts Funded by Court Order.

A. Application. This rule 6.10 applies to trusts funded by court order under CRC 7.903 resulting from the settlement of a claim of a minor or person with disabilities as provided in Probate Code §3600, et seq.

B. Probate Department Review of Trust Issues. Civil departments approving a court ordered trust may submit a copy of the proposed order creating the trust to the Probate Department with a request for review. The Probate Department will review and return the order to the requesting department within five (5) Court days of receipt.

C. Probate Department Supervision of Trust Administration. If the order creating or approving the funding of the trust does not waive Court supervision, the Probate Department will supervise the administration of the trust. Counsel who obtained the order must open a probate file by filing a petition to bring the trust under Probate Department supervision. The Probate Department will

consider the petition ex parte, will order the trust under its supervision and will set a status date for the filing of a first accounting.

D. Notification of Probate Department. The department that approves a trust that requires court supervision should send the Probate Department a copy of the signed order creating the trust. The Probate Department will set a status date by which counsel who obtained the order must file an ex parte petition to bring the trust under Probate Department supervision.

Rule 6 amended effective July 1, 2010; adopted July 1, 1998; amended effective January 1, 2000; amended effective January 1, 2001; amended effective January 1, 2004; amended effective January 1, 2005; amended effective January 1, 2006; amended effective July 1, 2006; amended effective July 1, 2007; amended effective January 1, 2008.

Rule 7 - Jury Panels

7.0 Jury Fees. Jury fees required by law must be deposited with the clerk of the Court by the party or parties demanding the jury. At no time may the members of the jury be informed which party is paying fees or other costs. During trial, daily fees must be deposited with the clerk of the department in which the matter is being tried, prior to the start of the trial that day.

7.1 Confidentiality of Prospective Trial and Grand Juror Declarations. Declarations submitted to the Court by prospective trial and grand jurors are confidential to the extent permitted by law.

7.2 Juror Questionnaire Information and Instruction Cover Sheet. A party or attorney shall attach a Superior Court of California, County of San Francisco Information and Instruction Cover Sheet to all juror questionnaires. The cover sheet can be downloaded from the Court's website at www.sfsuperiorcourt.org and can also be obtained from the courtroom or clerk's office.

7.3 Additional Grand Jury. The Presiding Judge determines whether there is one additional Grand Jury, which must be selected pursuant to Penal Code § 904.6.

7.4 Civil Grand Jury.

A. In order to assure that civil grand jurors constitute a representative cross-section of the community, the pool from which the members of the Civil Grand Jury are selected must be composed of 30 persons, at least 50% of whom must be nominees of the judges, and the remainder of whom must be persons who have volunteered as prospective civil grand jurors. All prospective grand jurors must possess the qualifications required by Penal Code § 893 and must complete a questionnaire on their qualifications for service. The questionnaire must be in a form approved by the Court.

B. Nomination by judges. On or before the first Court day in March of each year, each judge of this Court may nominate and transmit to the Presiding Judge the name of one person to be placed upon a list, from which at least 15 persons must be selected for the Civil Grand Jury pool for the ensuing fiscal year. The persons so nominated must qualify under the provisions of part 2, title 4, chapter 2, Articles 1 and 2 of the Penal Code, and the provisions of the Code of Civil Procedure referred to there. The nominations must be in writing and must state the name, approximate age, residence address, and occupation of each person nominated. In exercising nominations, each judge must acquaint himself or herself with the qualifications of eligible jurors in order to assure that the Grand Jury constitutes a representative cross-section of the community.

C. The Court accepts volunteers for Civil Grand Jury service. On or before the first Court day of March each year, the court executive officer must place an announcement to that effect in a newspaper of general circulation in the City and County of San Francisco, as defined by Government Code §§ 6000 and 6008. Those who apply will receive a formal questionnaire from the court executive officer, which must be returned no later than March 20th.

D. **List of Nominees, Distribution.** The Presiding Judge must promptly have the list of nominees reproduced showing which Judge nominated each of the nominees. The list will then be provided to each Judge.

E. **Grand Jury Committee.** The Presiding Judge must appoint a standing Grand Jury Committee which reviews all of the questionnaires submitted by volunteers and then interviews the volunteers deemed most qualified by the Committee, unless the Chairperson in his or her judgment believes the efforts of the Court are required to complete the task. The Committee must also review the questionnaires submitted by the nominees of the judges and conduct such interviews as may be deemed necessary. The Grand Jury Committee also serves as an advisory body to the Court on matters concerning the Grand Jury.

F. **Report of Grand Jury Committee.** On or before May 31st, the Grand Jury Committee must recommend to the Presiding Judge a list of thirty (30) nominees and volunteers selected for the Civil Grand Jury pool. At least 50% of the names submitted by the committee must be the nominees of the Judges. The Grand Jury Committee must endeavor to select for Civil Grand Jury Service persons representative of the community.

G. **Selection of Civil Grand Jury.** From the Civil Grand Jury pool, the Presiding Judge in accordance with the provisions of the Penal Code, must select a sufficient number of persons and they will constitute the Civil Grand Jury, which will have the sole responsibility for the civil investigative duties outlined in the Penal Code. Such jury will serve for a period of one fiscal year commencing July 1st, unless earlier discharged by the Presiding Judge.

Rule 7 amended effective January 1, 2010; adopted July 1, 1998; amended effective January 1, 2005; amended effective July 1, 2006.

Rule 8 - Civil Law and Motion / Writs and Receivers

8.0 Civil Law and Motion Departments. There are two Law and Motion Departments. Odd numbered cases will be heard in Department 301. Even numbered cases will be heard in Department 302.

8.1 Law and Motion Departments: Matters and Exceptions.

A. In all general civil cases not assigned to a single judge, the following matters are heard in the Law and Motion Departments:

1. Pretrial motions, except as specified in LRSF 8.1(B);
2. Petitions to enforce, modify or vacate contractual arbitration agreements and awards including motions to stay proceedings pending arbitration;
3. Writs and Receivers matters, including:
   a. petitions for a writ of mandate, prohibition, alternative writ or other extraordinary relief;
   b. petitions to wind up a corporation, to determine corporate elections or to appoint a provisional director, whether such corporation be a profit or non-profit corporation;
   c. applications for temporary or preliminary injunctive relief; and
   d. applications for the appointment of a receiver, to settle final accounts in the receivership and to terminate the receivership.

B. Non-Law and Motion Department Matters. The following matters are heard in departments other than the Law and Motion Departments:

1. **Single Assignment Cases.** In all general civil cases that are assigned to a single judge pursuant to LRSF 3.2, all pretrial motions including those affecting the trial date (but not discovery motions which the assigned judge refers to a commissioner for hearing) must be calendared and heard before the judge to whom the case has been assigned;
2. Motions affecting a trial date, including preference setting and short cause designation motions, and applications for civil harassment orders, are heard by the Presiding Judge;
3. Discovery and other motions assigned to be heard by commissioners pursuant to LRSF 8.9 are heard in the Discovery Departments;
4. Motions concerning judicial arbitration governed by CRC §§3.810-3.826 y Civil Case Management, Department 212;
5. Motions to tax costs, for new trial, and to set aside and vacate judgments and enter a different judgment must be heard by the judge who presided at the trial or proceedings unless that judge is not available;
6. Apportionment motions in asbestos cases are heard in Department 218 on Tuesdays and Thursdays at 9:00 a.m. Call Department 218 at (415) 551-3713 after 2:00 p.m. to schedule a hearing date;
7. Applications for civil harassment restraining orders must be submitted the Presiding Judge, and are reviewed within 24 hours. The Presiding Judge may issue a temporary restraining order (TRO) or may direct a hearing and not issue a TRO. Hearings are held in Department 218 on Wednesdays and Fridays at 9:00 a.m. by commissioners acting as temporary judges;

8. Probate Law and Motion matters as set out in LRSF 14.11.

8.2 Law and Motion Calendar.

A. Hearing.

1. **Time of Hearing.** All limited and unlimited jurisdiction matters are heard in Departments 301 or 302 at 9:30 a.m. Monday through Friday. The hours may be changed from time to time by the Judge presiding in the respective Law and Motion Department, and notice of these hearings will be published in the official legal newspapers and posted in the Civic Center Courthouse.

. 2. **Selection of Date.**

a. Parties must schedule and notice hearings within the time limits provided by law, e.g., CCP § 1005. Shorter time limits may apply to unlawful detainer actions. Parties should confer with all other parties before scheduling and noticing a hearing.

Notice of Suspension of Local Rule 8.2(A)(2)(b) – Effective January 1, 2010, Local Rule 8.2(A)(2)(b) will be suspended until further notice. To obtain a hearing date for any non-asbestos Law and Motion matter, schedule and notice hearings according to previous local rule 8.2(A) et seq. requirements. Asbestos Law and Motion matters should also be scheduled and noticed according to previous local rule 8.2(A) et seq,. but are heard every Tuesday, Wednesday, and Thursday at 9:30 a.m. in Department 220.

c. Since a file cannot be reviewed by two judges at the same time, parties must not notice motions in the same case in different departments for the same date. Nor may a motion be noticed in a Law and Motion Department on or after the date set for trial.

d. Failure to comply with any part of this subsection may result in the matter being placed off calendar.

3. **Appearance by Telephone** (CRC §3.670). See LRSF 3.4 (F).

B. Continuances and Motions Off Calendar.

1. **Informing the Court.** If parties stipulate to continue a motion, the party seeking the continuance must personally or telephonically inform the Court clerk as soon as possible, and in any event, no later than 3:00 p.m. two (2) Court days preceding the hearing. Only two continuances will be granted based on stipulation. Further continuances may be granted only upon ex parte appearance and a showing of good cause in writing. No continuances will be granted on the date set for hearing except upon a personal appearance and a showing of good cause in writing. The judge hearing the matter has discretion concerning continuances, including the right to deny continuances, to rule, or to take the matter off calendar at any time despite agreement of the parties to the contrary.

2. **Motions Off Calendar.** Matters cannot be taken off calendar after 2:00 p.m. the Court day before the hearing.

3. **By Telephone - Requirements.** A continuance will not be granted by telephone unless the attorney or self represented litigant personally calls

and represents that he or she has spoken to opposing parties and pro pers and that they have agreed to the continuance. A follow-up letter or stipulation confirming the telephone continuance must be submitted to the Court.

4. **Renoticed Motions.** A motion which has been taken or ordered off calendar may be rescheduled for hearing only by written notice served in compliance with CCP § 1005. If a motion previously has been noticed for hearing, a notice rescheduling the hearing for another date must specify the date on which the matter originally was scheduled to be heard.
5. **Improper Noticing.** Matters noticed for hearing on an official Court holiday will not be continued to the following day on the Court's own motion or pursuant to stipulation. If a party should so notice a motion, counsel should arrange to continue it by stipulation to a different date, or renotice the matter.

8.3 Tentative Rulings.

A. The San Francisco Superior Court adopts CRC §3.1308 as the tentative ruling procedure in civil law and motion and discovery matters.

B. Parties may obtain a tentative ruling issued by the Law and Motion and Discovery Departments by telephoning (415) 551-4000. Changes in telephone numbers will appear in the official newspapers. Tentative rulings for the Discovery Department, Rooms 610 and 612, may also be obtained at (415) 551-4000.

C. Parties are not required to submit by telephone. A party who fails to appear at the hearing is deemed to submit to the tentative ruling. However, no party may submit to a tentative ruling that specifies that a hearing is required.

D. Parties who intend to appear at the hearing must give notice to opposing parties by telephone promptly, but no later than 4:00 p.m. the day before the hearing unless the tentative ruling has specified that a hearing is required. A party may not argue at the hearing if the opposing party is not so notified and the opposing party does not appear.

E. If no party appears, or if a party does not appear because the opposing party failed to give sufficient notice of intent to argue, then the tentative ruling will be adopted.

F. Tentative rulings are generally available by 3:00 p.m. the day before the hearing. A tentative ruling that does not become available until after 3:00 p.m. is a late tentative ruling. A late tentative ruling will indicate that the ruling is late. If a tentative ruling is late, the parties must appear unless all parties agree to submit to a late tentative ruling in which case the Court will adopt the late tentative ruling pursuant to subsection E above.

8.4 Responsibility for Notice of Rulings and Orders (CRC §3.1312).

A. Orders and Other Documents Requiring Signature of the Judge. All orders and other documents requiring signature of the Judge must be deposited in the in-box, and picked up after signature from the out-box, in the respective Law and Motion Department.

B. Filing and Service of Orders. All written orders, including orders to show cause, temporary restraining orders and injunctions, signed by a Judge, must be

filed immediately. A file-endorsed copy of such order must be served upon all other parties.

C. Orders and Judgments by Stipulation. Whenever any order or judgment is to be made by stipulation, it must be upon consent of all of the parties, either:

1. expressed by the parties in open Court and entered in the minutes of the Court, or
2. upon written stipulation signed by all parties to the action and filed with the clerk.

8.5 Amendments (CRC §3.1324). The moving party must bring the executed original of the amendment or amended pleading to the hearing on the motion.

8.6 Evidence at Hearing and Judicial Notice (CRC §3.1306).

A. San Francisco Court Files. A party requesting judicial notice of a San Francisco Superior Court file must file a separate document with the department in which the matter is noticed at least five (5) days before the hearing, requesting the clerk of the department to order delivery of the file for the hearing.

B. Other Court Files. A party requesting judicial notice of part of a file of another Court must attach to the moving papers a certified copy of the papers the party requests be judicially noticed.

C. Administrative Record. A party intending to use an administrative record in a case brought under CCP § 1094.5 must lodge the record in the department in which the matter will be heard at least five (5) Court days before the hearing.

D. A Request for Judicial Notice is not necessary for the purpose of bringing the Court's attention to the fact that documents, including orders, have been filed in the same case.

8.7 Motions for Summary Judgment and Summary Adjudication (CRC §§3.1030-3.1354).

A. Summary Judgment / Adjudication Motions.

1. Summary judgment/adjudication motions (except in cases assigned to a single judge) are heard in the Law and Motion Departments.
2. If a summary judgment/adjudication motion in an unlawful detainer action is personally served, it must be filed with the Court and served at least five (5) days prior to the hearing. If the motion is served by mail, it must be served at least ten (10) days prior to the hearing and filed with the Court five (5) days prior to the hearing. If the party opposing the motion intends to file a written opposition later than noon on the court day before the motion, the party must so advise the appropriate department of the Court by noon on that day and must otherwise comply with the requirements of CRC 3.1351(c). If the party opposing the motion intends to make the opposition orally at the hearing, then, no later than noon on the court day before the hearing, the party must so notify the Court by a telephone call to the clerk in the appropriate department and also so notify the opposing party. The Court will tentatively grant a motion for summary judgment/adjudication as unopposed unless the party has given the notice to the Court required in the preceding two sentences. Parties planning to

proceed under CRC 3.1351(b) must also comply with CRC 3.1306, including its requirement that evidence be in written form absent a contrary Court order.

B. Proposed Orders. A party moving for or opposing summary judgment or summary adjudication must bring to the hearing a proposed form of order that complies with CCP § 437c(g).

8.8 Default Judgments in Forfeiture Actions. When a complaint for forfeiture is filed and served pursuant to Health and Safety Code § 11488.4(a) and (c) and no answer has been filed within thirty (30) days of service of the complaint, plaintiff may make a motion for default judgment to be heard in the Law and Motion Department. Evidence received at the hearing must be by declaration and by request for judicial notice without testimony or cross-examination, except as allowed in the Court's discretion for good cause shown.

8.9 Examination of Judgment Debtor and Others.

A. Requirements for all Applications. All applications for orders for the appearance and examination of judgment debtors or other persons must be in writing and presented to the order of examination clerk in Room 103 pursuant to CCP §§ 708.110 et seq. All such orders must be made returnable to the Discovery Department on any Monday through Friday at 2:00 p.m.

B. Service of Order. The judgment creditor must have the copy of the order on the judgment debtor and/or a third party personally served not less than ten (10) days before the date set for hearing. CCP § 708.110(d).

C. Filing Return of Service and Consequence. Return of service on an order for appearance and examination must be filed with the clerk not later than 4:30 p.m. on the third Court day immediately preceding the date specified in the order for the hearing. Unless otherwise ordered by the Court, there will be no examination if there has been a failure to comply with this requirement, and the examination proceedings must be dismissed without costs being awarded to the party who secured the order. No further order will be set for hearing earlier than 120 days from the date originally scheduled for the hearing unless for good cause shown by declaration.

D. Abandonment. When, after the service and filing of an order for appearance and examination, the party who procured the order wishes to dismiss the examination proceeding and to excuse the examinee named in the order from appearing in Court, that party must notify the Court and the examinee orally or in writing of such dismissal of the proceeding not later than 24 hours before the hearing.

E. Failure to Appear. If the party or attorney who procured the order fails to appear at the time and place specified in the order, but the examinee named in the order appears, or if neither party appears, the examination proceeding must be discharged without costs. Thereafter, no new order providing for such examination may be set for hearing on a date earlier than 120 days from the date of the dismissal, unless for good cause shown by declaration.

F. Body Attachment and Bench Warrant Letter. If the person to whom the order is directed fails to appear at the time and place specified and the return of service and order has been properly filed with the clerk of the Court, then on application of the judgment creditor, made in the Discovery Department at the time scheduled

for the appearance or thereafter, the Court may issue and stay a body attachment. Thereupon, the clerk shall address a letter to the judgment debtor or the person directed to appear, to such person's place of residence or business as specified by the judgment creditor's attorney. That letter, known as a bench warrant letter, shall be substantially in the following form:

Bench Warrant Letter Form

Re: Failure to Appear For Order of Examination

Action No.
_____ v.

Dear _____:

A Body Attachment and Warrant for your Arrest was demanded by the judgment creditor, because of your failure to appear in this Court on _____ for judgment debtor's examination. Our records indicate that the order of examination was served on you on the _____ day of _____. The Court issued and stayed the Body Attachment and warrant for your arrest.

To allow you a further opportunity to comply with this order, examination is continued to _____ at , and you are directed to appear then and there. Please report to the Discovery Department, 400 McAllister Street, San Francisco, California.

If you fail to appear at the above-entitled time and place, the stay of the warrant issued will be lifted and you may be arrested and brought before this Court to show cause, if any exists, why you should not be punished for contempt in disobeying the Court's order.

(Signed)Judge of the Superior Court

G. Call of Calendar. When the party or attorney who procured the order and the person to whom the order was directed are present and ready to proceed, upon the call of the calendar by the Court, the matter shall be heard and disposed of. When possible, the entity to whom the order was directed shall then be discharged from further attendance in response to the order. When approved by the Court, one or more continuances of the proceeding may be had by stipulation of all parties or their attorneys, including the party ordered to appear, or upon good cause shown to the Court.

H. Denial of Service. When the entity to whom an order for appearance and examination is directed denies service of that order, the Court must then, at the time set for hearing of such matter, hear and determine the dispute. The Court may order the hearing to proceed, make such order as is proper, or may dismiss the proceeding without costs and without permitting the examination when it appears that service was not made.

I. Dispute of Material Fact. When the truth of material facts set forth in a declaration in support of an application for an order for appearance and

examination is disputed by the entity to whom the order was directed, the Court must at the time set in the order first hear and determine such dispute. After such hearing, if it appears to the Court that material facts set forth in the application are untrue, such proceedings must be immediately dismissed without costs and without permitting the examination to proceed.

J. Subsequent Examination. Whenever an entity has been examined once in proceedings instituted pursuant to an order for appearance and examination, no order for further examination of such entity may be made within 120 days, unless;

1. Application for further examination is accompanied by a declaration setting forth new facts and information justifying a further examination and stating that at the time of the previous examination such facts were unknown to the declarant, including (if the declaration is made upon information and belief), the source of the information and state the facts upon which the belief is based; or
2. The commissioner explicitly orders otherwise.

K. Order to Show Cause re Contempt. An order to show cause re contempt for failure to appear at the time and place specified in an order of examination normally will not be granted unless a body attachment has been issued pursuant to subsection F. An application for an order to show cause re contempt must be made in the Law and Motion Department.

Rule 8 amended effective January 1, 2010; adopted July 1, 1998; amended effective January 1, 2000; amended effective January 1, 2001; amended effective July 1, 2006; amended effective July 1, 2008; amended effective July 1, 2009.

Rule 9 – Ex Parte Applications (CRC §§3.1200-3.1207)

9.0 Ex Parte Applications.

A. Law and Motion Hearing Times. Ex parte hearings in Law and Motion matters are held at 11:00 a.m. Monday through Friday (except that applications for unlawful detainer stays of execution are heard only on Tuesdays).

B. Writs and Receivers Matters. A party presenting an ex parte application for a temporary restraining order, alternative writ, appointment of a receiver or similar matter must schedule the hearing with the Court clerk at least 24 hours in advance of the proposed hearing date. For Department 301 matters call: (415) 551-3720. For Department 302 matters call: (415) 551-3823. File-endorsed copies of all moving papers must be submitted to the clerk in the appropriate department no later than two hours prior to hearing.

C. Time for Hearing Ex Parte Applications heard by the Presiding Judge The Presiding Judge hears ex parte applications at 11:00 a.m. Tuesday through Friday, unless Monday is a holiday in which event ex parte applications are heard at 11:00 a.m., Wednesday through Friday. However, applications for civil harassment temporary restraining orders and/or orders to show cause may be presented Monday through Friday between 9:00 a.m. and 4:30 p.m.

D. Civil Case Management Department Ex Parte Applications. See LRSF 3.8.

E. Discovery Departments Ex Parte Applications. See LRSF 10 (C.2).

F. Family Law Ex Parte Applications. See LRSF 11.8.

G. Probate Ex Parte Applications. See LRSF 14.20.

H. Requests for Stays of Execution in Unlawful Detainer Cases.

1. Applications for stays are heard only on Tuesdays at 11:00 a.m. in the designated Law and Motion Department.
2. Generally, only one request for stay of execution will be granted per case.
3. Generally, stays of execution will be limited to seven (7) days from date of eviction.
4. Generally, no stay of execution will be granted in cases settled by agreement or stipulation among the parties unless the parties have agreed otherwise in writing or good cause is shown.

I. Miscellaneous Ex Parte Applications Heard in Law and Motion Departments. The following applications are heard in the Law and Motion Departments at the times specified in subparagraph A above.

1. Application for order to show cause re contempt of a non-party;
2. Application for an order to show cause re contempt for failure of a judgment debtor to appear pursuant to an order of examination. However, see LRSF 8.9 (F, K).

Rule 9 amended effective January 1, 2008; adopted July 1, 1999; amended effective January 1, 2004; amended and renamed effective July 1, 2006.

Rule 10 – Discovery and Civil Miscellaneous

10.0 Discovery and Other Hearings by Commissioners.

A. The following matters are heard in the Discovery Departments:

1. **Discovery Matters.** Discovery matters in limited and unlimited jurisdiction cases (except cases assigned to a judge for all purposes and cases assigned to a department for trial, unless the assigned judge determines otherwise) are presided over by commissioners sitting as temporary judges or by any other judicial officer assigned by the Presiding Judge. Discovery matters include the following:
   a. all matters arising under or related to the Civil Discovery Act (CCP §§ 2016 et seq.) except civil contempt by a nonparty. In the case of civil contempt by a nonparty, the order to show cause is obtained and the hearing is set in the Law and Motion Department;
   b. matters relating to the production and preservation of evidence arising under the production of evidence provisions (CCP §§ 1985 et seq.);
   c. matters relating to discovery arising under judicial arbitration provisions (CCP § 1141.24) including the cutoff and reopening of discovery;
   d. motions for the discovery of information relating to punitive damages pursuant to Civil Code § 3295(c);
   e. matters relating to the appointment of a referee for the conduct of discovery proceedings (CCP §§ 638 et seq.);
   f. post-judgment discovery motions.
2. **Pretrial Motions.**
   a. Writs of Attachment. All matters, including temporary restraining orders, claims of exemption and third party claims arising under or relating to the attachment provisions (CCP §§ 481.010 et seq.)
   b. Claim and Delivery of Personal Property (CCP §§ 511.010 et seq.)
3. **Post Trial Motions**. All matters, other than contempt proceedings, relating to or arising under the Enforcement of Money Judgments provisions (CCP §§ 695.010 et seq.). Such matters include homeowners exemptions, claims of exemption and third party claims.
4. **Presiding Judge's Discretion Concerning Assignment.** The Presiding Judge may assign additional motions to the Discovery Commissioners, and the Presiding Judge may order that matters otherwise assigned to the Discovery Commissioners be assigned to a different department. If the Presiding Judge orders that the motions currently assigned to Discovery Commissioners be heard in the Law and Motion departments, Rule 10 will be suspended, and such matters will be assigned and heard pursuant to Rule 8 and Rule 9; except that matters arising in Probate, Family Law, or singly-assigned cases must be noticed and will be heard by the assigned probate, family law, or trial judge. A party wishing an official transcript of a hearing on a matter transferred to a Law and Motion department pursuant to this rule must obtain the services of a certified reporter to attend and report the hearing pursuant to CRC 2.956(c).

B. Assignment by Case Number to a Department.

1. Except as provided in subsection B(2) and B(3) below, all odd-numbered cases are assigned to Department 612, and all even-numbered cases are assigned to Department 610. However, if the Presiding Judge has determined that a case is related to another case or cases, all such related cases will be assigned to the discovery department to which the earliest-filed case has been assigned, or as the Presiding Judge may direct. Consolidated cases are heard in the discovery department to which the lowest-numbered case is assigned. The commissioner sitting in the department to which a case is assigned under this rule is referred to as the "assigned commissioner" and acts as a temporary judge.
2. If a party in good faith believes that a particular motion should be heard within a certain time, and the assigned commissioner is unavailable to hear the motion within such time, the party may set the matter to be heard by another commissioner, submitting a declaration stating the reasons that the motion should be heard within that time frame by another commissioner. The commissioner may either hear the motion or, upon finding that the matter should properly be heard by the assigned commissioner, order that the hearing take place before the assigned commissioner on another date.
3. In cases assigned to a single judge, the judge may order that all discovery motions, or designated discovery motions, be heard by a commissioner rather than by the judge.

C. Calendaring.

1. **Noticed motions.** All noticed motions to be heard in the discovery department, and ex parte applications for writs of attachment, writs of possession, and protective orders, must be calendared with the clerk in the Discovery Department between the hours of 9 a.m. and 12 Noon, Monday through Friday, by calling (415) 551-3688. Hearings will be scheduled at either 9:00 a.m. or 10:30 a.m., Monday through Friday. Current calendaring information and commissioner assignments are available in the San Francisco legal newspapers.
2. **Ex parte applications.** Ex parte applications (except ex parte applications for writs of attachment, writs of possession and protective orders) are heard at 11:30 a.m., Monday through Friday. The moving party should appear in Room 633 with proof that notice has been given in conformity with CRC rule 379, a file-endorsed copy of the application and supporting papers, and a separate proposed order. The moving party must attempt to obtain a stipulation from opposing counsel regarding the relief requested.

D. Stipulation to Commissioners.

1. A party is deemed to stipulate that all matters heard in the Discovery Department may be heard and disposed of by a Commissioner, acting as a temporary judge, by failing to file an objection in writing within thirty (30) days after the first pleading is filed in the action by that party, or at the first hearing on a motion heard in the Discovery Department, if heard before the expiration of the thirty (30) days.
2. A party refusing to stipulate to a hearing before a commissioner acting as a temporary judge may:

a. submit the motion on the papers without oral argument, or
b. present oral argument before the commissioner. Without further briefing or oral argument, the law and motion judge, or another judge assigned to hear the matter, must make a determination on the motion and issue an order.

E. Court Reporters. Departments 610 and 612 do not provide the services of a certified Court reporter. To obtain a reporter or a recording of the proceedings to provide an official verbatim transcript, the party desiring a recording or official verbatim transcript must obtain the services of a certified reporter to attend and report the hearing as set forth in CRC §2.956.

F. Informal Resolution of Discovery Disputes. If during the course of a deposition or other discovery a dispute arises that cannot be resolved after good faith efforts by the parties, a party may initiate a conference call to the assigned commissioner. If the assigned commissioner is available, an informal telephonic conference may be held in an attempt to resolve the dispute. If the assigned commissioner is not available and all parties present at the deposition so agree, the parties may initiate a conference call to the other commissioner in the Discovery Department in an attempt to resolve the dispute.

G. Identification of Papers. The word "DISCOVERY' must be typed in capital letters on the title page of all papers relating to motions heard in Departments 610 and 612. Such papers should not be combined with papers relating to motions to be heard in other departments.

10.1 Interpreters.

A. Notice. A party desiring to use an interpreter must give notice to the Court and all other parties. That party must make arrangements for the presence and the payment of the interpreter.

B. Qualifications. Unless the interpreter is an Official Court Interpreter, the interpreter's name and qualifications must be provided to the Court and opposing counsel five (5) Court days prior to the date of the interpreter's appearance. Otherwise no prior disclosure is required.

10.2 Custody of Papers; Removal of Exhibits. No papers, documents or exhibits on file in the office of the clerk of this Court may be taken from the custody of the clerk except as set forth here. A judicial officer may order any exhibit be returned to the witness or party by whom it was produced, after the substitution of a photostat copy therefore. The order may dispense with such substitution (1) in the case of an original record, paper or object taken from the custody of a public officer which is being returned to that officer, or (2) in the case of an exhibit used only against a party whose default has been entered, or (3) when a photostat copy is impracticable, in which case a receipt must be given, or (4) by stipulation. The application for such an order must be supported by a declaration stating all the pertinent facts, except where it is made on stipulation.

Rule 10 amended effective January 1, 2010; adopted July 1, 1998; amended effective July 1, 2001; amended effective January 1, 2003; amended effective July 1, 2006; amended effective July 1, 2008.

Rule 11 – Family Law

11.0 General Rules. This rule supersedes all prior Local Rules and Family Law Standing Orders issued before July 1, 2010 statutory references are to California Codes.

11.1 Unified Family Court. The Unified Family Court (UFC) consists of four divisions: (1) Family Law; (2) Child Support; (3) Juvenile Dependency; and (4) Juvenile Delinquency. This rule applies to all matters filed in the Family Law or Child Support Divisions, except where otherwise noted. The Office of the Court Clerk for the Family Law and Child Support Divisions is located in Room 402 of the Civic Center Courthouse, 400 McAllister Street (at Polk Street), San Francisco.

11.2 Matters Assigned to Family Law Division. All matters arising under the California Family Code are assigned to the Family Law Division.

11.3 Assignment of Matters.

- **A. General.** Except as indicated below, all cases filed in the Family Law Division are assigned as follows: Even numbered cases are assigned to Department 403. Odd numbered cases are assigned to Department 404.
- **B. Child Support Matters Involving the Department of Child Support Services.** All matters involving the Department of Child Support Services are assigned to Department 416.
- **C. Child Custody and Child Visitation Matters and Closed Dependency Cases.** All matters regarding child custody or child visitation involving a former court dependent initially are assigned to Department 403 or 404. The matter may then be assigned to the Dependency Court of origin.
- **D. Domestic Violence Matters and Open Dependency Cases.** Requests for Restraining Orders filed pursuant to the Domestic Violence Prevention Act (Family Code §6200 *et seq.*) where the protected party and the restrained party are parents of a child who is an active court dependent will be scheduled in the Dependency Court.
- **E. Collaborative Law Cases.** All collaborative law cases are assigned to Department 405. Cases remain in their assigned department absent Court order.

11.4 Commissioners and Judges *Pro Tempore*. Matters filed in the Family Law Division are routinely assigned to judges and court commissioners. Except as provided in CCP §259(e) and Family Code §4251(b), matters assigned to a court commissioner require that the parties stipulate to the commissioner hearing the matter. If a party refuses to stipulate to having a case heard by a commissioner, the commissioner may hear the matter as a referee. A judge of the Superior Court will thereafter approve, reject, or modify the findings and conclusions of the commissioner. In the absence of the assigned judge or court commissioner, matters may be assigned to a judge *pro tempore* acting as a temporary judge. Failure to stipulate to a judge *pro tempore* will result in the matter being continued to the next available calendar date.

11.5 Use of Judicial Council and Local San Francisco Unified Family Court ("SFUFC") Forms. All pleadings must be filed on approved Judicial Council forms. In addition, these local rules require specific local forms. All references to Judicial Council forms appear in capital letters. Local forms are referred to as "SFUFC" Forms and are numbered for reference. Copies

of Judicial Council and SFUFC forms are available from the Self Help Center of the Superior Court, Room 009, 400 McAllister Street, San Francisco; the Office of the Court Clerk, Room 402, 400 McAllister Street, San Francisco; or, on-line at http://www.sfsuperiorcourt.org. Judicial Council forms may also be found on-line at www.courtinfo.ca.gov.

11.6 Rules Specific to Child Custody and Visitation Matters.

A. Trial Setting. A Court order is required to set child custody and child visitation matters. That order may be requested by the filing of a NOTICE OF MOTION or ORDER TO SHOW CAUSE.

B. Communication with Minor Children. Attorneys representing parents in child custody and/or child visitation matters will have no direct contact with the minor children who are the subject of the litigation.

C. Participation of Children in Orientation, Mediation and Court Proceedings. Children are not permitted to attend orientation or mediation sessions or any court hearings. However, a mediator may interview a minor child at the mediator's discretion, or by court order. Absent good cause, judges and commissioners will not interview children.

D. Children's Waiting Room. If a child's parent or caretaker cannot make other childcare arrangements to permit the parent or caretaker to attend a court hearing, supervised childcare is available in the Children's Waiting Room on the first floor of the Civic Center Courthouse. For further information, telephone (415) 703-0255.

E. Investigations by Child Protective Services. A party must inform the court when a Child Protective Services investigation is pending in any county or if a family member with custody or visitation rights is or was involved with Child Protective Services. No permanent order will be made until Child Protective Services completes its investigation and the findings of that investigation are made known to the court.

F. Child Abduction Recovery Unit of the District Attorney's Office ("CARU"). In cases where CARU is asked to locate a party to effect service or to serve a FINDINGS AND ORDER AFTER HEARING, the document to be served must contain the following language, *"If the Child Abduction Recovery Unit becomes aware of relevant information they reasonably believe might have, had it been known to the Court, affected the nature of this Order, CARU will immediately inform the Court of the information."* This means that CARU will make an *ex parte* report to the Court if the investigator obtains information which affects the safety of the child(ren) and that information was not previously available to the court.

G. Incarcerated Parents. An incarcerated parent whose anticipated release date is more than one year away may contact the Family Law Self-Help Center to obtain assistance with child custody and visitation matters. If an incarcerated parent receives assistance from the Family Law Self-Help Center in preparing pleadings, that parent must file a Proof of Service of those pleadings within seven calendar days after service is completed. The incarcerated parent must contact Family Court Services ("FCS") immediately after service is completed for instructions regarding special procedures.

H. Criminal History Search. Prior to a hearing on a child custody and visitation matter, a designated Court employee will conduct a criminal history search of both parties in the California Law Enforcement Telecommunications System ("CLETS")

to determine the applicability of Family Code §§ 3030(a), (b) or (c); 3031(a); 3041.5(a); 3044(a); 3044(b)(2); 3044(b)(5); 3044(b)(7); and 3044(d)(1). Only the information reportable pursuant to these statutes will be provided to the Judicial Officer hearing the matter. CLETS printouts will be shredded immediately after use.

11.7 Law and Motion and Readiness Calendars. Parties may file an ORDER TO SHOW CAUSE or NOTICE OF MOTION involving child custody and visitation and financial matters. The Court will schedule these matters as follows: 1) Matters involving only child custody and visitation will be scheduled on the Readiness Calendar; 2) Matters involving only financial issues will be scheduled on the Law and Motion Calendar; 3) Matters involving both child custody and visitation issues and financial issues first will be scheduled on the Readiness Calendar; at the Readiness Calendar, the Court will set hearings for both the custody and visitation and the financial matters.

A. Pleadings. Failure to use Judicial Council forms and/or incomplete filings may result in the summary denial of the relief sought. An ORDER TO SHOW CAUSE or NOTICE OF MOTION must include a completed Judicial Council form, APPLICATION FOR ORDER AND SUPPORTING DECLARATION and may include a MEMORANDUM OF POINTS AND AUTHORITIES. All responses must include a RESPONSIVE DECLARATION TO ORDER TO SHOW CAUSE OR NOTICE OF MOTION and may include a MEMORANDUM OF POINTS AND AUTHORITIES. Responses may request relief related to the orders requested in the ORDER TO SHOW CAUSE or NOTICE OF MOTION. Unrelated relief must be sought by filing a separate ORDER TO SHOW CAUSE or NOTICE OF MOTION.

1. **Requirements in Child Custody and Visitation Matters.**
   a. **Optional Declaration Form.** San Francisco Superior Court has created Form 11.7A for optional use in child custody proceedings. Parties are encouraged to use this form as it provides pertinent information for the judicial officer.
   b. **Disputed Paternity.** Any and all paternity disputes must be raised in initial moving and responsive pleadings.
   c. **Submission of Medical, Psychological or Educational Reports.** Medical, psychological or educational reports concerning a minor child must not be attached to filed pleadings. A party intending to rely on such reports at the Law and Motion hearing must submit a copy to the courtroom clerk and to all parties no later than five calendar days before the scheduled hearing.
2. **Requirements in Financial and Other Matters.**
   a. **INCOME AND EXPENSE DECLARATION.** If either party seeks a Court order regarding child support, spousal support, attorney's fees, or any other financial issue, both parties are responsible for ensuring that there is a filed INCOME AND EXPENSE DECLARATION that is current (updated). The Court may not consider an INCOME AND EXPENSE DECLARATION to be current if it was filed more than 6 months before the scheduled hearing date. At least 5 calendar days prior to the hearing, the parties must exchange the prior year's tax returns. If a party files a FINANCIAL STATEMENT (SIMPLIFIED) instead of an INCOME AND EXPENSE DECLARATION, then that party must attach an EXPENSE DECLARATION.
   b. **Child and Spousal Support Guidelines.** Departments 403, 404, 405, 406, 425, and 514 utilize the DissoMaster™ program. Department 416 utilizes the Department of Child Support Services' Guidelines Calculator Program. For

spousal support calculations, the default used by all Departments is the Santa Clara schedule. If either party seeks a Court order regarding child support or spousal support, each party must file a STATEMENT OF SUPPORT CALCULATIONS that sets forth the party's assumptions with regard to gross income, tax filing status, timeshare, add-on expenses, and any other factor relevant to the support calculation. Each party must file a proposed support calculation generated by the computer support program utilized in the assigned Court department.

c. Exchange of Financial Documents. At least five calendar days prior to the Court hearing, a party must provide to the other party copies of all supporting documentation upon which the party intends to rely at the Court hearing. In addition, each party must provide to the other party a copy of the most recent individual income tax return, and, if the hearing is scheduled between February 1 and the date the party's tax return is filed, copies of all W-2 forms, 1099 forms, K-1's and other forms reflecting receipt of income during the previous year.

d. Request for Attorney's Fees. Any request for attorney's fees or costs in excess of $2,000 must be accompanied by a factual declaration completed by the attorney. The declaration must state the attorney's hourly rate, the amount of fees already paid, the source of payment for fees already paid, the amount of fees due and payable, how fees requested were or will be spent, and identification of a source for payment of the fees.

e. Request for Expert's Fees. Any request for expert's fees must be accompanied by a factual declaration completed by the expert. The declaration must state the expert's hourly rate, the scope of the expert's task, and an estimate of the number of hours required to complete the task.

f. Request for Modification of Prior Support Orders. The supporting DECLARATION submitted in support of any request for modification of a prior child or spousal support order must include specific facts demonstrating a change of circumstances.

g. Deviations from Guideline Child Support or Temporary Spousal Support. Unless otherwise allowed by the Court, if a party contends that the amount of support as calculated under the guideline formula is inappropriate, that party must file a declaration stating the amount of support alleged to be proper and the factual and legal bases justifying a deviation from guideline support. In its discretion, for good cause shown, the Court may deviate from the amount of guideline support resulting from the computer calculation.

h. Custodial Time Share. The Court will determine on the evidence presented the actual average annualized timeshare percentage in calculating guideline child support. However, in the event the Court is not provided with any evidence of the actual timeshare, the Court will use an assumption of 20 percent visitation time with the non-custodial parent in calculating guideline child support. The Parent/Child Time Sharing Percentages listed below may be used in calculating guideline child support, in addition to similar charts which are part of the Judicial Council approved child support software.

	Time Sharing Arrangements	**Days**	**%**
a.	1 weekend per month	24	7
b.	1 extended weekend per month	36	10
c.	2 weekends per month	48	13
d.	1 weekend per month + 1 evening per week	50	14
e.	Alternate weekends	52	14
f.	Alternative weekends + 2 weeks per summer	67	18
g.	Alternative weekends and ½ holidays + 2 weeks per summer	69	19
	(If Custodial Parent has 2 weeks over summer too, then)	67	18
h.	2 extended weekends per month	72	20
i.	Alternate weekends + 1 evening per week	78	21
j.	Alternate weekends + 1 overnight per week	104	28
k.	Alternate extended weekends	78	21
l.	Alternate weekends and ½ holidays + 4 weeks per summer, (with alternating weekends continuing in summer, and makeup if weekends lost due to the 4 weeks)	77	21
m.	Alternate weekends and ½ holidays + 4 weeks per summer (with no alternating weekends all summer)	75	21
n.	Alternate weekends and ½ holidays + ½ summer (with or without alternate weekends in summer)	82	22
o.	Alternate extended weekends +1 evening per week	104	28
p.	Alternate extended weekends +1 overnight per wk.	130	36
q.	Alternate weekends and ½ holidays, 1 evening per week, + 4 wks summer (with alternating weekends continuing in summer, and makeup if weekends lost due to the 4 weeks)	103	28
r.	Alternate weekends and 1 evening per week when school is in session, + ½ school vacations	104	28
s.	Three days per week	156	43
t.	First, third, and fifth weekends	56	15
u.	First, third, fifth, extended weekends	84	23
v.	First, third, and alternate fifth weekends	52	14
w.	First, third, alternate fifth extended weekends	78	21

Definitions

a. Weekend – 6 pm Friday - 6 pm Sunday (2 days)
b. Extended Weekend – School closing Fri. – school opening Mon. (3 nights, 2 days)
c. 1st & 2nd; or 2nd & 4th Weekends – Same as 2 weekends per month
d. 1st & 3rd, & alternating 5th Weekends – Same as Alternate Wkends
e. Afternoon – After school until evening without dinner (1/4 day)
f. Evening – After school – after dinner (1/2 day; 1 evening per week = 26 days per year
g. Overnight – School close mid-week – School opening next day

(1day)(1day; 1 overnight per week = 52 days per year)

h. Holidays – New Year's, President's Day, Easter, Memorial Day, Mother's Day or Father's Day, July 4, Labor Day, Thanksgiving (2 days)(Christmas, (1/2 holidays = 5 days per year)

i. Summer – 10 weeks (70) days; some schools may vary, such as those using an all year calendar

j. School Vacations – Summer, 2 weeks Christmas, 1 week spring, (13 weeks/year; ½ vacations = 45.5 days per year, not counting subtraction of Non-Custodial Parent's ordinary alternate weekend and mid-week visits and Custodial Parent's cross visits)

i. Notification to the Department of Child Support Services. The moving party must provide the Department of Child Support Services timely notice of any request for establishment, modification, or enforcement of child and/or spousal support if the Department of Child Support Services is providing services.

3. Service of Pleadings. An ORDER TO SHOW CAUSE or NOTICE OF MOTION must be served on the opposing party pursuant to Code of Civil Procedure section 1005 unless an ORDER SHORTENING TIME has been obtained. A post-judgment ORDER TO SHOW CAUSE or NOTICE OF MOTION must be served pursuant to Family Code §215. Responsive pleadings must be filed and served no less than nine court days prior to the hearing date. Reply pleadings must be filed and served no less than five court days prior to the hearing date.

4. Failure to Serve Pleadings. If an ORDER SHOW CAUSE is not timely served on the opposing party, it must be reissued prior to the Court hearing. The moving party must submit an APPLICATION AND ORDER FOR REISSUANCE OF ORDER TO SHOW CAUSE. Failure to obtain a reissuance order prior to the Court date will result in the matter being removed from the Law and Motion or Readiness Calendar and denial of the relief requested.

5. Late Pleadings. Late filing of pleadings may result in the refusal of the Court to consider the pleading, a continuance of the matter to a future Court date, or imposition of sanctions or attorney's fees.

6. Family Law Examiner. Certain pleadings submitted for filing by self-represented parties that pertain to child custody and visitation issues must be reviewed by the Family Law Examiner prior to filing. Information as to which types of pleadings require review by the Family Law Examiner may be obtained in the Office of the Court Clerk.

B. Child Custody and Visitation Matters: Readiness Calendar. An ORDER TO SHOW CAUSE or NOTICE OF MOTION which includes a request for child custody and/or visitation orders must be set on the Readiness Calendar on Mondays at 8:45 a.m. At the Readiness Calendar hearing, the Court will set a mediation date and a court date to follow the mediation session. Parties must attend the Readiness Calendar Orientation program immediately upon conclusion of the Readiness Calendar, unless otherwise exempt pursuant to SFLR §11.7 (C)(1)(b).

1. Entry of Substantive Orders. Generally, if both parties appear, the Court will not enter substantive orders at the Readiness Calendar hearing. However, the Court may, in its discretion, hear the matter if an emergency exists. The Court may

consider a request for temporary orders or may instruct the party seeking such orders to file an *ex parte* motion.

2. **Non-Appearance by Moving Party.** If only the responding party appears at the Readiness Calendar, the matter ordinarily will be taken off calendar and no Court orders will be entered. If the responding party has requested affirmative relief in a filed RESPONSIVE DECLARATION TO ORDER TO SHOW CAUSE, the Court may grant the requested relief.
3. **Non-Appearance by Responding Party.** If only the moving party appears at the Readiness Calendar and the Court finds that the responding party was properly served, the Court may grant appropriate relief at the Readiness Calendar hearing. If service is not proper, the Court may reissue the ORDER TO SHOW CAUSE or continue the NOTICE OF MOTION to a future Readiness Calendar.
4. **Appearance by Telephone.** The Court may grant a properly noticed request for a party to appear by telephone only under circumstances of extreme hardship. Any party seeking to appear by telephone must follow the procedure set forth in SFLR 11.7(D)(4), below.

C. Child Custody and Visitation Matters: Requirement to Attend the Readiness Calendar Orientation and Mediation.

1. **Readiness Calendar Orientation Session.** Orientation sessions are conducted every Monday immediately following the Readiness Calendar. Parties must proceed from the Readiness Calendar to orientation. Parties should be prepared to stay until noon to complete this orientation. Interpreters may not accompany parties to orientation.
   a. **Failure to Attend Readiness Calendar Orientation Session.** If either party fails to attend the Readiness Calendar orientation prior to their scheduled mediation session, the mediation session may be cancelled. Parties must then appear at their scheduled court hearing. The Court may sanction the party who failed to complete orientation and/or mediation. Sanctions may include, but are not limited to, monetary fines, denial of relief sought, dismissal of the ORDER TO SHOW CAUSE or NOTICE OF MOTION, entry of substantive orders, or contempt.
   b. **Exemption from Attendance at Readiness Calendar Orientation Session.** Only those parties who completed the Readiness Calendar orientation within two years prior to the mediation session are exempt from attending this orientation. The Court may also exempt a party from attending Readiness Calendar orientation if exceptional circumstances exist, such as the party does not speak English or Spanish or the parties have attended more than six private mediation sessions within the prior year. Attendance at a mandatory Domestic Violence Calendar Orientation does **not** exempt parties from attending Readiness Calendar orientation. Any exemption from attending Readiness Calendar orientation does **not** exempt a party from attending mediation.
2. **Required Mediation.** Unless otherwise ordered by the Court, all parties, except those that have attended four private mediation sessions within the prior year, must participate in mediation before the Court will hear the matter. The first mediation session of the case will be confidential mediation. The Court may order that non-confidential mediation services be provided after the conclusion of a confidential mediation, per SFLR 11.16B.

a. Confidential Mediation. The mediator conducting a confidential mediation will not make a report or recommendation to the Court except as follows:

(1) Child At Risk. The mediator is required to make a report to Child Protective Services if the mediator believes a child is at risk of child abuse or neglect.

(2) Threats of Death or Bodily Harm. The mediator is required to report death threats or threats of bodily harm made to a party, any other person or to themselves.

(3) Recommendations for Appointment of Attorney for Child. The mediator may recommend that the Court appoint an attorney to represent any child involved in a custody or visitation proceeding.

(4) Recommendations for Custody Evaluation. The mediator may recommend that the Court order a custody evaluation.

(5) Non-Agreement of the Parties. If the parties do not reach an agreement on any or all of the pending issues, the mediator will prepare a brief disposition memorandum that identifies issues of agreement and issues of disagreement. This memorandum will be submitted to the Court prior to the Court date. Copies of the memorandum will be provided to all parties and to their attorneys.

b. Attendance and Participation of Parties. The Court may sanction any party who fails to attend mediation. Sanctions may include, but are not limited to, monetary fines, denial of relief sought, dismissal of the ORDER TO SHOW CAUSE or NOTICE OF MOTION, entry of substantive orders, or contempt.

c. Attendance and Participation of Attorneys in Mediation. Prior to mediation, attorneys, including minor's attorneys, must meet and confer in an effort to resolve the parties' disagreements. Attorneys may participate in mediation. Counsel must give all other counsel at least twenty-four (24) hours notice of their intent to attend a mediation session.

d. Attendance and Participation of Interpreters in Mediation. A neutral person who is fluent in both English and the party's native language may interpret for a party in mediation if there is no mediator available to conduct the mediation in that party's native language. In no case may a minor child of the parties serve as an interpreter.

e. Agreement of the Parties. If an agreement is reached in mediation, the mediator will prepare a written agreement. Attorneys will have an opportunity to review and approve, or disapprove, of the agreement. If the agreement is approved by the parties and their attorneys, the agreement will be presented to the Court for approval and will become a Court order once signed by the Court.

f. Mediator May Not Be Witness. The confidential mediator may not be called as a witness at future Court hearings regarding any matter discussed during confidential mediation.

D. Court Hearings.

1. Hearing Dates.

a. Child Custody and Visitation Matters. An ORDER TO SHOW CAUSE or NOTICE OF MOTION involving child custody or visitation will first appear on the Readiness Calendar in Department 403 or 404 at 8:45 a.m. on Monday morning. At the Readiness Calendar, parties will be assigned dates for

Mandatory Mediation and a subsequent Court hearing. Those subsequent Court hearings are held on Tuesday and Thursday mornings at 9:00 a.m. with the exception of former juvenile dependency cases which are heard on Mondays at 9:30 a.m. At the Court's discretion, the hearing may also be set on the Self Represented Litigants Calendar on Thursdays at 1:30 p.m. in Department 405.

b. Financial and Other Matters. An ORDER TO SHOW CAUSE or NOTICE OF MOTION involving non-custody or non-visitation issues will be assigned a date for Court hearing upon filing. Those hearings are held on Tuesday and Thursday mornings at 9:00 a.m.

(1) Child and Spousal Support Matters Involving the Department of Child Support Services. All issues of child or spousal support in which the Department of Child Support Services is involved are heard in Department 416. These cases are heard daily. Any issues of child custody or visitation that arise in a case assigned to Department 416 will be heard in Departments 403 or 404 depending upon the case number.

2. Non-English Speaking Parties. A neutral person who is fluent in both English and the party's native language must accompany any party who is not fluent in English to the Court hearing. In no case may a child of the parties serve as an interpreter.

3. Hearing Procedures. Law and Motion hearings are limited to 20 minutes. The Court may decide contested issues solely on the pleadings. Witness testimony is generally not permitted. Subject to legal objection, all declarations will be considered received in evidence. At a hearing, the Court has the discretion to calendar a matter for a long cause hearing on another date, decide the matter without further hearing, continue the matter, order the matter removed from the Court calendar, or otherwise dispose of the matter. Copies of documents to be offered at a Law and Motion hearing must be provided to the opposing party and submitted to the Office of the Court Clerk at least five calendar days prior to the Court hearing. The Court may exclude from consideration any documents not timely filed and exchanged.

4. Appearance by Telephone.

a. Departments 403 and 404 Only. If a party resides outside of the nine Bay Area counties (San Francisco, Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano and Sonoma), or in cases of extreme hardship, the Court may allow a party to appear by telephone at a Law and Motion hearing. If a party's attorney's office is located outside of the nine Bay Area counties, the attorney may file a motion to appear by telephone. A party seeking to appear by telephone must comply with all of the following in order to obtain a Court order permitting a telephone appearance.

(i) Contents and Filing of Application. An application for telephonic appearance must be made by filing an *ex parte* application at least ten calendar days prior to the hearing. The application must be made on SFUFC Form 11.7D(1), APPLICATION AND DECLARATION FOR TELEPHONIC APPEARANCE. The application and declaration must include: 1) the reason for the request; 2) a telephone number that accepts collect calls where the party can be reached between 9:00 a.m. and 12:00 p.m on the day of the hearing; and, 3) a telephone number that accepts collect calls and messages where the party can be reached for notification of the court's ruling on the application. A proposed order on SFUFC 11.7D(2), PROPOSED ORDER FOR

TELEPHONIC APPEARANCE, must be submitted with the APPLICATION AND DECLARATION FOR TELEPHONIC APPEARANCE.

(ii) Notice. The party filing the APPLICATION AND DECLARATION FOR TELEPHONIC APPEARANCE must give notice by telephone to all other parties prior to filing the application and must file a declaration on the local form, DECLARATION REGARDING NOTICE OF APPLICATION FOR TELEPHONIC APPEARANCE with the application. The declaration must include the date, time, and method of notice. The court will not consider an APPLICATION AND DECLARATION FOR TELEPHONIC APPEARANCE that does not include a DECLARATION REGARDING NOTICE OF APPLICATION FOR TELEPHONIC APPEARANCE.

(iii) Time to Respond. A party must file any objection to an APPLICATION AND DECLARATION FOR TELEPHONIC APPEARANCE at least seven calendar days prior to the hearing. The objection must be filed on pleading paper and must include the hearing date and department in the pleading title.

(iv) Order. If the application is granted, the courtroom clerk will notify the party who filed the application by telephoning the party at the number provided in the application by 5:00 p.m. at least five calendar days prior to the hearing. If the courtroom clerk does not contact the party, the party must assume the Court denied the application. Any order granting a telephonic appearance must pertain only to the hearing for which the application was made.

(v) Hearing Procedures. If the Court grants the APPLICATION AND DECLARATION FOR TELEPHONIC APPEARANCE, the party appearing by telephone must be available at the telephone number designated in the application between 9:00 a.m. and 12:00 p.m. on the date of the hearing. The Court will telephone the party collect when the matter is called on the calendar. If the Court is unable to contact the party due to the non-operation of the telephone, the inability of the telephone to accept collect calls, or for any other reason, the Court will proceed with the hearing as if the party failed to appear.

b. Department 416 Only. Upon request or on the Court's own motion, the Court in its discretion may permit a telephonic appearance in any hearing or conference when the Department of Child Support Services is providing services under title IV-D of the Social Security Act. See CRC §5.324 and 3.670, and SFUFC Form 11.7D(3) ("Information on Title IV-D Telephone Appearances in Department 416").

5. Order of Cases. The Court will determine the order in which cases on the Law and Motion Calendar are heard. Generally the Court will give priority to matters in which a settlement has been reached. An attorney or self-represented party may be sanctioned for falsely representing that a settlement has been reached in order to attain calendar priority.

6. Non-Appearance of a Party. If the moving party is not present when the Law and Motion Calendar is called, the matter will ordinarily be removed from the Court calendar unless affirmative relief related to the original ORDER TO SHOW CAUSE or NOTICE OF MOTION was requested by the responding party in a filed RESPONSIVE DECLARATION TO ORDER TO SHOW CAUSE. If the responding party is not present

when the Law and Motion calendar is called, the Court will proceed to hear the matter only if the responding party has been properly served.

7. **Stipulated Continuances.** If both parties agree to continue a hearing scheduled on the Law and Motion or Readiness Calendar, at least one party must telephone the calendar clerk at (415) 551-3906 or (415) 551-3900 and fax a confirming letter to the calendar clerk at (415) 551-3915 before noon on the Court day prior to the scheduled hearing. Only two continuances per motion may be granted based upon an agreement between parties. Further continuance requests may be granted only upon the appearance of the parties at the scheduled Court hearing and a showing of good cause. Failure to comply with this procedure will result in the Court dismissing the ORDER TO SHOW CAUSE or NOTICE OF MOTION. The moving party will be required to re-file and pay the applicable filing fee.
8. **Stipulated Orders.** See SFLR 11.8(C).
9. **Findings And Order After Hearing.** Written findings and orders are required following all Law and Motion hearings. The following rules do not apply to matters in Department 416 or where the Department of Child Support Services (DCSS) is actively involved.
   a. **Preparation of Proposed Findings and Order After Hearing.** At the conclusion of a Law and Motion hearing, the Court will order one of the parties to prepare a proposed FINDINGS AND ORDER AFTER HEARING and required attachments. This form must not be used for cases in which issues were resolved by stipulation.
   b. **Submission of Proposed Findings and Order After Hearing to Other Party.** The party preparing the proposed FINDINGS AND ORDER AFTER HEARING must submit the proposed order to the other party for approval within five calendar days of the Court hearing.
   c. **Failure of Party to Prepare Proposed Findings and Order After Hearing.** If the party ordered by the Court to prepare the proposed FINDINGS AND ORDER AFTER HEARING fails to do so within five calendar days, the other party may prepare the proposed FINDINGS AND ORDER AFTER HEARING and send it directly to the Court without the approval from the party ordered to prepare it.
   d. **Failure of Other Party to Approve or Reject Proposed FINDINGS AND ORDER AFTER HEARING.** The other party must promptly approve or reject the proposed FINDINGS AND ORDER AFTER HEARING. If the other party does not respond to the proposed FINDINGS AND ORDER AFTER HEARING within five calendar days of service, the party preparing the proposed FINDINGS AND ORDER AFTER HEARING may submit it directly to the Court with a letter explaining that the other party did not respond. This letter must state: the date the proposed FINDINGS AND ORDER AFTER HEARING was sent to the other party; the other party's reasons for not approving the proposed FINDINGS AND ORDER AFTER HEARING, if known; the date and results of the parties' attempt to meet and confer; and, a request that the Court sign the proposed FINDINGS AND ORDER AFTER HEARING. When service of the proposed FINDINGS AND ORDER AFTER HEARING is by mail, the time to respond must be extended five calendar days pursuant to CCP § 1013(a).
   e. **Objections to Proposed FINDINGS AND ORDER AFTER HEARING.** If the other party objects to the form or content of the proposed FINDINGS AND ORDER AFTER HEARING, the parties must meet and confer by telephone or in person to attempt to

resolve the disputed language. If the parties fail to resolve their disagreement and the other party rejects the proposed FINDINGS AND ORDER AFTER HEARING, the other party must submit alternate proposed language to the Court along with a copy of the official transcript of the Court hearing.

f. Award of Attorney's Fees and Costs. If either party fails to comply with the procedures set forth above, the Court may award attorney's fees, costs of preparing the Court reporter's transcript, and other costs upon an *ex parte* application.

g. Service of Signed FINDINGS AND ORDER AFTER HEARING. Following the signing of the Court order, the courtroom clerk will file the FINDINGS AND ORDER AFTER HEARING. The party who prepared the FINDINGS AND ORDER AFTER HEARING must mail an endorsed filed copy to the other party and to any appointed Unified Family Court Services mediator.

11.8 Other Procedures.

A. *Ex Parte* Orders. *Ex parte* orders may be obtained under certain circumstances. The Court will not grant *ex parte* applications that seek to change child custody or visitation orders absent a very strong factual showing of imminent danger or severe detriment to the child.

1. Temporary Restraining Orders in Matters of Domestic Violence. For procedures on how to obtain an *ex parte* Temporary Restraining Order pursuant to the Domestic Violence Prevention Act, see Rule 11.9.

2. No Notice Required. Requests that the Court sign the types of orders listed herein do not require notice to the other party. Proposed orders should be delivered to the Office of the Court Clerk. Signed orders will be available for pick-up in the Office of the Court Clerk three Court days after submission. Requests for the following types of orders may be obtained without notice or Court appearance:

a. Order to Show Cause without request for temporary orders;
b. Reissuance of Order to Show Cause;
c. Order to Withhold Income for Child Support based upon an existing child support order;
d. Wage Assignment based upon an existing spousal support order;
e. Restoration of a former name;
f. Order for Service of Summons by Publication;
g. Order for Service of Summons by Posting;
h. Application for Fee Waiver;
i. Application for Modification of Wage Assignment.

3. Notice Required.

a. **Types of Requests.** *Ex parte* applications may be brought to obtain orders shortening time, continuances, or extraordinary relief in an emergency situation.

b. **Filing of *Ex Parte* Application.** To schedule an *ex parte* hearing, a party must call the Office of the Court Clerk at (415) 551-3906. The clerk will provide the party with an available date. Pleadings in support of the *ex*

parte application must be filed in the Office of the Court Clerk before 1:00 p.m. on the Court day prior to the *ex parte* hearing.

c. Notice Requirements. Notice of an *ex parte* hearing must be provided to the opposing party by telephone or facsimile no later than 10:00 a.m. on the Court day prior to the hearing. Notice must include the date, time and department of the *ex parte* hearing. In extraordinary circumstances if good cause is shown that imminent harm is likely if notice is provided to the other party, the Court may waive this notice requirement.

d. **Proof of Notice Requirements**. At the time of the *ex parte* hearing, the party seeking *ex parte* relief must file a declaration under penalty of perjury regarding compliance with the notice requirements. If the other party is not timely and properly noticed, the party seeking *ex parte* relief must file a declaration under penalty of perjury detailing the efforts made to provide notice and why those efforts were unsuccessful.

e. **Pleading Requirements.** All *ex parte* applications must include:

(1) EX PARTE APPLICATION AND DECLARATION, SFUFC Form 11.8A(1); the declaration shall be based upon personal knowledge, signed under penalty of perjury, specifically including the reason relief is requested; the factual basis for that relief; why relief must be immediate; and whether the relief requested changes an existing Court order;

(2) proof of timely notice to the other party on DECLARATION REGARDING NOTICE OF EX PARTE ORDER, SFUFC Form 11.8A(2);

(3) a copy of the Court's most recent Order on the issue; and

(4) a PROPOSED ORDER AFTER EX PARTE HEARING, SFUFC Form 11.8A(3), or ORDER TO SHOW CAUSE OR NOTICE OF MOTION, if applicable.

f. **Service of Pleadings.** The party seeking *ex parte* relief must provide copies of all documents in support of the *ex parte* application to the other party no later than 1:00 p.m. on the Court day prior to the *ex parte* hearing. In extraordinary circumstances if good cause is shown that imminent harm is likely if documents are provided to the other party, the Court may waive this requirement.

g. **Hearing Dates.** Departments 403 and 404 hear *ex parte* applications daily at 8:30 a.m.. Department 416 hears *ex parte* applications daily at 9:00 a.m.

h. **Hearing Procedures.** The Court will decide the *ex parte* application on the pleadings. The Court, in its sole discretion, may conduct some or all of the *ex parte* proceedings in open Court, or on the record.

B. Use of P.O. Box or "In Care Of" Addresses on Pleadings. A party seeking to use a P.O. Box or "In Care Of" address on a pleading must complete and file a declaration, using SFUFC Form 11.9-A (for P.O. Box) or SFUFC Form 11.9-B (for "In Care Of" address), indicating that the party understands the service requirements set forth in CCP §1013 and that by failing to provide a physical address, the opposing party may not be able to comply with such requirements. The declaration must state that the party agrees to accept service at the P.O. Box or "In Care Of" address on the pleading**.**

C. Stipulated Orders. A stipulated order is an agreement of the parties that is accepted and ordered by the Court. A stipulated order must be in writing and signed by both parties and their attorneys, if either or both parties are represented. If an agreement is reached prior to a scheduled Court hearing, one or both parties must notify the courtroom clerk by noon the Court day prior to the hearing. Failure to notify the Court that a scheduled hearing will not proceed may result in the imposition of sanctions. Stipulations not presented to the courtroom clerk at or before the time of a hearing may be submitted in the Office of the Court Clerk.

1. **Child Support Stipulations.** All stipulations establishing or modifying child support must be submitted on a STIPULATION TO ESTABLISH OR MODIFY CHILD OR FAMILY SUPPORT AND ORDER form (FL-350). All stipulations for child support below the guideline amount must contain the acknowledgment required pursuant to Family Code §4065(a)(5) and (c). The Court will not sign any stipulation that is not submitted with a CHILD SUPPORT CASE REGISTRY FORM (FL-191).

D. Meet and Confer Requirements. Before any Court hearing, the parties must meet and confer in good faith to attempt to resolve all pending issues. Failure to conduct settlement negotiations in good faith may result in an award of attorney's fees and/or sanctions against the uncooperative attorney or party. This requirement does not apply to any matters involving domestic violence.

E. Motions to Reconsider. A MOTION TO RECONSIDER must comply with the requirements set forth in CCP §1008. The Court will decide the motion based upon the filed pleadings unless, for good cause shown, the Court finds that oral argument is appropriate.

F. Discovery Issues. Contested discovery issues are heard in the Family Law Division.

G. Continuances. For Status Conferences and Mandatory Settlement Conferences, any party seeking a continuance must first seek the agreement of the other parties. If all parties agree to the continuance, the party seeking the continuance must contact the courtroom clerk to receive a new date. It is the responsibility of that party to provide written notice to all parties of the new date within three calendar days of obtaining that date. The party seeking the continuance must also confirm the new date by letter addressed to the courtroom clerk with copies to all parties mailed within three calendar days of obtaining the new date. A continuance may require payment of a Court fee by the party seeking the continuance. All orders previously made by the Court remain in full force and effect pending the entry of new or different orders at the scheduled hearing.

H. Substitution of Attorney. If there is an attorney of record or limited scope attorney, and a party or an attorney other than the attorney of record files an ORDER TO SHOW CAUSE, NOTICE OF MOTION or Responsive Pleading, then prior to the hearing the party or new attorney must file a SUBSTITUTION OF ATTORNEY-CIVIL or a Motion seeking removal of the attorney of record. If there is no attorney of record and an attorney files an ORDER TO SHOW CAUSE, NOTICE OF MOTION or Responsive Pleading, then prior to the hearing the attorney must file a SUBSTITUTION OF ATTORNEY-CIVIL. In both circumstances, if the party or attorney seeks to file any document other than those listed above, the attorney or party must file a SUBSTITUTION OF ATTORNEY-CIVIL prior to filing the documents.

The Court may not grant any affirmative relief, including continuances, absent the filing of the SUBSTITUTION OF ATTORNEY-CIVIL or an Order granting removal of the attorney of record.

11.9 Domestic Violence Calendar.

A. Family Law Examiner. Certain pleadings submitted for filing by self-represented parties that pertain to domestic violence matters must be reviewed by the Family Law Examiner prior to filing. Information as to which types of pleadings require review by the Family Law Examiner may be obtained in the Office of the Court Clerk.

B. *Ex Parte* Application for Temporary Restraining Order. An application for a temporary restraining order pursuant to the Domestic Violence Prevention Act must include the following completed forms:

DV-100: REQUEST FOR ORDER
DV-101: DESCRIPTION OF ABUSE
DV-105: CHILD CUSTODY, VISITATION, AND SUPPORT REQUEST
(required only if the parties have minor children in common)
DV-108: REQUEST FOR ORDER: NO TRAVEL WITH CHILDREN
(optional in cases if the parties have minor children in common)

If a party submits a completed request for a TEMPORARY RESTRAINING ORDER before 10:00 a.m., the Court order will be available after 2:30 p.m. that same day. If a party submits a completed request after 10:00 a.m., the Court order will be available after 2:30 p.m. the following judicial day.

C. Service of Temporary Restraining Order. It is the responsibility of the party seeking the restraining order to have the party against whom the restraining order is sought personally served with copies of all the filed Court documents. These documents must include notice of the date, time and place of the Court hearing. Service must be accomplished by any person who is over the age of 18 years and not a party to the restraining order action. The person who is requesting issuance of the restraining order cannot serve the person against whom the restraining order is sought. The person who completes service on the party against whom the order is sought must thoroughly complete a DV- 200: PROOF OF SERVICE (IN PERSON) form. The completed DV-200 form may be filed in the Office of the Court Clerk before the scheduled hearing or may be brought to Court by the party seeking to have the restraining order issued. The Court cannot hear a matter or enter an order on a request for a restraining order without a completed DV-200 form or, in the case of personal service completed by a law enforcement officer, a completed proof of personal service form utilized by that officer's agency.

D. Failure to Timely Serve Restrained Party. If the restrained person cannot be personally served within the time specified in the TEMPORARY RESTRAINING ORDER, the protected person may appear at the Court hearing and request additional time to serve the restrained person. The Court may reissue the TEMPORARY RESTRAINING ORDER until the new hearing date. The protected person must appear at the Court hearing to avoid having the TEMPORARY RESTRAINING ORDER automatically dissolved.

E. Reissuance of Temporary Restraining Order. In the event that personal service

cannot be completed prior to the date ordered in the TEMPORARY RESTRAINING ORDER, the party seeking the restraining order may request that the Court reissue the TEMPORARY RESTRAINING ORDER. The party unable to effect service must appear at the Court hearing and request additional time to serve the restrained person or may request reissuance of a TEMPORARY RESTRAINING ORDER by filing a DV-125: REISSUE TEMPORARY RESTRAINING ORDER form in the Office of the Court Clerk. A reissuance must be requested before the expiration of the TEMPORARY RESTRAINING ORDER. If the reissuance is not submitted prior to the expiration of the TEMPORARY RESTRAINING ORDER and the party requesting the restraining order fails to attend the Court hearing, the TEMPORARY RESTRAINING ORDER will be automatically dissolved.

F. Reapplication for Temporary Restraining Order. If the party seeking a restraining order fails to obtain a reissuance prior to the expiration of a TEMPORARY RESTRAINING ORDER and fails to attend the Court hearing to request such a reissuance, in order to obtain protection, the party seeking a restraining order must file a new request including all completed forms previously filed.

G. Hearing Procedures. All restraining order requests filed pursuant to the Domestic Violence Prevention Act are heard on Wednesdays. Matters in which the parties have minor children in common are calendared for 8:30 a.m.. Matters in which the parties do not have minor children in common are calendared for 9:00 a.m.

H. Children in Common: Mandatory Mediation. If the person seeking the restraining order and the person against whom the restraining order is sought have minor children in common, Court orders must be entered regarding custody and visitation of the children. If both parents appear in Court, they will be ordered to participate in a domestic violence-related orientation and mediation conducted by FCS. Procedures for orientation, mediation, and the Court hearing may change from time to time. Current procedures will be posted on the Court's website at http://sfsuperiorcourt.org/index.aspx?page=195.

I. Criminal History Search. Prior to a hearing on a REQUEST FOR ORDER pursuant to the Domestic Violence Prevention Act, a designated court employee will conduct a search in the California Law Enforcement Telecommunications System ("CLETS") to determine whether the party against whom the restraining order is sought has a prior restraining order, a violation of a restraining order, or a criminal history as specified in Family Code §6306. The CLETS search will include a search of the databases set forth in Family Code §6306(a). The employee conducting the search will submit to the judicial officer hearing the matter a written memorandum containing only information reportable pursuant to Family Code §6306. All additional provisions of Family Code §6306 will apply, including but not limited to the provisions regarding judicial use of the information, confidentiality and destruction of information, and the parties' access to the information.

J. Restraining Order After Hearing. The person requesting issuance of a restraining order must complete a DV-130: RESTRAINING ORDER AFTER HEARING form and bring the completed form to the restraining order hearing. If, after the hearing, the Court grants a restraining order, the Court will immediately sign the DV-130. Failure to provide a completed DV-130 form to the Court at the time of the hearing may result in a delay in transmittal of any restraining order issued to the appropriate law enforcement agency.

K. Service of Restraining Order After Hearing. If a person against whom a

restraining order is requested is properly served with notice of the Court hearing and fails to appear, the Court may enter the restraining order as requested. If the RESTRAINING ORDER AFTER HEARING is issued with the same terms and conditions as the TEMPORARY RESTRAINING ORDER the person against whom the order is entered may be served with the RESTRAINING ORDER AFTER HEARING by U.S. Mail. If the Court issues a RESTRAINING ORDER AFTER HEARING with different terms and conditions from those contained in the TEMPORARY RESTRAINING ORDER, the person against whom the restraining order is issued must be personally served with the RESTRAINING ORDER AFTER HEARING.

L. Dismissal or Modification of Restraining Order. The court will dismiss or modify restraining orders issued under the Domestic Violence Prevention Act only upon noticed motion and after a court hearing. The court will not sign stipulations for dismissals or modifications of these restraining orders absent a hearing.

11.10 Long Cause Hearings.

A. Setting. At the time of a Law and Motion hearing, the Court may, in its sole discretion, set the matter for a long cause hearing. Unless otherwise ordered, based upon good cause shown, long cause hearings must proceed as herein specified. The Court may, in its discretion, set the matter on the trial setting calendar in Department 405 if the hearing is estimated to be longer than three hours in duration.

B. Hearing Procedures. The direct testimony of any witness except rebuttal witnesses must be presented by declaration executed under penalty of perjury. Original witness declarations must be filed in the Office of the Court Clerk and served upon the opposing party ten calendar days prior to the hearing. The party offering the witness' declaration must make the witness available for cross-examination at the time of the hearing if requested by the opposing party seven calendar days in advance of the hearing. Failure to produce the witness upon timely notice will result in the exclusion of the witness' declaration. All evidentiary objections applicable to witness testimony are applicable to witness declarations. These procedures do not apply to Department 416.

11.11 Trial Setting.

A. At-Issue Memorandum. This SFLR 11.11(A) does not apply to child custody and visitation or Department 416 matters. The filing of a FAMILY LAW AT-ISSUE MEMORANDUM, SFUFC Form 11.11, with the Office of the Court Clerk commences the trial setting process for the resolution of financial issues. Upon filing of a FAMILY LAW AT-ISSUE MEMORANDUM, a case will be scheduled for a Status Conference only if the party filing the FAMILY LAW AT-ISSUE MEMORANDUM has filed a DECLARATION REGARDING SERVICE OF DECLARATION OF DISCLOSURE.

B. Inapplicable to Child Custody and Visitation Matters and Department 416 Matters. Trials involving child custody and visitation issues or matters in Department 416 will be set by Court order from the Readiness, Law and Motion or Child Custody and Visitation calendars, or as otherwise ordered by the Court.

11.12 Status Conference Calendar.

A. Purpose of Status Conference. The purpose of the Status Conference is to allow the Court to review the status of a case with all parties and to identify any obstacles to

trial preparation.

B. Status Conference Dates. A status conference date will be scheduled upon the filing of a FAMILY LAW AT-ISSUE MEMORANDUM and the required Declaration (See SFLR 11.11(A)). Status Conference Calendars are held in Departments 403 and 404 every Monday at 10:00 a.m.

C. Filing of Status Conference Statement. Each party must file a STATUS CONFERENCE STATEMENT, SFUFC Form 11.12, in the Office of the Court Clerk no later than ten (10) calendar days before the scheduled Status Conference. All other parties must be served with a copy.

D. Appearances at Status Conference. All parties must personally **a**ppear at the Status Conference unless otherwise ordered by the Court. The Court, in its discretion, may enter Judgment at the time of the Status Conference if one party fails to appear at the Status Conference. The orders contained in the Judgment may be contrary to the interests of the absent party.

E. Stipulation to Present Testimony by Declaration. At the Status Conference, the parties may stipulate to present direct testimony by declaration at trial. See SFLR 11.14(A).

11.13 Mandatory Settlement Conference.

A. Purpose of Mandatory Settlement Conference. Settlement Conference masters will encourage settlement of contested issues. If all issues are not settled at the Mandatory Settlement Conference, it will serve to define and limit the issues for trial.

B. Mandatory Settlement Conference Masters. Settlement Conferences are supervised and directed by one or more experienced family law attorneys who are appointed masters only for the purpose of the Settlement Conference.

C. Setting of Mandatory Settlement Conference. Mandatory Settlement Conferences are scheduled every Friday at 9:00 a.m. concluding at 12:00 p.m.. The Court assigns each case a Mandatory Settlement Conference date at the Status Conference. All parties and attorneys are expected to attend and participate in the entirety of the Mandatory Settlement Conference.

1. Wait List for Earlier Date. At the Status Conference any party may request that the case be placed on a waiting list for an earlier Mandatory Settlement Conference date. The following procedure applies to such requests:

a. The party seeking an earlier date must complete the REQUEST FOR EARLIER MANDATORY SETTLEMENT CONFERENCE DATE form, SFUFC Form 11.13. If both parties request an earlier date, only the party who filed the FAMILY LAW AT-ISSUE MEMORANDUM must complete the form.

b. If an earlier date becomes available, the clerk will call the party on Friday, one week before the available date.

c. The party requesting the earlier date must notify the other party to determine the other party's availability. If both parties are available, the party requesting the earlier date must call the clerk at (415) 551-3753 by Monday at 12:00 p.m.

d. Parties scheduled for an earlier date under these procedures must submit their MANDATORY SETTLEMENT CONFERENCE STATEMENTS by 4:00 p.m. on the Wednesday preceding the Mandatory Settlement Conference. If both parties fail to submit a MANDATORY SETTLEMENT CONFERENCE STATEMENT by this time, the matter will be dropped from the Mandatory Settlement Conference

Calendar.

D. Mandatory Settlement Conference Statement. Each party must submit and serve a separate MANDATORY SETTLEMENT CONFERENCE STATEMENT.

1. Deadline for Submission. A MANDATORY SETTLEMENT CONFERENCE STATEMENT must be submitted to the Court and served on all parties no later than ten calendar days before the Mandatory Settlement Conference. Each party must also serve their FINAL DECLARATION OF DISCLOSURE on or before the date they submit their MANDATORY SETTLEMENT CONFERENCE STATEMENT. If both parties fail to timely submit a MANDATORY SETTLEMENT CONFERENCE STATEMENT, the case will be removed from the calendar. The parties will be required to file a new FAMILY LAW AT-ISSUE MEMORANDUM, and pay any applicable filing fees, to start the trial-setting process. Failure of one party to submit a MANDATORY SETTLEMENT CONFERENCE STATEMENT will not result in the Court removing the matter from the calendar. However, the Court may sanction a party who fails to timely submit a MANDATORY SETTLEMENT CONFERENCE STATEMENT.

2. Content of Mandatory Settlement Conference Statement. **A MANDATORY SETTLEMENT CONFERENCE STATEMENT must contain all of the following:**

a. Statistical Facts. Include the date of the marriage; the date of separation; the length of the marriage in years and months; the number of children of the marriage; the ages of children of the marriage; the ages of the parties; any issues arising from the interpretation of the statistical facts; factual basis for any dispute regarding the statistical facts.

b. Brief Summary of the Case.

c. Stipulated/Uncontested Issues. State any issues that are not before the Court due to prior resolution.

d. Statement of Issues in Dispute. State the nature of any issues that have not been previously resolved, including a brief statement of all relevant facts pertaining to each issue.

e. Statement of Facts re: Support. If child support is at issue, each party must provide an analysis of guideline child support. If spousal support is at issue, each party must provide a statement of statutory factors pursuant to Family Code §4320 upon which the request for spousal support is based.

f. Declaration in Support of Attorney's and/or Expert's Fees and Costs. A party requesting attorney's fees and/or expert's fees must state the amount of fees incurred to date, the source of payment for fees already paid, and the amount of fees due and payable. Requests for fees in excess of $2,000 must include a factual declaration completed by the attorney or expert. A request for costs must be supported by a declaration stating the nature and amount of costs incurred.

g. Appraisals and Expert Reports. Include a brief statement summarizing the contents of any appraisal or expert report to be offered at trial. Attach full copies of all appraisals and expert reports to be offered at trial.

h. Witness Lists. Attach a list of all witnesses to be called at trial and a brief summary of their testimony. Include the name, business address, and statement of qualifications of any expert witness.

i. Legal Argument. Include any legal arguments upon which a party intends to rely with references to the numbered paragraph of the SETTLEMENT

CONFERENCE STATEMENT to which the legal arguments apply.

E. Delivery of Mandatory Settlement Conference Statement to Settlement Conference Master. The clerk will contact the parties with the name and address of the settlement conference master(s). Each party must mail or fax a copy of that party's SETTLEMENT CONFERENCE STATEMENT to the settlement conference master by 2:00 p.m. on the Monday prior to the Mandatory Settlement Conference.

F. Proposal for Resolution of All Issues. Each party must bring a written proposal for resolution of all issues to the Mandatory Settlement Conference. The written proposal must not be filed with the Court. The proposal must set forth a proposed resolution for each disputed issue.

G. Meet and Confer Requirements. The parties must meet and confer in good faith, in person or telephonically, no later than two Court days before the Mandatory Settlement Conference in an attempt to resolve issues, stipulate to facts, and delineate the issues remaining for resolution at the Mandatory Settlement Conference.

H. Settlements. The Court will be available to accept any settlement agreements reached by 11:45 a.m. during the Mandatory Settlement Conference. The parties must make arrangements with the court clerk for settlements reached after 11:45 a.m. All parties, and their attorneys, must sign any stipulated judgments resulting from the Mandatory Settlement Conference.

I. Trial Setting. If all issues are not resolved at the Mandatory Settlement Conference and a trial date needs to be set, the Court will set the remaining issues for trial at the conclusion of the Mandatory Settlement Conference or order the parties to return to Court for this purpose on another date. The parties must be prepared to advise the Court of the outstanding issues, the time estimate for a trial on those issues, and whether the issues could be bifurcated or resolved in a manner other than trial. The Court may, in its discretion, set the matter on the trial setting calendar in Department 405 if the hearing is estimated to be longer than three hours in duration.

J. Issues Not Raised at Mandatory Settlement Conference. The parties will be precluded from raising any issue at trial that was not asserted at the Mandatory Settlement Conference.

11.14 Trial Rules. This SFLR 11.14 does not apply in Department 416.

A. Trial Setting Orders. This SFLR 11.14(A) only applies if at the Status Conference the parties stipulate to present direct testimony by declaration. The direct testimony of any witness must be presented by declaration executed under penalty of perjury. Original witness declarations must be filed in the Office of the Court Clerk and served upon the opposing attorney or self-represented party ten calendar days prior to trial. The party offering the witness' declaration must make the witness available for cross-examination at the time of the hearing, if requested by the opposing party seven calendar days prior to trial. Failure to produce the witness upon timely notice will result in the exclusion of the witness' declaration. All evidentiary objections applicable to witness testimony are applicable to witness declarations.

B. Expert Witness Disclosure. In addition to the rules set forth in CCP §2034, if a party retains an expert after the Mandatory Settlement Conference, that party must provide the name, business address, and summary of qualifications of that expert to the other party no later than thirty Court days before trial. The written report of a testifying expert must be delivered to the other party no later than twenty Court days

before trial. A party seeking to rely upon expert testimony at trial must make that expert available for deposition by the other party at a mutually acceptable time at least ten Court days prior to trial. Failure to comply with these provisions may result in an order precluding the expert witness' testimony at trial.

C. Continuances. Any party seeking a continuance of a trial must first seek the agreement of the other parties. If all parties agree to the continuance, the party seeking the continuance must contact the Courtroom clerk to receive a new trial date. It is the responsibility of that party to provide written notice to all parties of the new hearing date within three calendar days of obtaining that date. The party seeking the continuance must also confirm the new hearing date by letter addressed to the Courtroom clerk with copies to all parties mailed within three calendar days of obtaining the new date. Continuances may require payment of a Court fee by the party seeking the continuance. Any and all trial setting orders previously made by the Court remain unchanged.

11.15 Default and Uncontested Calendar.

A. Procedures Applicable to Default and Uncontested Judgments.
Except where a judgment was entered in open court or submitted by the Department of Child Support Services, all requests for JUDGMENT OF DISSOLUTION, JUDGMENT OF LEGAL SEPARATION, JUDGMENT OF NULLITY, JUDGMENT RE: ESTABLISHMENT OF PARENTAL RELATIONSHIP (UNIFORM PARENTAGE) AND JUDGMENTS ON A PETITION FOR CUSTODY AND SUPPORT OF MINOR CHILDREN must be submitted by declaration pursuant to Family Code §2336. A Court commissioner may act upon all requests without a Court hearing.

1. **Possible Actions.** The Court commissioner will do one of the following:
   - **a.** Sign the proposed judgment;
   - **b.** Request further documentation or proof and suspend the file pending the party's submission of the requested documentation or proof;
     (1) If the moving party does not respond to the Court's request within thirty calendar days, the matter will be taken off calendar and a new DECLARATION FOR DEFAULT or DECLARATION FOR UNCONTESTED JUDGMENT must be filed in order to obtain Court action on the request.
   - **c.** Require a hearing and notify the moving party by letter of the process for obtaining a hearing date;
     (1) If the moving party does not seek to set a hearing date within thirty calendar days or fails to appear at the hearing, the matter will be taken off calendar and a new DECLARATION FOR DEFAULT or DECLARATION FOR UNCONTESTED JUDGMENT must be filed in order to obtain Court action on the request.
2. **Optional Forms.** In addition to the required Judicial Council forms, the FAMILY LAW JUDGMENT CHECKLIST, SFUFC FORM 11.15, may be completed and submitted with requests for JUDGMENT OF DISSOLUTION, JUDGMENT OF LEGAL SEPARATION, JUDGMENT OF NULLITY.
3. **Termination of Marital Status.** The earliest date on which marital status can be terminated is six months and one day from the date the Court acquired jurisdiction over the respondent, or when that date falls on a weekend or Court holiday, the

next Court day. When the Court signs the judgment after this date has passed, marital status is terminated as of the date the judgment is signed.

B. Default Judgments.

1. **Entry of Default.** For entry of respondent's default, petitioner must file a REQUEST TO ENTER DEFAULT and A PROOF OF SERVICE OF SUMMONS (if not previously filed). The REQUEST TO ENTER DEFAULT and PROOF OF SERVICE OF SUMMONS must be submitted separately from other documents if the petitioner seeks to have default entered within two Court days of submitting the request. Submitting the REQUEST TO ENTER DEFAULT with other papers may cause delay in entry of default. The Court will only enter default if:
   a. the Court file contains a proper PROOF OF SERVICE OF SUMMONS;
   b. thirty calendar days have passed since respondent was served; and,
   c. no response has been filed. The Court may require a hearing to determine if service was proper.
2. **Proof of Service of Summons**. A PROOF OF SERVICE OF SUMMONS is required for all forms of service, including NOTICE AND ACKNOWLEDGMENT OF RECEIPT.
3. **Service in a Foreign County.** Unless prohibited by the law of the foreign country, if there has been personal service on respondent in a foreign country, the person who served respondent must submit an AFFIDAVIT in addition to the PROOF OF SERVICE OF SUMMONS which includes the following:
   a. a physical description of respondent;
   b. a statement as to how respondent was identified;
   c. the place where service was completed;
   d. the address of the person who served respondent; and
   e. a statement as to why the person who served respondent was in the same country as respondent at the time of service.
4. **Service by Publication.** An APPLICATION FOR ORDER FOR SERVICE BY PUBLICATION must be filed at the Office of the Court Clerk. The APPLICATION FOR ORDER FOR SERVICE BY PUBLICATION must include:
   a. a DECLARATION IN SUPPORT OF ORDER FOR SERVICE BY PUBLICATION detailing all efforts made to locate and serve respondent; and,
   b. a proposed ORDER FOR SERVICE BY PUBLICATION.

   The Court will not grant the APPLICATION FOR ORDER FOR SERVICE BY PUBLICATION unless it appears from the supporting DECLARATION that petitioner has exercised reasonable diligence in attempting to locate respondent. If the Court signs an ORDER FOR SERVICE BY PUBLICATION, petitioner must have the SUMMONS published in a named newspaper of general circulation that is most likely to give actual notice to the respondent. The SUMMONS must be published once each week for four consecutive weeks. Petitioner must then file a PROOF OF PUBLICATION, a completed PROOF OF SERVICE OF SUMMONS, and a REQUEST TO ENTER DEFAULT.
5. **Service by Posting.** An indigent petitioner may file an APPLICATION FOR ORDER FOR SERVICE BY POSTING at the Office of the Court Clerk. The APPLICATION FOR ORDER FOR SERVICE BY POSTING must include:
   a. a copy of the ORDER GRANTING FEE WAIVER or a declaration explaining why petitioner cannot afford to publish;

b. DECLARATION IN SUPPORT OF ORDER FOR SERVICE BY POSTING detailing all efforts made to locate and serve respondent; and,

c. a proposed ORDER FOR SERVICE BY POSTING.

The Court will not grant the APPLICATION FOR ORDER FOR SERVICE BY POSTING unless it appears from the supporting DECLARATION that petitioner has exercised reasonable diligence in attempting to locate respondent. The Court may sign the ORDER FOR SERVICE BY POSTING or require a hearing to determine petitioner's ability to pay. If the Court signs an ORDER FOR SERVICE BY POSTING, petitioner must post the SUMMONS in the Office of the Court Clerk in Room 103 at the Civic Center Courthouse. The Summons must be posted for four consecutive weeks and mailed to respondent's last known address. Petitioner must then file a DECLARATION OF COMPLETION OF NOTICE BY POSTING, a completed PROOF OF SERVICE OF SUMMONS, and a REQUEST TO ENTER DEFAULT.

C. Judgments Pursuant to Default.

1. Default Judgments with SETTLEMENT AGREEMENT. When a written SETTLEMENT AGREEMENT is incorporated into a default judgment, the following is required:

a. **Property Disclosures.** In cases involving a JUDGMENT OF DISSOLUTION, JUDGMENT OF LEGAL SEPARATION or JUDGMENT OF NULLITY, both parties must comply with the disclosure laws set forth in Family Code §2100 et seq. A waiver pursuant to Family Code §2105(d) must be contained in a separately filed document signed under penalty of perjury or may be set forth in a separate paragraph which must be signed under penalty of perjury within the SETTLEMENT AGREEMENT.

b. **Notarization of Respondent's Signature.** Respondent's signature on the SETTLEMENT AGREEMENT must be notarized, even if an attorney represents respondent.

c. **Judgments of Nullity.** The Court may approve a written agreement for a JUDGMENT OF NULLITY without a Court hearing if the SETTLEMENT AGREEMENT contains facts supporting the basis of the JUDGMENT OF NULLITY.

d. **Child Support.** If the parties' written SETTLEMENT AGREEMENT contains provisions regarding child support, a NOTICE OF RIGHTS AND RESPONSIBILITIES and INFORMATION SHEET ON CHANGING A CHILD SUPPORT ORDER must be attached to the proposed judgment. A CHILD SUPPORT CASE REGISTRY FORM (FL-191) must be submitted to the Court at the same time as the proposed judgment. All stipulations for child support, including stipulations to reserve jurisdiction over child support, must contain a statement of the guideline child support amount and the income and timeshare percentage used to calculate the guideline support. Any stipulations for child support that are below the guideline amount must contain the acknowledgment required pursuant to Family Code §4065(a).

2. Default Judgments without SETTLEMENT AGREEMENT. If no written SETTLEMENT AGREEMENT is incorporated into a default judgment, the following requirements must be satisfied.

a. **Scope of Relief.** A petitioner may not request orders in the judgment beyond

the relief requested in the PETITION.

b. **Custody and Visitation of Minor Children.** Where the parties have minor children in common, petitioner must submit a separate declaration stating: (1) the date the parties separated; (2) where the children have been living and how often the children have been visiting with the non-custodial parent since separation; and (3) a statement of reasons if the custodial parent seeks to deny visitation to the non-custodial parent.

c. **Child Support for Minor Children.** If the judgment contains provisions for child support, including a request to reserve the issue of child support, petitioner must submit:
   (1) a current INCOME AND EXPENSE DECLARATION including petitioner's best estimate of respondent's income;
   (2) a NOTICE OF RIGHTS AND RESPONSIBILITIES and INFORMATION SHEET ON CHANGING A CHILD SUPPORT ORDER attached to the proposed judgment; and
   (3) a completed CHILD SUPPORT CASE REGISTRY FORM (FL-191).

   All stipulations for child support, including stipulations to reserve jurisdiction over child support, must contain a statement of the guideline child support amount and the income and timeshare percentage used to calculate the guideline support. Any stipulations for child support that are below the guideline amount must contain the acknowledgment required pursuant to Family Code §4065(a). A request that the Court reserve jurisdiction to award child support must state in the judgment, "The Court reserves jurisdiction to award child support without prejudice to any action brought by the Department of Child Support Services." However, the party requesting that the Court reserve jurisdiction must provide either an active Department of Child Support case number or file an updated INCOME AND EXPENSE DECLARATION and a DECLARATION IN SUPPORT OF REQUEST TO RESERVE JURISDICTION OVER CHILD SUPPORT showing that the child's financial needs will be met under the circumstances without a child support order.

d. **Spousal Support.** If seeking a default JUDGMENT OF DISSOLUTION or JUDGMENT OF LEGAL SEPARATION, petitioner must address the issue of spousal support for both parties in the proposed judgment. Petitioner may request that the Court award spousal support to either party, terminate the Court's jurisdiction to award spousal support to either or both parties, or reserve the Court's jurisdiction to award spousal support to either or both parties. A marriage of ten years or longer is presumptively a long-term marriage. In such cases petitioner must file an updated INCOME AND EXPENSE DECLARATION including petitioner's best estimate of respondent's income. In such cases petitioner may not waive the right to receive spousal support or terminate respondent's right to receive spousal support without a showing that both parties are self-supporting. In a marriage of any duration, if petitioner seeks an award of spousal support, in addition to the proposed judgment, petitioner must file an updated INCOME AND EXPENSE DECLARATION and a DECLARATION PURSUANT TO FAMILY CODE SECTION 4320. All orders for spousal support must state the amount of support, the dates payable, and a

provision that spousal support will terminate upon the death of either party or the remarriage of the supported spouse.

e. **Division of Assets and Debts.** When a JUDGMENT OF DISSOLUTION, JUDGMENT OF LEGAL SEPARATION, OR JUDGMENT OF NULLITY is requested, all assets and debts to be divided in the judgment must be listed in the PETITION or in a PROPERTY DECLARATION that is served on respondent. If there are assets or debts to be divided by the Court, petitioner must submit a completed PROPERTY DECLARATION setting forth the proposed division.

f. **Attorney's Fees.** If petitioner requests an order for attorney's fees, petitioner must submit an updated INCOME AND EXPENSE DECLARATION including petitioner's best estimate of respondent's income. Any request for an award of attorney's fees in excess of $2,000 must be accompanied by a factual declaration completed by the attorney. The declaration must state the attorney's hourly rate, the amount of fees already paid, the source of payment for fees already paid, the amount of fees due and payable, and identification of a source for payment of the fees.

g. **Judgments of Nullity**. When seeking a default JUDGMENT OF NULLITY, petitioner must file a DECLARATION OF FACTS IN SUPPORT OF REQUEST FOR JUDGMENT OF NULLITY. The declaration must set forth facts sufficient to support a judgment of nullity pursuant to Family Code §§2200 and 2210 et seq. The Court may request additional information from petitioner or require that petitioner set the matter for hearing. Alternatively, the Court may issue a tentative decision denying the request for JUDGMENT OF NULLITY. When the Court issues a tentative decision, petitioner may set the matter for hearing and provide additional evidence, or petitioner may amend the petition to request dissolution of marriage. The tentative decision will become the final judgment if petitioner fails to set the matter for hearing within thirty calendar days of the notice, fails to attend the hearing, or fails to provide sufficient evidence. In cases where petitioner amends the petition to request dissolution of marriage, all of the procedures applicable to obtaining a JUDGMENT OF DISSOLUTION apply.

D. Uncontested Judgments. These procedures apply in cases where a RESPONSE has been filed or respondent has entered a general appearance.

1. Appearance, Stipulation and Waivers. The parties must submit a completed APPEARANCE, STIPULATION, AND WAIVERS form in order to obtain a stipulated judgment or judgment that incorporates a SETTLEMENT AGREEMENT.

2. Property Disclosures. When a JUDGMENT OF DISSOLUTION, JUDGMENT OF LEGAL SEPARATION, or JUDGMENT OF NULLITY is requested and a written SETTLEMENT AGREEMENT is submitted for incorporation into a judgment, both parties must comply with the disclosure laws set forth in Family Code §2100 et seq. A waiver pursuant to Family Code §2105(d) must be contained in a separately filed document signed under penalty of perjury or may be set forth in a separate paragraph which must be signed under penalty of perjury within the SETTLEMENT AGREEMENT.

3. Judgments of Nullity. The Court may sign a stipulated JUDGMENT OF NULLITY without a hearing, if the stipulation or an accompanying factual declaration contains facts supporting the grounds for a JUDGMENT OF NULLITY.

4. **Child Support.** If the parties' SETTLEMENT AGREEMENT contains provisions regarding child support, a NOTICE OF RIGHTS AND RESPONSIBILITIES and INFORMATION SHEET ON CHANGING A CHILD SUPPORT ORDER must be attached to the proposed judgment. A CHILD SUPPORT CASE REGISTRY FORM (FL-191) must be submitted to the Court at the same time as the proposed judgment. All stipulations for child support, including stipulations to reserve jurisdiction over child support, must contain a statement of the guideline child support amount and the income and timeshare percentage used to calculate the guideline support. Any stipulations for child support that are below the guideline amount must contain the acknowledgment required pursuant to Family Code §4065(a).
5. **Judgments re: Establishment of Parental Relationship (Uniform Parentage).** When a written agreement for JUDGMENT RE: ESTABLISHMENT OF PARENTAL RELATIONSHIP (UNIFORM PARENTAGE) is submitted, the parties must also submit a STIPULATION FOR ENTRY OF JUDGMENT RE: ESTABLISHMENT OF PARENTAL RELATIONSHIP (UNIFORM PARENTAGE) (FL-240).

E. Status Only or Bifurcated Judgment. The Court may enter a judgment that only dissolves marital status.

1. **Default Cases.** A 'status only' or 'bifurcated judgment' may be granted after the Court has entered respondent's default. Before a 'status only' judgment will be granted, the petitioner must either submit a declaration stating that there are no retirement plans or join all retirement plans and include an order in the proposed Judgment that complies with Family Code §2337(d)(2). (See SFUFC Form 11.15E.) The moving party must also file a DECLARATION REGARDING SERVICE OF THE PRELIMINARY DECLARATION OF DISCLOSURE. All other required forms as indicated on the FAMILY LAW JUDGMENT CHECKLIST must also be submitted.
2. **Uncontested Cases.** A 'status only' or 'bifurcated judgment' may be granted pursuant to stipulation upon submission of a STIPULATION AND ORDER REQUESTING A BIFURCATION OF MARITAL STATUS. Before a bifurcation of marital status is granted, the stipulation must state that there are no retirement plans or the retirement plans must be joined and the STIPULATION AND ORDER REQUESTING A BIFURCATION OF MARITAL STATUS must include an order that complies with Family Code §2337(d)(2). (See SFUFC Form 11.15E.) The moving party must also file a DECLARATION REGARDING SERVICE OF THE PRELIMINARY DECLARATION OF DISCLOSURE, unless service is deferred by the parties in writing pursuant to Family Code §2337(b). All other required forms as indicated on the FAMILY LAW JUDGMENT CHECKLIST must be submitted.

11.16 FCS. FCS is a division of the Unified Family Court ("UFC"). It provides services to both the Family Law and Juvenile Dependency divisions of the UFC. FCS provides confidential mediation services for families involved with the juvenile dependency division. See SFLR 12.47. FCS provides both confidential and non-confidential mediation and support services to families who bring contested child custody or visitation issues before the Family Law division.

A. Confidential Mediation Services. Mediation sessions are confidential unless specifically indicated otherwise. See SFLR 11.7(C)(2) for limitations of confidentiality

and other general information on confidential mediation services.

B. Non-Confidential Mediation Services. FCS may provide non-confidential mediation services upon Court order. These services may include, but are not limited to: fact-finding; interviews of collateral sources; document requests and reviews; service coordination; and, service referral. All non-confidential services offered through FCS staff will be provided by a mediator other than the mediator who provided confidential mediation unless the parties specifically waive confidentiality.

1. **Reports to the Court.** Unless otherwise ordered by the Court, all information provided by the non-confidential mediator to the Court must be in writing with copies provided to the parties and/or their attorneys of record prior to the hearing. All information provided by the non-confidential mediator will be considered by the Court pursuant to Family Code §3111(a.)
2. **Testimony of Non-Confidential Mediator.** The non-confidential mediator will be subject to cross examination only at trial. Written notice of intent to cross-examine a mediator must be given to the mediator ten calendar days prior to trial.
3. **No Peremptory Challenge of Non-Confidential Mediator.** No peremptory challenge of a non-confidential mediator will be allowed.

C. Voluntary Mediation. Parties may return to mediation without first filing a motion or an Order to Show Cause if: 1) the parties have an open Family Law case in San Francisco County; and 2) both parties are willing to participate.

1. Each party must call their previously assigned mediator, or the supervising mediator, if the prior mediator is unavailable, to schedule a date and time for the voluntary mediation.
2. The parties do not have to attend orientation prior to voluntary mediation.
3. The Court, in its discretion, may waive confidential mediation if an Order to Show Cause or a Notice of Motion is filed following a voluntary mediation.

D. Complaints and Request for New Confidential Mediator. Complaints about a confidential mediator, whether or not they include a request for a new mediator, must be made in writing to the Supervising Mediator. If the complainant's issue is not resolved through discussion with the Supervising Mediator, the Supervising Mediator may encourage the complainant to discuss the issue with the mediator in question, in the Supervising Mediator's discretion. The Supervising Mediator will make the final determination of whether or not to assign a new mediator to the case or to take other action. FCS will send a notice to both parties if a mediator assignment is changed based on a party's complaint.

E. *Ex-Parte* Communication. Mediators may not have *ex parte* communication with any attorney except as authorized by Family Code §216. There is an implied waiver of the prohibition against *ex parte* communication by any attorney who chooses not to attend court- provided mediation.

F. Child Custody Evaluations. Custody evaluations are obtained by Court order or by stipulation of the parties.

1. **Format for Order Appointing a Custody Evaluator.** SFUFC Form 11.16F must be used for all custody evaluation orders in conjunction with Judicial Council form FL-327 (ORDER APPOINTING CHILD CUSTODY EVALUATOR).
2. **Attorney Preparation of a Custody Evaluation Order.** Any attorney preparing an order or stipulation for a custody evaluation must:

a. Use the appropriate forms, per #1 above and obtain the evaluator's signature on the prepared order whenever possible (a FAX'd signature is acceptable);
b. Have the order signed by the Court and filed no later than fifteen (15) calendar days from the date of the Order;
c. Serve file-endorsed copies on all parties, and submit a courtesy copy to the supervising mediator of FCS, and the appointed custody evaluator within five (5) Court days of its filing.

3. **Role of FCS in Custody Evaluator Selection.** If the parties are unable to agree on an evaluator, Family Court Services will provide the names of three (3) appropriate and available evaluators to each party whenever possible. Each party may strike one of the evaluators from the list within ten (10) Court days of the date FCS mailed the three names to the parties. If more than one evaluator's name remains after the parties' time to strike has elapsed, the coordinating mediator will choose the evaluator to conduct the evaluation. In those cases where FCS is involved in the evaluator selection, the coordinating mediator will notify the evaluator, the parties and/or their counsel once the custody evaluator has been selected.
4. **Assignment of Coordinating Mediator from FCS.** The supervising mediator will assign a non-confidential mediator to coordinate custody evaluations. Any mediator, other than the confidential mediator, may be assigned. No peremptory challenge to the appointment of a coordinating mediator will be allowed.
5. **List of Local Custody Evaluators**. FCS maintains a list of custody evaluators who represent that they meet the training and education requirements set forth in California Rules of Court 5.225.
6. **Status Review**. The Court expects custody evaluations to be completed within six (6) months from the date an evaluator is selected. The Court or coordinating mediator may set periodic Status Review dates to ensure that the custody evaluation process is moving forward appropriately. The coordinating mediator does not attend the Status Reviews unless specifically requested by the Court.
   a. At a Status Review, the Court can issue further orders, including sanctions, against any party who has failed to cooperate with the evaluator.
   b. If the Status Review is not set at the time of the Order Appointing Custody Evaluator then the parties and evaluator will be notified of the date either orally or in writing.
   c. The coordinating mediator will write a short Status Review report to be submitted to the Court, the evaluator and the parties, through counsel, prior to the Status Review date. The Status Review report will include information gathered from the custody evaluator about the obstacles preventing the evaluator from proceeding with the evaluation.
   d. The custody evaluator's presence at the Status Review date regarding the non-cooperation of parties is waived, although the Court may require the evaluator to be available by phone.
   e. If all parties agree that the evaluation process is proceeding appropriately, the coordinating mediator may vacate any pending Status Review date by orally notifying all attorneys and self-represented parties.
7. **Information From Children.** The Court relies on the judgment of appointed experts, including custody evaluators, in making decisions about when, how often, and under what circumstances children are interviewed. The expert must be able to

justify the strategy used in any particular case. Prior to any interview, the expert will inform the child that the information provided by the child will not be confidential.

8. **Confidentiality of custody evaluations.** Custody evaluators must lodge the original custody evaluation, including Form FL-328, with the Court by sending it to the coordinating mediator.
   - **a.** The original custody evaluation will be kept in a confidential file to be maintained by FCS.
   - **b.** Upon receipt of the evaluation, the coordinating mediator will send copies of the report to attorneys and will schedule a time for self represented parties to review the evaluation report at the court.
     (1) Self represented parties will be given a copy of the Summary and Recommendations page of the evaluation when they come in to read the full custody evaluation.
     (2) The coordinating mediator will send out a copy of the entire custody evaluation to any self represented party, upon request, within ten (10) court days of any hearing or trial related to a custody and/or visitation issue.
9. **Limitations on Dissemination of Custody Evaluations and Sanctions.** A custody evaluation is confidential. No person who has access to, or receives a copy of, the evaluation or any part of it, may distribute it without prior Court order. Nothing in the evaluation can be disclosed to any other person without prior Court approval. Use of the evaluation is limited to the pending litigation. The evaluation must not be filed with the Court as an independent document or as an attachment to any other document filed with the Court.

   In no event may any of the information contained in the custody evaluation, or access to the evaluation, be given to any child who is the subject of the evaluation.

   Substantial sanctions may be imposed by the Court for inappropriate use of the evaluation report or any information contained in it.
10. **Duty to Meet and Confer after receipt of Custody Evaluation.** The attorneys and parties must meet and confer within ten (10) court days of having received, or had the opportunity to read, the evaluation.
11. **Other Post Custody Evaluation Procedures**. If, after having met and conferred, the parties are unable to resolve all of the outstanding issues, the coordinating mediator will, in conjunction with the evaluator and the Court, schedule either a non-confidential mediation, settlement conference, status conference, and/or trial. Unless otherwise ordered by the Court, the parties will attend each of those post evaluation procedures scheduled by the Court or the coordinating mediator. The attorneys, parties, coordinating mediator, custody evaluator, and an attorney and/or psychologist who have not been involved in the case may each be included in these procedures, as the Court and/or the coordinating mediator may decide.

    The parties, or their attorneys, must notify the coordinating mediator if the issues of the case have been resolved prior to any scheduled post-evaluation procedure and provide a date by which their stipulation will be submitted to the court.

Fees for the custody evaluator's participation in any post evaluation processes must be paid by the parties prior to the evaluator's scheduled appearance as set forth in the Custody Order and/or the Evaluator's fee agreement.

12. **Challenge of an appointed custody evaluator**. No peremptory challenge of a custody evaluator will be allowed. Parties may strike the use of a specific evaluator during the selection process. Parties may object to the conclusions of the custody evaluation when it is submitted to the Court, and may bring other appropriate expert testimony to object to the custody evaluator's conclusions.
13. **Complaints about a Custody Evaluator**.
    a. For purposes of this process, "action" means the family law proceeding wherein the custody evaluator was appointed by the Court.
    b. A party to the action, including a guardian ad litem, and any counsel appointed to represent a minor may file a complaint about the performance of a custody evaluator.
    c. A party who wishes to complain about the performance of a custody evaluator must submit a written complaint to the Supervising Mediator, and mail a copy to all counsel, self-represented parties, and the custody evaluator.
    d. The evaluator may submit a written response to the complaint. The response must be mailed to all counsel, any self-represented parties and the Supervising Mediator of FCS.
    e. If the Supervising Mediator cannot resolve the issue, the complaint and any written response will be given to the Supervising Judge of the UFC for possible action. The decision of the Supervising Judge of the UFC, which may include removal of the evaluator from the Court's list of child custody evaluators, will be final.
14. **Right of an evaluator to withdraw.** No evaluator may withdraw prior to the completion of a custody evaluation absent a Court order.
15. **Deposition of an evaluator.** Deposition of a custody evaluator appointed pursuant to Evidence Code §730 may be obtained only by Court order.
16. **Custody evaluation as evidence.** The Court will accept the custody evaluation, without foundation, as competent evidence as to the matters contained in it.

G. Special Masters. FCS maintains a list of special masters whose services are available to assist families in co-parenting and to assist them in the resolution of issues related to child custody and visitation.

1. This list is comprised of professionals who state that they are competent to provide this service. There is no other requirement for inclusion on this list. The Court does not purport to recommend the competence or qualifications of any particular person on its list.
2. Any agreement to utilize the services of a special master must be in writing and signed by all parties, their attorneys, the special master and the assigned judicial officer. The Stipulation and Order for the appointment of a special master may be made on SFUFC Form 11.16G.

11.17 Alternative Dispute Resolution for Family Law Matters.

A. Alternative Dispute Resolution Policy. The Superior Court of the County of San Francisco and its Family Law Department strongly encourage the resolution of family law matters through the use of alternative dispute resolution procedures. The Court

and the Department recognize that formal adversarial litigation in family law is expensive, time-consuming, and often emotionally destructive for parties and their children. The Court and the Department further recognize that alternative dispute resolution procedures can help parties avoid these undesirable aspects of family law litigation. Accordingly, in an effort to reduce hostility between the parties, facilitate early resolution of issues, minimize expense, and maximize the opportunity for parties to reach mutually satisfactory agreements, the Court and the Department institute this Rule 11.17 supporting and promoting alternative dispute resolution procedures in family law cases.

B. Definition of Alternative Dispute Resolution Procedures. For purposes of this Rule 11.17 the term "alternative dispute resolution procedures" is limited to the procedures known as mediation and collaborative practice (also called collaborative divorce). For resolution of family law matters the Court and the Department also encourage the use of arbitration, court-supervised settlement conferences, and judicial case management. These procedures are covered elsewhere in these Rules.

C. Notice to Parties of Nature and Availability of Alternative Dispute Resolution Procedures.

1. All parties to family law actions must receive formal notice from the Court describing the nature and availability of alternative dispute resolution procedures. Such notice is entitled NOTICE OF NATURE AND AVAILABILITY OF ALTERNATIVE DISPUTE RESOLUTION PROCEDURES IN FAMILY LAW, SFUFC Form 11.17. All parties must file and serve SFUFC Form 11.17 with any of the following pleadings:
   a. Petition or Response under the Family Law Act or Uniform Parentage Act and,
   b. unless SFUFC Form 11.17 has been filed in the same proceeding within the last 180 days,
      i. Order to Show Cause or Response to Order to Show Cause,
      ii. Notice of Motion or Response to Notice of Motion, and
      iii. other family law pleading or response to such pleading which will result in a court hearing or trial.
2. A Proof of Service showing service of SFUFC Form 11.17 must be filed whenever such service is required by this Rule 11.17. Failure to file and serve SFUFC Form 11.17 with any pleading referred to in this Section C (1) will cause the Clerk of the Court to refuse to file such pleading.
3. This Rule 11.17 does not apply in the following proceedings:
   a. Domestic violence cases filed under Family Code Section 6200 et. seq.;
   b. actions wherein the Department of Child Support Services is involved; and
   c. matters pending before a private judge. SFUFC Form 11.17 may not be served on an employee pension benefit plan.

D. Assignment of Cases. All collaborative cases in San Francisco Unified Family Court will be assigned to the Supervising Judge, Department 405.

E. Requirements for Designation as Collaborative Case. No case will be entitled to a designation as a "collaborative practice" case for special assignment unless all of the following requirements are met:

1. The parties have signed either a written Collaborative Agreement or Collaborative Stipulation that provides for a full and candid exchange of information, the

withdrawal of counsel if the use of the collaborative practice procedures is terminated, and the joint retention of any experts needed to assist the parties in reaching a collaborative settlement;

2. All documents filed in the case are submitted by the parties in propria persona by either using their own addresses or in care of their attorneys; and
3. The term "Collaborative Case" is included in the caption of any document filed with the court.

F. Removal of Collaborative Case Designation. The collaborative case designation will be removed by the court upon stipulation of the parties or any motion that requires judicial resolution or upon the filing of an At-Issue Memorandum to set the case for trial. In the event collaborative procedures are terminated, the case will be reassigned pursuant to Rule 11.3.

G. Applicability of Family Code and California Rules of Court. Except as otherwise modified by this Rule, procedures for Collaborative Cases are governed by the Family Code and California Rules of Court.

Rule 11 amended effective July 1, 2010; adopted July 1, 1998; amended effective July 1, 1999; amended effective January 1, 2001; amended effective January 1, 2003; amended effective January 1, 2004; amended effective January 1, 2005; amended effective July 1, 2006; amended effective January 1, 2007; amended effective July 1, 2007; amended effective January 1, 2008; amended effective July 1, 2008; amended effective January 1, 2009; amended effective July 1, 2009; amended effective January 1, 2010 .

Rule 12 - Dependency

12.0 Authority. These local rules are intended to supplement state statutes which are found principally in the Welfare and Institutions Code (W&I) and to supplement the California Rules of Court (CRC) relating to Unified Family Court matters (see CRC §§5.501-5.562). For the authority for the creation of these rules see Government Code §68070; W&I Code §317.6(b); 350 and CRC §5.534, California Rules of Court. These rules adopt the rules of construction and the severability of clauses in CRC 5.501.

To the extent that any of these rules conflict
with either statutory requirements or the California Rules of Court,
the local rule is of no legal effect.

These rules constitute the working procedures of dependency proceedings in the San Francisco County Unified Family Court and are made Orders of the Court. Failure to abide by these rules may subject both child welfare workers and counsel to fines and sanctions.

12.1 Abbreviations. The following abbreviations are used throughout these rules:

BASF	=	Bar Association of San Francisco
CASA	=	Court Appointed Special Advocate
CRC	=	California Rules of Court
DSR	=	Dependency Status Review
HSA	=	San Francisco Human Services Agency
IEP	=	Individualized Education Program
Post PPH	=	Post Permanency Planning Hearing
SFUFC	=	SF Unified Family Court
UFC	=	Unified Family Court
W&I	=	Welfare & Institutions Code

12.2 Standing Orders. The Supervising Judge of the UFC may, from time to time, issue, modify or delete Standing Orders regarding matters relevant to dependency proceedings. When new Standing Orders are issued, they are distributed to City Attorneys and panel attorneys by BASF. All Standing Orders of the San Francisco Unified Family Court, as well as all SFUFC Forms, are available on the Court's website at www.sfsuperiorcourt.org, in Room 402 of the Civic Center Courthouse and in Room 101 of the Youth Guidance Center.

12.3 Judicial Departments and Assignment of Cases. The main departments used for dependency cases (W & I §300 et seq.) are Departments 405, 406, 414 and 425. The Court begins promptly at 9:00 a.m. and ends at 4:30 p.m. All cases (throughout all stages of the proceedings, from detention through adjudication, disposition, dependency status review, post permanency, and implementation hearing) will be heard in either Dept. 406, 414 or 425, unless otherwise ordered or approved by order of the Supervising Judge of the UFC.

Cases will be assigned to each department alphabetically, based upon the mother's surname. Cases in which the mother's surname begins with the letters A-K will be assigned to Dept. 406.

Cases in which the mother's surname begins with the letters L-Z will be assigned to Dept. 425. This system is designed to allow vertical tracking of each case through each department.

12.4 Procedure for Incorporating Petitions by Reference. When the Court orders several petitions incorporated by reference under a single petition number, the Court will select the most recent petition number as the designated number for all future documents. Any paper subsequently filed or received by the Clerk of the Court must refer to the new number.

12.5 Court Policy Regarding Attorneys and Child Welfare Workers. It is the policy of the UFC to resolve dependency matters in the least adversarial manner that is possible. Attorneys are expected to provide effective and professional assistance of counsel while at the same time avoiding an escalation of any animosities that might exist. Counsel and child welfare workers must treat each other, parents, witnesses, children, and Court staff with dignity and respect.

12.6 Procedures for the Qualification and Training of Applicant Attorneys to the Dependency Panel. Any attorney, including those who transfer in from other counties, wishing to serve on the Dependency Panel must submit an application to the Lawyer Referral Service of the BASF. Procedures for admission to the Panel are available through BASF. Final admission to the Panel rests in the discretion of the Superior Court.

12.7 Admission to the Dependency Panel. Upon admission to the Panel, all new members are subject to a six-month probationary period.

12.8 Continuing Education. All attorneys serving on the Dependency Panel must complete a minimum of ten (10) hours of continuing education each year in areas relevant to dependency practice. These ten (10) hours may include participating in the training program for new applicants. Areas that qualify as "relevant to dependency practice" include, but are not limited to, the following:

- **A.** use of psychological experts, including direct and cross-examination;
- **B.** trial skills;
- **C.** rules of evidence;
- **D.** training programs that include information on child development, substance abuse, mental health issues, incarcerated parents, etc.;
- **E.** the child witness;
- **F.** training specifically related to dependency practice such as reasonable efforts, .26 hearings, etc.;
- **G.** programs that provide information on community resources;
- **H.** domestic violence training;
- **I.** custody, visitation, and child support issues; and
- **J.** Indian Child Welfare Act issues.

12.9 Standards of Representation and Practice. All attorneys receiving appointments by the Superior Court to represent parents, children, de facto parents, or guardians are governed by the Practice Guidelines for Attorneys Practicing in the Dependency Court, Standing Order #225.

12.10 Standards of Representation and Practice. All attorneys receiving appointments by the Superior Court to represent parents, children, de facto parents or guardians shall be governed

by the Practice Guidelines for Attorneys Practicing in the Dependency Court issued November 1992. All attorneys must abide by said Practice Guidelines.

12.11 Sanctions for Failure to Abide by Local Rules and Practice Guidelines. Failure to abide by the Local Rules for Dependency Departments and /or the Practice Guidelines for Attorneys Practicing in the Dependency Court can result in probation, suspension, or removal from the BASF Dependency Conflicts Panel and / or other sanctions or appropriate action by the supervising judge of the Unified Family Court.

12.12 Appointment of Counsel to Case. If a parent/guardian is financially eligible, counsel will be appointed to represent such person. No appointment of counsel will be made where parent/guardian does not appear, unless the parent is incarcerated or hospitalized or the Court, in its discretion, deems it appropriate to appoint counsel. Counsel will be appointed to represent the child pursuant to W&I §317.

12.13 Attorney Billings. All billings must conform to the procedures set forth by the Executive Offices of the Superior Court and rules established by BASF.

- **A.** Billings are subject to adjustment by the Court when the billing is perceived to be excessive. In addition, the Court may, from time to time, require a more detailed explanation for a bill and/or require further documentation.
- **B.** Attorneys appointed to represent any party are appointed in dependency proceedings only. Attorneys must not bill the Court in ancillary proceedings such as immigration proceedings or proceedings regarding IEP issues unless they have received a written order from the bench officer to whom the case was assigned. A copy of said order must be submitted with the attorney's bill.
- **C.** Counsel must not bill on a case when they have not been appointed on that case, even if the attorney has represented the parent in another case.

12.14 Dependency Panel Attorneys Serve at the Pleasure of the Court. Panel attorneys receive appointments and serve on the Panel at the pleasure of the San Francisco Superior Court. Attorneys who fail to provide effective assistance of counsel are subject to probation, suspension, or termination from the Dependency Panel.

12.15 Dependency Panel Attorneys Subject to Peer Review Program and Grievance Procedure of BASF. Dependency Panel attorneys are subject to any peer review program instituted by the BASF. Recommendations of the Peer Review Committee will be given great weight by the Supervising Judge of the UFC.

The Supervising Judge of the UFC adopts the BASF's grievance procedure, which is available to any attorney who believes he or she has been unjustly suspended or terminated from Panel membership.

12.16 Procedures for Reviewing and Resolving Complaints by Parties Against Attorneys. Complaints by a client regarding representation by his/her attorney, in those cases in which the client does *not* file a *Marsden* motion pursuant to *People v. Marsden* (1970) 2 Cal.3d 118, will be addressed as follows:

- **A.** The client may submit the complaint in writing to the Supervising Judge of the UFC.

B. Within ten (10) days of the receipt of the complaint the judge will notify the attorney in writing, enclosing a copy of the complaint. The judge will also inform the client in writing that the complaint has been received and that the attorney will be contacting the client to discuss resolution of the complaint.

C. Within ten (10) days of notification by the judge the attorney must contact the client and attempt to resolve the matter informally.

Within twenty (20) days of the date of notification by the judge the attorney must notify the judge in writing whether or not the matter has been resolved.

D. If the matter is not resolved the judge may proceed as follows:

1. request the attorney to move to withdraw from the case, and/or
2. request the attorney to submit a written response to the client's complaint within five (5) days and thereafter determine:
   a. whether the attorney acted contrary to the local rules or practice guidelines. If the judge so determines, the judge may reprove the attorney either privately or on the record, and/or take any other action that the judge deems appropriate, and /or
   b. whether that attorney acted incompetently. If the judge so determines, the judge may reprove the attorney either privately or on the record, and/or take any other action that the judge deems appropriate.

12.17 Clients to be Informed of Attorney Complaint Procedure. All clients will be given a copy of the attorney complaint procedure at their first court appearance.

12.18 Procedures for Withdrawal of Attorney from Dependency Panel. If an attorney finds it necessary, for any reason, to withdraw from the Dependency Panel, the attorney must:

A. Notify the Supervising Judge, at the first possible opportunity, of the necessity to withdraw from his/her cases.

B. Prepare a listing of all cases, active and inactive, that includes the following information for each case:

1. the name of the case;
2. the number of the case;
3. the name and relationship to the child of the party represented;
4. the names of all other attorneys of record on the case; and
5. the next date that case is scheduled for Court and the purpose of the hearing. The withdrawing attorney must request immediate reassignment of all active cases and with regard to inactive cases must notify the client of their withdrawal, advising clients who want assignment of a new attorney to call the HSA Court Office.

C. The list of cases must be sent to BASF with a letter requesting that the cases be reassigned. A copy of the list should be sent to the Supervising Judge and the HSA Court Office.

D. Once the list of cases has been submitted to BASF, the attorney must provide all case files, clearly marked and neatly boxed, to the Courtroom of the Supervising Judge. New attorneys will then be able to pick up the case files at the courtroom.

12.19 Time Lines. Attorneys for parties are required to adhere to the statutory time lines for all hearings. Time waivers will be accepted and continuances granted upon a showing of good cause in accordance with W&I §352.

12.20 Continuances. Any request for a continuance of any matter will be granted only for good cause. An attorney who is requesting a continuance should check with the clerk and other counsel to select a potential new date prior to making the request to the Court. Absent an emergency, a continuance must be requested in writing at least two (2) Court days prior to any contested hearing in accordance with W&I code §352.

12.21 Discovery In Dependency Cases. The City Attorney/HSA must provide the following enumerated items for inspection, copying and use, to Counsel of Record for the minor/parent/guardian within 14 days of receipt of a Discovery Request form without a Court order, with the exception of Detention Discovery, which must be provided at the Detention hearing or first appearance of a parent):

A. Detention Discovery. Detention discovery includes:

1. Petition;
2. Fact Sheet and Declaration of Efforts; and
3. Documents relied upon in Fact Sheet to support request for detention such as prior voluntary agreements, CASARC reports, police reports and most recent Form 1510.

The City Attorney/HSA must provide detention discovery to all counsel upon entry into the case.

B. Initial Discovery [Post-Detention]. Initial discovery includes:

1. All petitions, motions, and other filed pleadings;
2. All fact sheets;
3. Court reports;
4. All medical/psychiatric/psychological reports, evaluations, and/or recommendations;
5. All school reports, recommendations, IEPs, and records;
6. Police reports;
7. CASARC reports; and
8. CPS referrals and/or records.

The City Attorney/HSA must provide initial discovery to all counsel upon request.

C. Supplemental Discovery. Supplemental Discovery includes:

1. Witness statements;
2. MDT Service Assessments;
3. PARC results/records;
4. Child welfare worker's dictation/notes;
5. CHS records/reports in the HSA’s possession; and
6. Any other documents in the HSA’s possession that were considered or relied upon by the HSA in the evaluation of the case whether favorable or unfavorable to the HSA’s position.

The City Attorney/HSA must provide supplemental discovery to all counsel upon request.

D. Requests for Discovery. Requests for discovery items must be made on SFUFC Form 12.21. When a request is filed, it must be served on all attorneys of record. If other

attorneys also seek copies of discovery, they must notify the City Attorney's Office within four (4) days of receipt of the Discovery Request.

E. Application Through Completion of Hearing. This SFLR 12.12 applies through the completion of the hearing, so that any items which are actually or constructively obtained by or become known to the City Attorney/HSA or any of his or her deputies, investigators, or employees, pursuant to this rule, must also be made available forthwith to Counsel for the minor, parent, or guardian.

F. De Facto Parents. Counsel for a De Facto Parent may only receive discovery upon the filing of a noticed motion that includes a concise statement of need and that specifies the documents sought.

G. When an attorney takes over a case from a prior attorney, the new attorney must secure the complete file of the previous attorney. A discovery request may only be made if discovery was not provided to the previous attorney.

12.22 Attorney Check-In Procedure. All attorneys must physically check in with the HSA Court Officer at the time their case is calendared. If an attorney needs to step out of the Courtroom, it is his/her responsibility to tell the HSA Court Officer where he/she will be located. It is not the responsibility of the Court to locate or call a missing attorney.

12.23 Visitation. Any child taken into temporary custody pursuant to W&I §§ 300, et seq., must have visitation with his/her parent(s) or guardian(s), as follows:

A. The first visit with his/her parent(s)/guardian(s) must occur within five (5) calendar days of the date the child was taken into temporary custody.

B. Between the time of detention and the first jurisdictional hearing, supervised visitation must be offered for no less than three (3) hours per week. Any additional or unsupervised visitation must be in the discretion of the child welfare worker. The HSA must, at the time of detention and the J-1 hearing , be given the opportunity to show cause relating to the facts of the particular case as to why visitation should not be granted or should be decreased. If good cause is shown, appropriate orders will be issued limiting the visitation.

C. Subsequent to the first jurisdictional hearing and until disposition, the visitation must be set as follows unless the HSA can show good cause as to why such visitation should not be granted or should be decreased:

1. Newborns to five-year-olds must have at least six (6) hours of visitation with their parent(s) or guardian(s) per week.
2. Six-year-olds to eighteen-year-olds must have at least three (3) hoursof visitation with their parent(s) or guardian(s) per week.
3. Visitation should be as frequent and convenient as possible for all parties.

D. If, subsequent to the J-1 hearing, the HSA believes that it cannot comply with a specific visitation order, it must immediately notify the Court in writing. As soon as practicable, the Court will convene all parties in an effort to resolve the matter. Thereafter, if deemed appropriate, parties may bring requests for Orders to Show Cause Re Contempt.

E. If a parent or guardian misses a visit, after confirming that visit, and without reasonable justification, visitation may be terminated by written notice to the parent(s) or guardian(s). Reinstatement of visitation terminated pursuant to this paragraph may only be accomplished by agreement with the child welfare worker or

by application by the parent(s) or guardian(s) to the Court and by a subsequent order of the Court.

F. The provisions of items A. through E. do not address visitation where minors are detained with relatives, unless it is a case requiring visitation be supervised by the HSA. It may, however, serve as a guide for the fashioning of particular visitation orders in those situations.

G. Where the Court has ordered a parent to have reasonable visitation with his or her child and that parent has failed to have any visits with the child or has failed to contact his/her child for a period of not less than six (6) months, the absence of the parent is likely to indicate that a resumption of the visits will be detrimental to the child. In such a situation, the following will apply:

1. If a parent requests a resumption of visitation in a pre-permanent plan case, and if the child welfare worker assigned to the case determines that a resumption of visitation would be detrimental to the child, the child welfare worker must inform the parent and his/her attorney of that in writing. The child welfare worker must, through counsel, file and serve a Declaration documenting the lack of contact between the parent and child as well as efforts that have been made by the child welfare worker to encourage visitation and contact. The child welfare worker must direct the parent to contact his/her attorney to initiate a visitation motion. If the parent is not represented, the child welfare worker must direct the parent to contact a HSA Court Officer for appointment of counsel. Where reasonable grounds exist, counsel for the parent may file a visitation motion to reinstate visitation.

9. If a permanent plan has been adopted by the Court in a particular case, and the child welfare worker has denied further visitation because of a failure of the parent to visit or contact the child in six (6) months, the burden will be on the parent to file a motion for a resumption of visitation and to demonstrate that the visitation sought is in the best interests of the minor.

12.24 Detention Hearings: Location and Timing. Detentions begin at 9:00 a.m. in Departments 406 and 425 Monday thru Friday.

Every attorney representing a parent or guardian at a detention hearing must be present prior to 9:00 a.m. in order to meet and consult with her/his client. The Court will begin calling the calendar at 9:00 a.m. If the parent/guardian is not present by 9:00 a.m., the Court may proceed with a non-appearance detention.

12.25 When Denial Entered at Detention Hearing. Whenever possible, counsel should enter Denials on behalf of the client at the Detention Hearing.

If the parties enter a Denial at the detention hearing and waive time, the Court will set either a mediation or a Settlement Conference no later than five (5) weeks from the date of the detention hearing barring unusual circumstances, and order the mediation or Settlement Conference Report to be available to all counsel at least five (5) calendar days before the mediation or Settlement Conference date. The Court will order the parents/guardians and the child welfare worker to be present at the mediation or Settlement Conference. The Court will specifically inform the parents/guardians that a failure to appear may result in the Court proceeding in their absence and

issuing orders against their interests.

12.26 When Time Not Waived at Detention Hearing. If time is not waived, the Court will immediately set the matter for trial.

12.27 First Appearance Hearings. All matters will be noticed for 9:00 a.m. Counsel are expected to be present prior to 9:00 a.m. to confer with their clients. The calendar will be called promptly at 9:00 a.m. in Departments 406 and 425. A failure of a client to appear, in a timely manner, may result in orders against the client's interests.

12.28 When Time Not Waived at First Appearance Hearing. If a party does not waive time, the matter will immediately be set for trial.

12.29 Settlement Conferences: Location, Timing and Participation of Child Welfare Worker. Settlement Conferences will be set for a time and department certain and all counsel and parties must be prompt. (Unless they have previously met, parents and counsel should arrive at least one-half hour before the time set for the settlement conference in order to review the report and confer.) No court-supervised, in-chambers Settlement Conference will be provided in a case where counsel does not consent to the presence of the child welfare worker.

12.30 Settlement Conferences and Mediations: Responsibility of Counsel and Child Welfare Worker. The child welfare worker will have been ordered to provide the Settlement Conference Report at least five (5) calendar days before the Settlement Conference or mediation date. If the report is not filed five (5) days before the scheduled Settlement Conference or mediation, the HSA Court Officer or City Attorney must explain the reason for the failure to file a timely report. The failure to file a timely report may result in the imposition of sanctions on the child welfare worker. It is the responsibility of counsel to pick up a copy of the Report and discuss it with the client before coming to the Settlement Conference or mediation.

12.31 Procedure After Settlement Conference. If a settlement is reached, it will be put on the record immediately. If a settlement cannot be reached, a trial date may be set, the matter may be ordered to mediation, or the matter may be continued for further settlement conference.

12.32 Setting Case for Trial. Any case that has not settled will be set for trial on a day and department certain. If the trial estimate exceeds two (2) full trial days or four (4) one-half trial days the case will be transferred to the Department of the Supervising Judge of the UFC for setting. When setting a case for trial, the Court will issue trial orders that conform to Appendix A attached hereto.

12.33 Request for Continuance. Any request for a continuance that is not based on an unanticipated emergency, must be made at the earliest time possible. Any request for a continuance must be accompanied by a written declaration setting forth good cause.

12.34 Direct Testimony By Offer of Proof. If stipulated to by all parties, direct testimony may proceed by offer of proof. An offer of proof is a succinct statement, given by counsel setting forth the testimony of a particular witness. Offers of proof are subject to the same evidentiary objections as live testimony and should be distinguished and presented separately

from argument. If an offer of proof is made, the witness must be present to confirm the accuracy of the offer and be available for cross-examination.

12.35 Dependency Status Reviews: Responsibility of Counsel. Immediately upon receipt of a report for a Dependency Status Review, counsel should try to contact the client. If the client intends to appear and contest the recommendation, the attorney must notify all counsel and the HSA Court officers at least 24 hours before the scheduled hearing.

12.36 Dependency Status Reviews: Request for Settlement Conference or Mediation. When a settlement conference or mediation is requested, the matter will be continued for no more than two (2) weeks except under extraordinary circumstances.

12.37 Dependency Status Reviews: Procedure after Settlement Conference. If a settlement is reached, it will be put on the record immediately. If a settlement cannot be reached, a hearing date may be set, the matter may be ordered to mediation, or the matter may be continued for further settlement conference.

12.38 Ex parte Applications. Ex parte applications are for emergencies only, when there is no time to proceed on a properly noticed motion due to a threat of irreparable harm. Before making an application, counsel must confer with all other attorneys to determine if the matter can be resolved by stipulation.

- **A. Types of Requests**. Ex parte applications may be brought in an emergency situation to obtain orders shortening time, continuances, or extraordinary relief.
- **B. Filing of Ex Parte Application**. The court clerk will set the matter for ex parte hearing upon the filing of an ex parte application, which must be filed in the Office of the Court Clerk before 10:00 a.m. on the Court day prior to the ex parte hearing.
- **C. Notice Requirements**. Notice of an ex parte hearing must be provided to all parties by telephone or facsimile no later than 10:00 a.m. on the court day prior to the hearing. Notice must include the date, time, and department of the ex parte hearing. In extraordinary circumstances, if good cause is shown that imminent harm is likely if notice is provided to the other party, the court may waive this notice requirement.
- **D. Proof of Notice Requirements**. At the time of the ex parte hearing, the party seeking ex parte relief must file a declaration under penalty of perjury regarding compliance with the notice requirements. If the other parties are not timely and properly noticed, the party seeking ex parte relief must file a declaration under penalty of perjury detailing the efforts made to provide notice and why those efforts were unsuccessful.
- **E. No Notice Required**. Notwithstanding the noticing requirements set out above, ex parte applications for out-of-country travel, appointment of experts, and orders for appearance of prisoner do not require notice. Except for orders for the appearance of prisoners, such applications must be presented to the courtroom clerk where the matter is pending and picked up the following business day at least 24 hours later. Orders for the appearance of prisoners must be presented to the courtroom bailiff for processing.
- **F. Pleading Requirements**. All ex parte applications must include:
  1. A DECLARATION IN SUPPORT OF EX PARTE APPLICATION, based upon personal knowledge, signed under penalty of perjury, specifically including the reason relief is requested, the factual basis for that relief, the nature of the emergency

requiring immediate relief, and whether the relief requested changes an existing court order;
2. Proof of timely notice to the other party;
3. A copy of the Court's most recent ORDER on the issue;
4. A proposed ORDER;
5. A NOTICE OF MOTION or ORDER TO SHOW CAUSE, if applicable.

G. Service of Pleadings. Absent good cause, the party seeking ex parte relief must provide copies of all documents in support of the ex parte application to the other parties no later than 1:00 p.m. on the court day prior to the ex parte hearing.

H. Hearing Dates. Departments 406 and 425 hear ex parte applications daily at 8:30 a.m.

I. Hearing Procedures. Generally, the court will decide the ex parte application on the papers. The Court, in its sole discretion, may conduct some or all of the ex parte proceedings in open court.

12.39 Application for Rehearing. This rule sets forth the procedures to be followed when any party seeks a rehearing, pursuant to W&I §321, of a decision made by a Commissioner hearing a juvenile case.

A. An Application for Rehearing, using Form SFUFC 12.39A, must be submitted to the courtroom clerk in the Department of the Supervising Judge of the San Francisco Unified Family Court. The clerk will assign a hearing date within 20 calendar days of the date the Application is filed.

B. The moving party must prepare an Order Re Transcript and Briefing Schedule, using Form SFUFC 12.39B, and submit it for signing by the courtroom clerk of the Supervising Judge when the Application is filed. If briefing is anticipated, the moving party must consult with all other counsel and agree on a briefing schedule before this Order is submitted.

C. The moving party must serve the Application for Rehearing and the Order Re Transcript and Briefing Schedule on all attorneys of record within two (2) business days of the day it is filed with the Court.

D. For good cause shown or by stipulation of all counsel, the hearing may be continued and additional time may be provided for briefing.

E. The courtroom clerk will prepare the notice for the preparation of the transcript to the appropriate court reporter.

F. Any Application for Rehearing filed more than 10 days after service of the Commissioner's written findings and order will be summarily denied.

G. An Application for Rehearing challenges the legality of a Commissioner's findings and orders or the weight given to the evidence. It is not a substitute for a Motion for Reconsideration.

12.40 Motions: Filing of Moving and Opposing Papers. The filing of Moving and Opposing Papers must conform to the time requirements of the Code of Civil Procedure, section 1005; and California Rules of Court, rule 317, unless an order shortening time has been granted. If no opposition papers have been filed, on a regularly noticed motion, the Court may preclude argument in opposition at the time of the hearing. In addition, California Rules of Court, rules 311 and 313, apply to the content and length of the any Memorandum of Points and Authorities.

ALL PAPERS filed in support or opposition to any motion must indicate the time, calendar, and department on the front page.

Examples:		OR	
Date:	September 26, 2002	Date:	September 24, 2002
Time:	10:30 a.m.	Time:	1:30 p.m.
Dept:	406	Dept:	425
Calendar	DSR	Calendar	PPH

Courtesy copies of all motions must be sent to the DHS Court Officers. In addition, a Courtesy copy of all motions must be delivered to the judge/commissioner at least five (5) days before the scheduled hearing unless there has been an order shortening time in which case Courtesy copies should be provided as soon as possible.

It is not necessary to get a clerk's signature in order to set a motion. Motions may be filed in person or by mail.

12.41 Motions: Where and When to Set Determined by Phase of Case.

A. Meet and Confer. All attorneys must meet and confer prior to filing any noticed motion.

B. Pre-Disposition Cases. All motions in cases where there has not yet been a Dispositional Order, will be set for 9:00 a.m. in Departments 406 or 425 on any Monday, Tuesday, Thursday or Friday.

C. Reunification Cases. All motions for cases that are post-disposition, but prior to a permanent plan, will be set on the DSR Calendars in Department 406 and Department 425 consistent with regular calendaring procedures.

D. Post-PPH Cases. All motions for cases that are Post-PPH, including motions to change the permanent plan, will be set on the Post-PPH Calendar in Department 406 and Department 425 consistent with regular calendaring procedures .

12.42 Motions Specially Set by Supervising Judge of the UFC. Motions specially set by the Supervising Judge will be set by the courtroom clerk in Department 405, on any weekday.

12.43 In Limine Motions. All In Limine Motions must be filed and served five (5) days before the first day of trial. The hearing on such motions will be heard on or prior to the first day of trial by the judicial officer conducting the trial.

12.44 Motions to be Decided on Briefs. All motions, including but not limited to motions for visitation, change of placement and psychological evaluations, will be decided on the briefs, declarations and other documentary evidence filed. No testimony will be taken unless specifically authorized by the Court. A failure to file declarations will not be grounds for requesting an evidentiary hearing.

12.45 Access to and Copying of Juvenile Court Records.

A. Under CRC §5.552, juvenile court records may not be obtained or inspected by either criminal or civil subpoena. When Court authorization is required, pursuant to W&I §827 and CRC §5.552, in order to inspect, obtain, or copy juvenile court records, the

party seeking such records must follow the procedures set forth in Standing Order 103.

B. All Petitions for Disclosure of Juvenile Court Records must be filed in Room 101 at the Youth Guidance Center using Judicial Council Form JV-570.

C. When a hearing is required, it will be set within 30 days of the date the application is filed. The court clerk will notice all relevant parties of the hearing date. Any request to have the hearing set in less than 30 days must be done in a separate Application for Order Shortening Time.

D. If the Petition is granted, the judicial officer will conduct an *in camera* review to determine what documents will be copied and produced. The documents will generally be available within two (2) weeks of the hearing date.

E. The moving party must notify the court clerk if the documents are no longer needed or the matter is to be taken off calendar. Failure to provide such notice will result in sanctions.

12.46 Mediation Program.

A. Authority. See W&I §350(a) and CRC §5.518.

B. Referrals to Mediation.

1. Mediations may be set at any stage, and to discuss any issue, related to a dependency proceeding. The Court retains discretion to refer, or not to refer, a case to mediation.

   Attendance at mediation is mandatory. At the time of referring a case to mediation the Court will order the parties to be present and will specifically inform them that a failure to appear may result in orders against their interests being entered. The Court will further advise all counsel and child welfare workers that their failure to appear on time, to be prepared, or to participate in the entire mediation session may result in the Court issuing an Order to Show Cause;

2. Cases are generally referred for mediation at the time of a Court appearance. However, if all parties and counsel agree that mediation would be useful, counsel may request that a mediation be set between status review dates.

   In such situations, or in the event of the need for a continuance of a previously scheduled mediation, counsel should contact the mediation office to discuss the proper procedures for setting, or re-scheduling, a mediation date.

3. All cases must be referred for mediation before the case is dismissed with exit orders when either of the following situations exist: 1) both parents have a significant relationship with the minor(s) and the parents are not living together; or 2) when the case is to dismissed with one, or both, of the parents having custody of the minor(s) and the minor has a significant relationship with a former caretaker.

   These cases may be referred to exit order mediation in one of the following ways:

   (a) The HSA Court Office ("court office"), when reviewing reports for upcoming review dates, will identify cases that fit the exit order mediation criteria, and will notify the Court's calendaring clerk.

(b) These cases will be automatically scheduled for exit order mediation for the same date and time as the review hearing, as mediator staffing allows.
(c) Attorneys and child welfare workers will be notified by the assigned mediator that the parties should report directly to mediation rather than to court.

4. Counsel may call the supervising mediator to schedule an exit order mediation in advance of the review hearing.
5. The Court may refer cases directly from the review hearing for an immediate mediation, as mediator staffing allows.
6. The Court may refer cases to exit order mediation from the court review date in the same manner that it refers other cases to mediation.
7. Attorneys and child welfare workers must inform the mediator, and all other parties, if they are opposed to the dismissal of the case. If dismissal of the case is in dispute, all attorneys, parties and child welfare workers must attend the mediation unless specifically excused by the mediator.
8. In those cases in which there is an agreement about the dismissal of the case, the mediator will spend most of the mediation session working with the parents without attorneys or child welfare workers. This private meeting is intended to prepare parents for leaving the dependency system with a parenting plan that they have created together.
9. The child welfare worker and all attorneys, may participate, or be excused from participation, in the exit order mediation as prearranged with the mediator assigned to the case.
10. Notwithstanding their lack of participation in person, any attorney or child welfare worker who does not attend the mediation in person must provide the mediator with a number at which he/she can be reached during the mediation session.
11. Parents' counsel must discuss custody and visitation issues with their clients prior to the exit order mediation.
12. If any attorney or child welfare worker willfully fails to attend the mediation, or cannot be reached at the phone number given the mediator, his or her failure to participate will be an implied consent to any agreement reached in his or her absence.
13. Minor's counsel must prepare the exit order forms, except for the custody and visitation issues, and the mailing envelopes in advance of the mediation session.
14. The parties must proceed directly to court following the mediation session.

C. Scheduling of Mediation Sessions.

1. Although mediations are generally set for 9:00 a.m. or 1:30 p.m. they can be specially set at earlier or later times to meet the special needs of counsel or parties. However, mediations should *not* be set to begin any later than 9:30 a.m. or 2:00 p.m. , respectively, except in exceptional circumstances, and with advance approval of the mediators.

2. Mediations can be set on any week day, except Wednesdays. In special circumstances, with advance Court and mediation program approval, mediations may also be set on Wednesdays.

D. Participants Included in Mediation.

1. The Court will indicate on a Mediation Referral Order who is required, and who is invited, to attend the mediation session. No person other than those indicated on the Mediation Referral Order may attend the mediation unless there is agreement by *all* parties and counsel to that person's participation.

2. Minors will *not* attend mediation unless specifically ordered by the Court to attend or all parties and counsel agree to the minor's participation. In the event that a minor is ordered to mediation, it is expected that he or she will fully participate in the mediation, except as otherwise arranged by the minor's attorney and the mediators.

E. Attorney Responsibilities.

1. Attorneys must fully prepare themselves and their clients for their participation in the mediation *prior* to the session by:
   a. explaining the mediation process and the commitment of time expected of the mediation participants;
   b. preparing their clients to directly participate in the mediation;
   c. familiarizing themselves with the legal and non-legal issues of the case;
   d. preparing to discuss the case issues with the mediators prior to the mediation;
2. Except in emergency situations, attorneys must be available for the entire mediation session, unless otherwise specifically pre-arranged with the mediators.
3. All parties attending mediation must have the authority to fully negotiate and settle the disputed issues. Attorneys must ensure that their client has such authority and, if not, must arrange for the person with authority to attend the mediation.
4. Minor's counsel must be prepared to discuss any specific service needs of the minor including, but not limited to, educational, emotional, social or medical needs. In addition, minor's counsel must have up-to-date reports from the minor's therapist, teacher, and any other relevant collateral sources regarding their recommendations for services and familial contact.
5. An attorney may participate in mediation only if:
   a. the attorney's client is present; or
   b. the other mediation participants agree that the attorney's attendance is of particular benefit to the issues being mediated despite the absence of the attorney's client.

F. Child Welfare Worker's Responsibilities.

1. Child welfare workers will prepare themselves for mediation *prior* to the session by:
   a. talking with their counsel and familiarizing themselves with the legal and non-legal issues of the case;
   b. telling their counsel if he or she is unable to freely negotiate and make binding agreements so that counsel can arrange for the person with authority to participate in the mediation;
   c. discussing the case issues with the mediators prior to the mediation;

2. clearing their calendars so that they are available for the entire mediation session, unless otherwise specifically pre-arranged with the mediators.

G. Confidentiality of Mediation Sessions.

1. Everything said during the course of a mediation is confidential, with the following exceptions:
   a. Any information revealed to a mandated reporter that could form the basis of a new petition;
   b. Any specific threats to injure one's self or another person.
2. Except as noted above, nothing said during the course of the mediation may be used in any social report submitted to the Court, nor may such information be used in any way that otherwise breaches the confidentiality of the mediation session.
3. Information gathered by the mediators in advance of the mediation for the purposes of the mediation is treated with the same confidentiality as the information heard during the mediation.

H. Cases Involving Allegations of Domestic Violence.

1. If a case set for mediation involves allegations of domestic violence, the mediators must conduct an assessment and make a determination as to the manner in which to conduct the mediation so as to assure:
   a. the physical safety of all parties; and
   b. that the victim parent is not intimidated into settling the case;
2. See Appendix B for the complete Domestic Violence protocols related to dependency mediation.

I. Reporting the Results of the Mediation to the Court.

1. Except as specifically set forth in this Section, the mediators must not make any report to the Court as to anything that occurs, or is discussed, during a mediation;
2. If the parties resolve all, or some, of the issues, the mediators will write up the parties' agreement. The written agreement will include the specific terms of the settlement. The mediators must give a copy of the written agreement to each mediation participant after the participants have read and agreed to its terms;
3. The parties will proceed directly to Court following the mediation session to report to the Court either the terms of their agreement, a request for an additional mediation session, or to request that the matter be set for hearing;
4. The mediators will present the Court with the parties' written agreement. If the Court accepts the parties' agreement it will be made a Court order and the written agreement will be placed in the Court file.

J. Sanctions. The Court, in its discretion, may order monetary sanctions for failure to comply with these Local Rules. Orders to Show Cause may be issued with regard to an attorney's or child welfare worker's failure to appear on time, to be prepared, or to participate in the entire mediation session.

12.47 Discovery of Court-Ordered Evaluations and Protective Order. All attorneys of record must receive copies of any court-ordered psychological, medical, substance abuse, or other evaluation conducted upon any party. Any such evaluation must be provided as soon as possible to permit counsel to make beneficial use of them.

Absent a court order based upon a specific showing of good cause, copies of any evaluations provided under this section must not be disseminated to the party, who is the subject of the evaluation, other parties in the case, or to any third party. If necessary to assist counsel directly in preparing for the pending juvenile dependency litigation, counsel may permit the client to read the evaluations or portions thereof.

The Court may also, on a showing of good cause, make any other orders it determines to be necessary further restricting disclosure of the information contained in these evaluations.

12.48 Procedure for Protecting the Interests of Child. At any time following the filing of a petition under W&I §300 and until UFC jurisdiction is terminated, any interested person may advise the Court of information regarding an interest or right of the child to be protected or pursued in other judicial or administrative forums.

- **A. Forms Which May be Utilized.** Judicial Council forms Juvenile Dependency Petition (JV-100) and Modification Petition Attachment (JV-180) may be utilized.
- **B. Duty of Child's Counsel or CASA.** If the attorney or CASA, acting as a CAPTA guardian ad litem for the child, learns of any such interest or right, the attorney or CASA must notify the Court immediately and seek instructions from the Court as to any appropriate procedures to follow.
- **C. Action to be Taken by Court.** If the Court determines that further action on behalf of the child is required to protect or pursue any interest or right, the Court may do one or all of the following:
  1. refer the matter to the appropriate agency for further investigation, and require a report to the Court within a reasonable time;
  2. appoint an attorney if the child is unrepresented;
  3. appoint a guardian ad litem for the child if one is required to initiate appropriate action; or
  4. take any other action to protect the interest and rights of the child.

12.49 CASA Referrals

- **A. Time of Appointment of CASA .** The Court may order the appointment of a CASA Volunteer at or after the Dispositional Order of the Juvenile Court. The Judge supervising dependency cases may order the appointment of a CASA Volunteer earlier in the proceedings if warranted by the special circumstances of the child.
- **B. Requests for Referrals.** Any party, attorney representing a party or child, the child welfare worker, or other person having an interest in the welfare of the child can request the Court make a referral to CASA. A REQUEST FOR CASA REFERRAL must be submitted in writing to the Court for each child referred. The person requesting such a referral must give two (2) working days telephone notice to the child welfare worker, attorneys of record for parents/guardians, and attorney for the child. If the child welfare worker is making the referral, the Court Officer will give notice.

  Unless any attorney of record or the child welfare worker objects to the referral, the Court will send the referral to CASA for its evaluation.

Any objections to the referral must be in a brief written statement as to why the referral is not appropriate, without discussing the subject matter of the litigation. The basis for an objection will NOT be treated as confidential. The Court will review the case and make an independent decision as to whether a referral will be made.

C. Assignment of CASA Volunteer. San Francisco CASA will evaluate the referral on the basis of the criteria then in effect, CRC §5.655, and the availability of volunteers.

If CASA rejects the referral, it will send a letter explaining the rejection to the Court.

If CASA accepts a referral, CASA will assign a volunteer, submit an Order to the Court appointing a specific volunteer, and notify the following of the appointment: child welfare worker, mother's, father's, and child's attorney, CASA volunteer, foster parent(s) or other placement, and CASA records.

If there are additional parties (e.g., de facto parents or guardians), CASA will be responsible for copying and serving those parties with a copy of the Order.

D. Removal of a CASA Volunteer. As the appointment of a CASA volunteer to a particular case is a Court Order, the removal or substitution of a CASA volunteer requires a Court Order unless the entire action has been dismissed and jurisdiction of the Court has been terminated.

A CASA volunteer may be removed or substituted by stipulation among CASA and the attorneys in the case, or by motion to the Court with a declaration setting forth why the removal or substitution is necessary.

Any Order removing or substituting a CASA volunteer must be served on CASA and all attorneys of record by the party who sought the Order.

12.50 Notification of Change In Placement.

A. In order to insure that proper notice is received by attorneys for parents, de facto parents, and minors of any change in the child's placement, HSA must, in addition to any notice required by statute (W&I §361.2(d)), provide notice of the change in placement to the attorneys for the parents, de facto parents, and minor as follows:

1. In non-emergency situations, notice must be given at least five (5) working days prior to the change in placement.
2. Prior to removal of minor from one county to another county outside of San Francisco, HSA must provide notice 14 working days prior to the move unless emergency circumstances prevent such notice.
3. In emergency circumstances, as mentioned in parts 1 and 2 above, HSA must give notice within 48 hours (two working days) following the minor's removal from their placement.
4. Notice may be by telephone or in writing, and must include the anticipated:
   a. date of the move,
   b. type of placement, and
   c. city of new placement.

12.51 Procedure For Filing of Motions Pursuant To W&I §388. Petitions seeking to modify court orders based upon a change of circumstance or new evidence, pursuant to W&I §388, must be submitted to the Court Clerk's Office, Room 402, at the Civic Center Courthouse. Any person submitting such a petition must use Judicial Council Form JV-180 (Request to Change Court Order). The original and at least one copy must be submitted to the court clerk with a stamped self-addressed envelope. Upon submission to the Court Clerk's Office, the petition will be presented to the judicial officer in whose department the matter is pending. Within two (2) court days the judicial officer will sign the order, either denying the request on its face, granting the request without a hearing, or making a prima facie determination that it is in the child's best interest to set a hearing. Once the request is signed by the judicial officer it will be filed by the clerk. Upon filing, a copy of the signed order will be returned to the person seeking the request.

If the judicial officer determines that a hearing will be held, the matter will be set for a hearing. Unless the Court makes a special setting order, the case will be calendared at the appropriate time on the appropriate calendar in the department in which the matter is pending.

Within 24 hours of receipt of the signed and filed copy of the order, the person seeking the request must provide telephonic notice of the date and time of the hearing, and serve the petition by facsimile or U.S. mail, on all parties and the Court Office of the Human Services Agency.

12.52 Authorization For Travel Within The United States And United States Territories. In all cases where there is a request by the caretaker of the minor(s) for the minor to travel over-night (for less than 30 days) within the United States or U.S. territories (including within the State of California) with the caretaker or a responsible adult, the HSA must first attempt to obtain authorization for the trip and consent for emergency medical care during the trip from the minor's parent(s) or legal guardian. If the parent(s) or legal guardian is unavailable, unable or unwilling to sign the authorization, the child welfare supervisors may sign the authorizations for travel and emergency medical care as they deem appropriate and in the minor's best interests. Authorization for travel over 30 days and all travel outside the U.S. and U.S territories must be signed by the Judge/Commissioner of the Superior Court.

12.53 Attendance At Camp And Medical Care. Pursuant to W&I §362 (a), Child Welfare Supervisors may authorize attendance at summer camp for dependent minors whose parents or guardians are either unwilling or unavailable to consent to their attendance.

Routine or emergency medical care may be administered during their stay at camp as may be deemed necessary by the camp physician.

12.54 Release of Records. The HSA child welfare supervisors may release or authorize the release and/or exchange of medical, dental, educational, or developmental assessments of minors in their custody and control to the HSA, the foster-parent or caretaker of the minor, or to the minor's physician, dentist, or mental health provider/evaluator, if the minor's parent(s) or guardian is unavailable, unwilling or unable to sign the authorization.

The child welfare supervisors may release, or authorize the release of, psychiatric/psychological reports and records of the minor to the minor's mental health provider/evaluator; to staff at a psychiatric hospital or residential treatment facility; and to foster care agencies and group homes responsible for the care of the minor.

Court reports, WITHOUT ATTACHMENTS, may also be released to those designated in the previous paragraph. Under no circumstances are psychological evaluations of the parents to be released. In addition, copies of psychological evaluations of minors may be given to foster parents. Foster parents are entitled to information contained within the report, especially recommendations for the child's treatment.

All releases of documents pursuant to this rule are strictly confidential, and may be shared only with those individuals providing services to the child.

12.55 Authorization For Routine Medical Treatment.

A. In cases where the parent(s) or legal guardian is unavailable, unable, or unwilling to sign an authorization for routine medical or dental treatment, or mental health assessment and/or services for a minor, the HSA child welfare supervisor may sign the authorization for such treatment. The HSA must obtain the written consent of the parent(s), legal guardian, or Judge of the Superior Court in the following cases:

1. non-routine medical, dental, or mental health treatment;
2. surgical care;
3. the use of anesthesia;
4. procedures which require a signature of a parent or guardian on an informed consent;
5. HIV testing;
6. prescription of psychiatric medication; or
7. psychiatric hospitalization.

B. Routine medical, dental and mental health care includes but is not limited to:

1. Comprehensive health assessments and physical examinations, including but not limited to sight, speech, and hearing examinations and all Child Health and Disability Program (CHDP) medical assessments;
2. Clinical laboratory tests necessary for evaluation or diagnosis of the minor's health status including but not limited to lumbar punctures, if necessary for diagnosis;
3. Any immunization recommended by the American Academy of Pediatric Care for the minor's age group;
4. Any routine medical care required based on the results of the comprehensive health assessment (including hearing aids, glasses, and physical therapy), or for the care of any illness or injury, including the use of standard x-rays;
5. First aid care for conditions which require immediate assistance;
6. Medical care for minors with health care complaints (including, but not limited to colds, flu, chicken pox, etc.);
7. Mental health status or psychological evaluations and necessary mental health services, except for placement in an inpatient psychiatric facility or prescription of psychiatric medication;
8. Dental assessment, including x-rays when appropriate, and any routine dental treatment required pursuant to the results of the dental assessment.

In all of the above-mentioned cases, the child welfare worker must document the attempts to locate the parent(s) or legal guardian, or the reason(s) for the parent(s) or legal guardian's failure or refusal to sign the authorization.

12.56 Authorization to Administer Psychotropic Mediations to Children Who Are Dependents of the Court.

A. The policies and procedures to be followed in order to obtain Authorization to Administer Psychotropic Medications to Children Who are Wards or Dependents of the Court are set forth in Standing Order 219. Standing Order 219 implements the requirements of W&I §369.5 and CRC§ 5.570.

B. All applications for court authorization to administer psychotropic medications must be submitted on Judicial Council Form 220 to the Supervising Judge of the UFC or his/her designee.

Rule 12 amended effective January 1, 2008; adopted July 1, 1998; amended effective July 1, 2003; amended effective January 1, 2007; amended effective July 1, 2007.

Appendix A

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO
JUVENILE DIVISION

In Re The Matter of:	)	No.
	)	
	)	TRIAL ORDERS
	)	
Minor(s).	)	
	)	

The above referenced matter came on calendar on _____ for Trial Setting.

The Court makes the following orders:

1) The date(s) reserved for trial are _____.

2) An intent to call any witnesses must be disclosed in writing to all other counsel on or before _____.

3) The Curriculum Vitae for any expert witness to be called must be provided to all other counsel on or before _____.

4) All documents that counsel will seek to introduce into evidence, including all documents upon which a witness has relied in formulating an opinion, must be identified, in writing, for all other counsel by _____.

5) All discovery must be provided by _____.

6) ANY ADDENDUM TO A REPORT OF THE CHILD WELFARE WORKER must be provided by _____.

7) Pursuant to W&I Code §355 counsel must notify the HSA on or before _____ of the name of hearsay declarant(s) and/or provide a complete description of hearsay upon which they wish to cross-examine. (Jurisdictional only)

8) The issues to be litigated are limited to:
_____
_____
_____
_____

DATED: _____ _____
Judge/Commissioner of San Francisco Superior Court

Appendix B

DEPENDENCY MEDIATION PROGRAM
SAN FRANCISCO UNIFIED FAMILY COURT

DOMESTIC VIOLENCE PROTOCOLS
FOR DEPENDENCY MEDIATION REFERRALS

A. Court Referrals to Mediation in Cases Involving Domestic Violence

1. Issues to be considered in making referrals
   a. Extent of physical violence in the case;
   b. How recently was the last known incident:
   c. Can the mediation provide adequate protection for the alleged victim?
   d. The alleged victims willingness to participate in mediation

2. Noting Domestic Violence on Referral Order
   The judicial officer will make a note on the Mediation Referral Order if there are any current or past domestic violence issues, including a notation regarding any current restraining orders.

3. Attendance of Support Person at Mediation
   a. The referring judicial officer will advise the alleged victim that he or she may bring a support person with them to the mediation.
   b. The referring judicial officer will explain that a support person's role is limited to a support role only and that person cannot actively participate in the mediation without the consent of all other parties.
   c. The referring judicial officer will advise the parties that the mediations must meet with the alleged victim and perpetrator separately.

B. Dependency Mediation Program Domestic Violence Protocols

1. Case Development
   a. Case development will include a thorough review of the Court field, specifically targeting any information relating to any domestic violence issues.
   b. The mediator will talk with all attorneys and the child welfare worker in advance of the mediation about the extent and current status of any violence between the parties, including whether or not there are restraining orders currently in effect.
   c. During case development the mediator will tell the alleged victim's attorney of his or her client's right to bring a support person to the mediation.
   d. Based on the information gathered in the domestic violence assessment, the mediator will set up meeting times with the parents that precludes them from seeing each other at all, as is appropriate to the specific case.

2. Mediation Process

The mediation process will be conducted in such a way as to protect the physical and emotional safety of all participants, we well as to promote an equal balance of power, as follows:

a. Victim parents may, at their option, bring support persons to the mediation, with the understanding that the support person is there to provide support only, and it NOT an active participant in the process (unless otherwise agreed to by all participants);

b. The mediators will initially meet separately with each parent in order to set up a safety plan. The plan will be used to determine:

1) whether or not the alleged victim would be better protected by continuing to meet separately with the mediator or by meeting with the alleged perpetrator during the Court of mediation;

2) how the alleged victim can protect her or himself outside the courthouse;

3) whether the alleged victim is interested in having a joint meeting that includes the perpetrator. In making that determination the mediators will advise the alleged victim that she or he has an absolute right to decline a joint meeting with the alleged perpetrator.

c. Each parent's meeting with the mediator will be set up in such a way as to prevent the parents from seeing each other, as may be appropriate to the specific case;

d. The mediators will assist the alleged victim in creating a safety plan for appearing (or not appearing) in Court and for leaving the courthouse in a manner that best protects her or his safety;

e. The mediator will work with the parties to assist them In creating a settlement that promotes the physical and emotional safety of the involved parties and their children.

Rule 13 – Juvenile Delinquency

13.0 Access to and Copying of Juvenile Court Records.

A. Under CRC §5.552, juvenile court records may not be obtained or inspected by either criminal or civil subpoena. When Court authorization is required, pursuant to WIC §827 and CRC §5.552, in order to inspect, obtain or copy juvenile court records, the party seeking such records must follow the procedures set forth in Standing Order 103.

B. All Petitions for Disclosure of Juvenile Court Records must be filed in Room 101 at the Youth Guidance Center using Judicial Council Form JV-570.

C. If a hearing is required, the Court will set it within 30 days of the date the Petition is filed. The court clerk will notice all relevant parties of the hearing date. Any request to have the hearing set in less than 30 days must be done in a separate Application for Order Shortening Time.

D. If the Petition is granted, the judicial officer will conduct an *in camera* review to determine what documents will be copied and produced. The documents will generally be available within two (2) weeks of the hearing date.

E. The moving party must notify the court clerk if the documents are no longer needed or the matter is to be taken off calendar. Failure to provide such notice will result in sanctions.

13.1 Sealing of Records.

A. The policy of the Superior Court with regard to the sealing of juvenile records pursuant to WIC §781 is that any person seeking to have his/her records sealed demonstrate his/her rehabilitation by maintaining a crime-free life for a reasonable period of time after his/her 18th birthday, or after his/her last contact with the juvenile justice system.

B. The Court will consider not only the circumstances of any sustained petitions, but the minor's entire social history (see *In re Todd L.* (1980) 113 Cal.App.3d 4, 20), including informal or unofficial contacts.

C. The Juvenile Probation Department:

1. will not refer a sealing request to the Court until a period of one year has passed after the closing of the person's last court/probation/parole contact, or after the person's 18th birthday, whichever is later. The Special Services Division of the Juvenile Probation Department is authorized to send, in the Court's name, notice to any person prematurely requesting sealing in the forms provided by the Probation Department;
2. will maintain the unofficial files of all persons until their 19th birthday, unless in any individual cases the Court orders otherwise any other requests for sealing which raise special legal or factual issues will be heard by the Court on a case-by-case basis.

13.2 Authorization to Administer Psychotropic Medications to Children Who Are Wards or Dependents of the Court.

A. The policies and procedures to be followed in order to obtain Authorization to Administer Psychotropic Medications to Children Who are Wards or Dependents

of the Court are set forth in Standing Order 219. Standing Order 219 implements the requirements of WIC §369.5 and CRC §5.640.

B. All applications for Court authorization to administer psychotropic medications must be submitted on Judicial Council Form 220 to the Supervising Judge of the Unified Family Court.

13.3 Voluntary Psychiatric Hospitalization. The policies, procedures and forms required for obtaining a Court order authorizing the voluntary hospitalization of a child who is a ward of the San Francisco Superior Court are set forth in Standing Order 214.

Rule 13 amended effective January 1, 2007; adopted July 1, 1998.

Rule 14 – Probate

14.0 Organization and Administration.

14.1 Probate Department Administration.

A. The Probate Department is presided over by the Probate Judge with the assistance of the Probate Commissioner and is administered by the Director and Assistant Director of the Probate Examiners and Investigators.

B. Telephone numbers for the Probate Department are as follows: Courtroom Clerk: 551-3702; Calendar Clerk: 551-3662; Probate Secretary: 551-3650; the Court Investigators: 551-3657; the status of calendared matters and the information recordings: 551-4000.

14.2 Obtaining a Hearing Date. Hearing dates are obtained at the time of the submission of a petition and a notice of hearing to the Clerk of the Court. Hearing dates are not given by telephone. See Rule 14.11 for Law and Motion and Discovery hearings.

14.3 Requirement of an Appearance.

A. The following matters require appearance of counsel and/or parties at the hearing:

1. Petitions for Appointment of Conservator or Guardian. In a Conservatorship matter, appearance by the Petitioner, proposed Conservator, and proposed Conservatee is required, unless excused by the Court. In a Guardianship matter, appearance by the proposed Guardian is required. The proposed ward is required to appear on Guardianships of the person.
2. Termination of guardianship or conservatorship (other than on death of minor or conservatee, or minor attaining majority). Conservatee MUST appear. Minor MUST appear if there is a waiver of accounting.
3. Confirmation of sales of real property.
4. Petition for instructions.
5. Petition for probate of lost or destroyed will. Oral testimony will be taken only when requested by the Court.
6. Petitioner's attorney and proposed beneficiary must appear if the special needs trust waives bond and/or accountings.

B. All other matters (except as otherwise provided by law) may ordinarily be submitted without an appearance. Evidence to support such nonappearance matters should be contained in a petition verified by the petitioner and/or declarations under penalty of perjury timely filed before the hearing date.

14.4 Hearings re Probate Matters. Petitions for appointment of a conservator are heard on Thursdays at 9:00 a.m., and petitions for appointment of a guardian are heard on Tuesdays at 1:00 p.m., and both require an appearance. Requests for Elder or Dependent Adult Abuse Restraining Orders are heard on Wednesdays at 11:00 a.m. All other matters requiring an appearance are heard on Monday, Tuesday, and Wednesday calendars at 9:00 a.m. On the Monday, Tuesday, and Wednesday calendars, sales are heard first. All other matters are ordinarily heard in the following order: uncontested matters followed by contested matters

requiring a hearing time of 20 minutes or less. Contested matters requiring a hearing time of more than 20 minutes may be specially set at the time of the scheduled hearing or will be placed on the end of the regular morning calendar if time allows. All interested counsel must be present for a special setting. Hearings requiring more than two Court afternoons will normally be referred to Department 206.

14.5 Review of Files Prior to Hearing.

A. If a matter is unopposed and approved by the Examiner, it will be presented to the Court for signature and no appearance of counsel will be necessary. If the matter is not approved because it fails to satisfy statutory requirements or procedures of the Court, the Examiner will prepare notes setting forth such defects. In order to permit the attorney to address the procedural or statutory deficiencies before the hearing and to avoid the need for an appearance, the Examiner will fax or mail notes to the attorney. The Examiner may continue the matter two (2) weeks or more for compliance. If procedural or statutory defects are not cured, or if non-approval is based on other issues, the matter will be put on the appearance calendar.

B. Counsel may telephone the rulings line (415-551-4000), visit the court's website (www.sfsuperiorcourt.org) or view tentative rulings on the Court's electronic information center prior to the hearing to determine whether a matter has been approved, continued or placed on the appearance calendar. If a matter has been pre-granted, the calendar posted outside the Courtroom on the day of the hearing will so state.

14.6 Submission of Proposed Order and Other Pleadings Before Date of Hearing.

A. Order. Except in the case of confirmations of sales, orders including orders for appointment of guardian or conservator must be submitted to the probate courtroom at least two (2) weeks in advance of the scheduled hearing date, with the scheduled hearing date noted on the face sheet. Failure to submit the proposed order at least two (2) weeks in advance may result in a continuance for at least two (2) weeks. The proposed order should be prepared on the assumption that the petition will be granted.

B. Other Pleadings. In order for supplemental or opposition papers to be considered by the Court prior to the hearing, a courtesy copy of the papers must be delivered to the Examiners three (3) court days before the hearing with the scheduled hearing date noted on the face sheet.

C. Responses to Examiner's Notes. Responses to Examiner's notes must be filed no later than three (3) days before the hearing and endorsed filed copies delivered to the Examiner.

D. Pleadings Must be Filed. Unless otherwise specified, Examiners will not review any document until after it has been filed.

14.7 Availability of Approved Orders Signed by the Court. Approved orders signed by the Court will be available after 9:30 a.m. on the day of the hearing in Room 103. The Clerk will return endorsed filed copies of orders if a self-addressed, stamped envelope is provided.

14.8 Continuances.

A. Requested by Counsel. Continuances requested by counsel may be made in Court or through the Calendar Clerk (415-551-3662). A continuance will not be granted if there is opposing counsel unless a request is made in open Court or by a timely stipulation of all counsel to a date to be arranged with the Courtroom Clerk.

1. If a matter has been specially set, i.e., at any time other than the regular 9:00 a.m. calendar, it may not be continued without the stipulation of counsel and the approval of the Judge or Probate Commissioner scheduled to hear the matter. (For this permission, telephone the Courtroom Clerk.)
2. Probate sales cannot be taken off the calendar or continued except for good cause and appearance of counsel at the time of the hearing is required.

B. Continuances by the Court. When an attorney fails to appear at a hearing, the matter will ordinarily be dropped from the calendar unless a further continuance has been requested. The Court may drop the matter from the calendar where successive continuances have been requested but no satisfactory progress is evident. If the hearing is required and there is no appearance, an Order to Show Cause or a citation may be issued.

14.9 Earlier Hearing Dates. To obtain a hearing date for a petition other than the hearing date available at the clerk of the court's office, the unfiled petition together with a declaration setting forth good cause and a suggested hearing date may be presented to the probate secretary at the Probate Department, Room 202.

14.10 Hearings Before Commissioner. The Commissioner may sit as a temporary judge (Judge Pro Tem) on stipulation of all parties litigant or their counsel. Should any party object to the Commissioner hearing the matter as Judge Pro Tem, the objection must be made at the time the matter is assigned or called for hearing. A failure to object shall be deemed a stipulation that the Commissioner may hear the matter as temporary judge.

14.11 Law and Motion.

A. Departments Where Probate Matters are Heard.

1. **Before a matter has been referred for trial setting.** All law and motion matters including discovery motions are heard in the Probate Department.
2. **After a matter has been referred for trial setting.**
   a. Motions for priority setting or for change of trial date will be heard by the Department of the Presiding Judge.
   b. All other motions will be heard in the Probate Department.

B. Law and Motion Procedure in Probate Department.

1. Motions will be heard on Wednesdays and Thursdays at 1:30 p.m.
2. Before filing a motion, the moving party must present the motion to the Probate Department clerk in Room 204 for assignment of a hearing date.
3. After receiving a hearing date, the moving party must file the motion and notice in Room 103. After filing, the moving party must bring an endorsed filed copy of the motion and notice to Room 202 directed to the attention of

the probate staff attorney. Endorsed filed copies of all subsequent pleadings must be delivered to Room 202, attention staff attorney.

4. All filings and service must comply with CCP §1005, unless there is a specific applicable section of the Probate Code.
5. LRSF 8.3 (Tentative Rulings) applies to law and motion hearings in the Probate Department.

14.12 Pro Bono Mediation. Pro Bono Mediation pursuant to court order is available in all conservatorships and guardianships and in estates and trusts where estate assets do not exceed $3,000,000.

14.13 Settlement Conferences. The Judge or Commissioner may schedule settlement conferences as requested by counsel.

14.14 Settlement Conference Statements. Settlement conference statements are due in the Probate Department five (5) Court days prior to the conference.

14.15 Will Contests. All will contests, objections to petitions for probate, or petitions for probate filed after the first petition must use the probate case number of the first petition filed in the decedent's estate.

14.16 Compromise of Claims. Petitions for compromise of minor's claims are to be filed and a hearing date set in Department 218 for hearing on the uncontested calendar.

14.17 Ex Parte Applications or Petitions. (See Appendix D.)

A. Ex Parte Applications or Petitions Requiring an Appearance other than for Appointment of Temporary Conservatorships and Guardianships.

1. **Filing and Setting.** The Probate Department hears an ex parte calendar at designated hours Monday through Friday in Room 202. An endorsed filed copy of the ex parte application or petition must be presented to Room 202 before a hearing date will be calendared. Petitioners must obtain a hearing date and time from the Probate secretary in Room 202 or by calling 415-551-3650. Petitioners may not set a hearing for more than two weeks in advance. No more than two (2) petitions per day are permitted by each attorney, law office or petitioner.
2. **Notice**. Petitioner must notify all interested or opposing parties by fax or telephone no later than 10:00 a.m. on the day before the scheduled hearing as provided by CRC, Rule 3.1203 and CRC, Rule 3.1204. A declaration regarding notice in compliance with CRC, Rule 3.1204 must be delivered to the Probate Department no later than 12:00 p.m. on the day before the scheduled hearing.
3. **Opposition Papers**. Opposition papers to an ex parte application or petition, if any, must be filed in the clerk’s office and an endorsed filed copy delivered to the Probate Department before the ex parte hearing.
4. **Petitions for Letters of Special Administration**. See LRSF, Rule 14.30.
5. **Ex Parte Petitions for Appointment of Temporary Conservators or Guardians**. See LRSF, Rule 14.88

B. Presentation of Ex Parte Applications or Petitions Not Requiring an Appearance. For ex parte petitions not requiring a personal appearance, an endorsed filed copy of the petition may be left in the "Ex Parte In-Box" outside the Probate Department or mailed to the Probate Department. If a stamped, self-addressed envelope is provided, conformed copies of the signed order will be mailed to counsel; otherwise, signed orders may be picked up in the office of the Court clerk.

C. Contents of Petition. A petition for an ex parte order must be verified and must contain sufficient evidentiary facts to justify issuing the order. Conclusions or statements of ultimate facts are not sufficient and a foundation should be shown for the petitioner's personal knowledge.

D. Citations. Where a Court order is required for the issuance of a citation, for example, to remove a personal representative (Probate Code §8500), an endorsed filed copy of the petition setting forth the relief requested, with hearing date affixed, must be submitted together with a separate ex parte petition requesting a Court order allowing the issuance of a citation. A separate order must also be submitted directing the Clerk's Office to issue a citation. Said petition may be submitted ex parte with no appearance required.

E. Temporary Restraining Orders/Orders to Show Cause/Orders Shortening Time.

1. All applications for temporary restraining orders (except those for Elder or Dependent Adult Abuse), orders to show cause or orders shortening time pertaining to probate matters, including Conservatorships and Guardianships, must be filed and an appointment made prior to presentation to the Probate Department at the ex parte hearing.
2. Applications for temporary restraining orders filed under the Elder Abuse or Dependent Adult Civil Protection Act must be filed at the Probate window in Room 103. If a party submits a completed request for a Temporary Restraining Order before 10:00 a.m., the Court order will be available after 2:30 p.m. that same day. If a party submits a completed request after 10:00 a.m., the Court order will be available after 2:30 p.m. the following court day.

F. Special Notice Allegation. All petitions for ex parte orders must contain a statement on special notice. The statement shall either recite that no request is on file and in effect or shall list the parties requesting special notice and shall attach the proof of service on such parties or specific waivers of notice.

G. Separate Order Must Accompany Petition. Except where a Judicial Council form is used, a petition for ex parte order must be accompanied by a separate order complete in itself.

H. Ex Parte Orders. An ex parte order may be signed by either the Commissioner or the Judge. If for any reason counsel desires the Judge's signature, then such matter should be presented to the Commissioner for initial review prior to the presentation to the Judge.

I. Order Prescribing Notice. Where an order prescribing notice is required, the petition must allege the names and addresses of all individuals to whom notice should be given and the method suggested.

J. Guardian Ad Litem. Petitions for the appointment of a guardian ad litem in a probate matter may be presented ex parte. Petitions for the appointment of a guardian ad litem in all other matters are to be presented in Department 206.

K. Retention of Litigation Counsel. Where a conservator or guardian of the estate, personal representative, special administrator, temporary conservator or guardian of the estate, or guardian ad litem seeks to retain separate litigation counsel, a petition for authority to enter into a fee agreement with litigation counsel may be presented to the Probate Department ex parte. The proposed fee agreement must be attached to the petition. Proposed contingency fee agreements will not be considered ex parte.

14.18 Procedural Questions. The Court does not answer procedural questions, give legal advice or render advisory opinions either by phone or letter.

14.19 Summary Determination of Disputes (Probate Code §9620). Normally, §9620 summary determination hearings are conducted by the Probate Commissioner sitting as temporary judge pursuant to stipulation. Such matters may be calendared by calling the Courtroom Clerk.

14.20 Forms Approved by Judicial Council. See CRC, Rule 7.101. All two-sided forms must be properly tumbled or they will not be accepted for filing.

14.21 Captions of Pleadings; Identification of Attorney. See CRC, Rule 7.102. All pleadings must also identify the attorney in the form set forth in CRC Rule 2.111. In addition, the identification must show the name and capacity of the party for whom the attorney is appearing, e.g., John Jones, executor. "Petitioner" or "respondent" is not sufficient.

14.22 Verifying Pleadings.

A. An executor, administrator, trustee, guardian or conservator is an officer acting pursuant to Court order. All accounts, petitions and other pleadings made in his or her official capacity must be personally signed and verified. The code provision allowing attorneys to verify certain pleadings in civil matters is not applicable to probate proceedings when the representative is acting in his or her official capacity. An exception is made in the case of an account filed by the attorney for a deceased or absconding fiduciary.

B. An unverified petition may be proved by filing a supplemental declaration by petitioner before the hearing. The declaration must identify the petition by caption and filing date.

C. Failure to verify where required by statute will result in the matter being continued, going off calendar or being placed on the appearance calendar, depending on the circumstances.

14.23 Amendments, Corrections and Alteration of Pleadings.

A. Alterations. Once filed, no pleading may be altered on its face.

B. Description of Pleadings. See CRC §§7.101-7.104.

C. Correction of an Order. If an order has been signed but not yet filed, it may be corrected on its face and the correction initialed by the Court. However, if the

order has been filed it can only be corrected by Court order. Such an order can be obtained by a verified petition, normally ex parte in the case of a clerical error or minor changes. The basis for the correction must be set forth. Before presenting such ex parte application to the Court, informal notice, such as a telephone call or a letter, must be given to the personal representative and any person affected. Proof of compliance with this rule must be presented to the Court before consideration of the petition. The original order is not to be changed by the clerk, but is to be used together with the order correcting it. If an amended order is submitted to correct the filed order, it supersedes the original order.

14.24 Material to be Included in Probate Orders.

A. An order must be complete in itself in that it must set forth, with the same particularity required of a judgment in a civil matter, all matters actually passed on by the Court, such as, the date of the hearing, necessary findings, the relief granted, the names of the persons and descriptions of property or amounts of money affected.

B. A probate order should be drawn so that its general effect may be determined without reference to the petition on which it is based. Since no matter should appear after the signature of the Court, where exhibits are made part of an order, the Court's signature must appear at the end of the exhibits with an indication to this effect at the end of the order; however, exhibits to orders should be avoided.

C. The Court will not sign orders where the last page includes only the signature line.

14.25 Notice Requirements.

A. Generally. Notice may not be mailed or published before the filing of the pleading requiring notice. Under the provisions of Probate Code §1202, the Court may require additional notice in any matter. Ordinarily, such notice will be required whenever it appears that the interest of any person may be adversely affected by the determination of the issues raised by the pleadings, such as, when the status of property is to be determined. The Court may also require a copy of the petition to be served with the notice.

B. Notice to Trust Beneficiaries. If a personal representative presents an account or petition that affects the interest of a beneficiary of a trust and the representative is either named to act or is acting as the sole trustee, then the Court will require notice to beneficiaries as required by Probate Code §1208. In appropriate circumstances the Court may require the appointment of and notice to a guardian ad litem for potential beneficiaries if their interest may diverge significantly from those of the beneficiaries in being.

C. Notice on Termination of Guardianships and Conservatorships. See CRC, Rules 7.1005 and 7.1054. Notice must be given to a former minor or conservatee on the settlement of a final account. Notice must also be given to the personal representative of a deceased minor or conservatee. If there is no representative of the estate, or if the representative of the estate is the same person as the guardian or conservator presenting the account, notice must also be given to the heirs and devisees of the deceased minor or conservatee.

14.26 Giving Notice of Hearing. When notice of hearing is required, whether by personal service, mailing or publication, the burden is on the petitioner to cause such notice to be given and to file the necessary proof of service. When furnished with two copies of the notice, the court clerk will post it as required, but will not mail or furnish proof of mailing or arrange for publication.

14.27 Declaration. A declaration may be used in lieu of an affidavit pursuant to CCP §2015.5.

14.28 Blocked Accounts. When the Court orders funds to be deposited into a blocked account whether for a personal representative, distribution to a minor, conservatorship or guardianship funds, the fiduciary must file the Judicial Council form "Receipt and Acknowledgment of Order for the Deposit of Money into Blocked Account," MC 356, together with the teller receipt of the financial institution.

14.29 Spousal Property Petition.

A. Filing Petition. If a spousal property petition is filed with a petition for probate of will or for letters of administration, the spousal property petition must be filed and noticed as a separate petition.

B. Required Allegations.

1. **Source of Property.** The petition must contain precise identification of the source of the property alleged to be community or quasi-community property. An allegation must also be made that none of the property was acquired by gift or inheritance or purchased with funds received by gift or inheritance. If any property is claimed to be community but was acquired by gift, devise, descent, joint tenancy survivorship, or similar means, the petition must state with particularity the way in which the property was converted to community property. For all transmutations of title to real or personal property made after January 1, 1985, there must be an express written declaration that is made, joined in, consented to, or accepted by the spouse whose interest in the property is adversely affected.
2. **Claims Based on Document.** If the community or quasi-community property claim is based on any document, a copy of the document showing signatures, when feasible, must be attached to the petition. However, if the document is lengthy and only portions of it are relevant to the claim, only the relevant portions need be attached. If it is believed that disclosure of the document would be detrimental, the document or the relevant portions may be paraphrased in the petition accompanied by a statement that a copy of the document itself will be made available to the Court.

14.30 Letters of Special Administration on Ex Parte Petition.

A. Presenting Petition.

1. An endorsed filed copy of the Petition for Probate and the Petition for Letters of Special Administration must be presented to Room 202 before a hearing date will be calendared. (See LRSF, Rule 14.17A.)
2. Counsel and the proposed appointee (other than a corporate fiduciary) must personally appear at the ex parte hearing. Petitioner must give notice to the surviving spouse, the nominated executor, or any person whom the

Court has determined is entitled to notice. Notice shall be by fax or telephone no later than 10:00 a.m. on the day before the scheduled hearing as provided by CRC, Rules 3.1203 and 3.1204.

3. The appearance of the Public Administrator is not required at the presentation of the ex parte petition for Special Letters of Administration.
4. If the petitioner is the named executor of the will, notice of the petition for special letters of administration to the heirs at law is required. If the petitioner is not the named executor of the will, notice must be given to the named executor, the heirs at law and all devisees under the will.
5. A declaration regarding notice in compliance with CRC, Rule 3.1204 must be delivered to the Probate Department no later than 12:00 p.m. on the day before the scheduled hearing.
6. The urgency and necessity of special letters of administration must be stated in the attachment to the petition.
7. Except in the instance of a contest, special letters will issue for only a specified period of time. Although preference is given to the persons entitled to letters testamentary or of administration, if it appears that a bona fide contest exists, the Court will consider the advisability of appointing a neutral person or corporate fiduciary.

B. **Bond**. The Court will usually require a bond even if the will waives bond and the beneficiaries waive bond. Probate Code §8481 (b).

14.31 Probate of Will and Letters of Administration.

A. **Holographic Will.** When a holographic instrument is offered for probate, it must always be accompanied by an exact typewritten copy.

B. **Foreign Language.** When an instrument written in a foreign language is offered for probate, it must always be accompanied by a copy translated into English. All translations must be accompanied by a declaration setting forth the translator's qualifications and/or credentials.

C. **Copies.** Copies of all instruments offered for probate must be attached to the petition.

D. **Listing Devisees and Heirs.**

1. Even though a decedent died testate, the petition, as in the case of intestacy, must contain the names and relationships of all heirs of the decedent. An heir is any person who would be entitled to distribution of a part of the decedent's estate if the decedent died intestate. This includes those who would be heirs by virtue of Probate Code §6402.5, if the decedent had a predeceased spouse. When second generation or more distant heirs are listed, the deceased ancestor through whom they take (or would have taken) shall be named and his/her relationship to the decedent shall be stated.
2. All heirs, devisees, or other persons named in the will, and each person named as executor or successor executor must be listed on Attachment 8 to the petition. In addition, if the interest of the devisee is contingent as of the date of the petition or on the happening of an event, such as survivorship for a specific period, then the contingent beneficiary must

also be listed. Also to be listed is each person provided for in the original will whose legacy has been revoked in a subsequent codicil.

3. The nominated trustee(s) of a trust created by the will or by a living trust should be listed as a devisee. A beneficiary of either a living or testamentary trust is not a devisee and need not be listed unless the personal representative and the trustee are the same person or there is no trustee. The trustee(s) and beneficiaries of the trust must be clearly indicated in item 8 (or on Attachment 8) of the petition. Probate Code §1208.

E. No Known Heirs. If the decedent had no known heirs, a declaration to that effect shall be filed setting forth the basis for that conclusion and the efforts made to locate any heirs.

F. Deceased Devisees and Heirs.

1. If a named devisee or heir predeceased the decedent or did not survive for the designated survival period, that fact must also be stated together with the date of death.
2. If an heir or devisee died after the decedent, that person should be listed with the notation that he or she is deceased and the date of death must be stated. If a personal representative has been appointed, the deceased heir or devisee should be listed in care of the name and address of his or her personal representative. If no personal representative has been appointed that fact should be alleged. All heirs and/or devisees of the deceased beneficiary must be listed.

14.32 Notice Requirements for Petitions for Probate.

A. Persons to Whom Notice Must be Given. All heirs and devisees listed in the petition, the Attorney General if required under Probate Code §8111, and foreign consul if required under Probate Code §8113 must be given notice.

B. Method of Giving Notice. See CRC, Rule 7.50 et seq.

C. Requirement of Publication of Notice of Petition to Administer Estate. See CRC, Rules 7.53 – 7.55. It is the responsibility of the attorney to arrange for publication. The Clerk does not have this responsibility.

D. Defective Notice.

1. **Publication Correct but Mailing Defective.** The hearing will normally be continued to allow enough time for the required new mailing.
2. **Mailing Correct but Publication Defective.** The matter must be continued or taken off calendar and a new notice must be given by publication and mailing.

E. Original Petition Off Calendar. If the original petition is taken off calendar or an amended petition for probate is filed, a new notice must be published and mailed. A new proposed order must also be submitted.

F. Notice Under Certain Circumstances.

1. **Successor Representative.** On a petition for appointment of a successor personal representative and for Letters Testamentary or Letters of Administration with the Will Annexed where the will has previously been admitted to probate, no publication of the notice is required. Notice shall

be given in the manner provided in Probate Code §8100 et seq. The proper form of notice is the Notice of Petition to Administer Estate.

2. **Special Administrators.** At a hearing on a contested petition for probate, the Court may appoint a Special Administrator without the submission of a separate petition.

G. Declaration of Real Property. All petitions for probate of will or letters of administration must be accompanied by a form declaration of real property.

14.33 Proof of Wills.

A. In uncontested matters, both witnessed and holographic wills may be proved by declaration without the need for testimony in open court.

B. Where more than one testamentary instrument is offered for probate, each instrument must be proved by a separate declaration.

14.34 Lost Wills. Petitions for probate of lost wills must clearly state on their face that the will is lost and both the published and mailed notice must so state. In those cases where there is no copy of the will, the petition for probate must include a written statement of the testamentary words or their substance. Probate Code §8223. Evidence will be required to overcome the presumption of revocation. Probate Code §6124.

14.35 Wills with Interlineations or Deletions. Where the will offered for probate contains alterations by interlineation or deletion on the face, petitioner must obtain court determination of entitlement before final distribution.

14.36 Proving Foreign Wills. A petition to probate a foreign will must have attached to it a certified copy of the will and the order or decree admitting it to probate outside of this jurisdiction. If the will has been admitted to probate in the United States, the copies referred to need be certified only as correct copies of the Clerk of the Court where admitted. For wills admitted outside the United States, attorneys should refer to the form of certificate acceptable to the Court (the Apostille) discussed in the section entitled "Convention Abolishing the Requirement of Legalization for Foreign Documents" in the Martindale Hubbell law directory.

14.37 Duplicate Wills. If duplicate wills were executed, both documents must be offered for probate despite language in the will to the contrary.

14.38 Renunciations, Declinations and Consents to Act. A written renunciation should be filed by or on behalf of a nominated executor who does not desire to act. Similarly, a written declination should be filed by or on behalf of an individual who is entitled to priority for issuance of letters of administration but does not desire to act. If the necessary renunciation or declination is not filed, the petition should indicate the reason. Where a petition seeks the appointment as personal representative of one or more persons other than the petitioner, a consent to serve as personal representative must be filed for each proposed personal representative.

14.39 Receipt of Statement of Duties and Liabilities of Personal Representative. Before Letters are issued, the personal representative, other than a bank or trust company, shall file an acknowledgment of receipt of a statement of duties and liabilities of the office. Probate Code

§8404. San Francisco does not require the personal representative's Social Security or driver's license numbers.

14.40 Hearing Within 30 Days. A written declaration must be filed with the petition for probate if it is requested that the petition be set for a day more than thirty (30) days from the date of filing.

14.41 Amount of Bond for Personal Representative. When full independent powers are requested, bond shall be set pursuant to Probate Code §8482. If the petition for appointment of a personal representative does not show the estimated amount to be protected, a declaration setting forth this information must be filed.

14.42 When Bond of Personal Representative Not Required. Ordinarily, when the verified petition for probate so requests, unless the will requires bond, no bond will be required of the personal representative where the petitioner is the sole beneficiary or, if the will is silent regarding bond, all beneficiaries of the estate waive bond. In an intestate estate, bond will be required unless the proposed personal representative is the sole heir or all heirs waive bond. Where appropriate, counsel should file a declaration to assist the Court. However, the Court in its discretion may require a bond in either of these circumstances.

14.43 Nonresident Personal Representatives. A proposed nonresident personal representative will be required to post a bond to protect California creditors, even if the will waives, or all heirs waive, bond. A declaration or attachment to the petition setting forth in detail the anticipated liabilities of the decedent and claims against the estate will be used by the Court to determine the amount of the bond, but in no event will the bond be less than $10,000.

14.44 Bond of Special Administrators. In the case of ex parte appointments of special administrators, the Court will usually require a bond even if the will waives bond and the beneficiaries or heirs waive bond. Probate Code §8481(b).

14.45 Reducing Bond Through Use of Blocked Accounts. When the Court allows a blocked account, a Judicial Council form Receipt and Acknowledgment of Order for the Deposit of Money Into Blocked Account (MC-356) must be filed.

- **A. Before Issuance of Letters.** Because of the difficulties of monitoring the issuance of Letters based on orders requiring blocked accounts, the Court discourages the use of blocked accounts on orders for probate and for appointment of a conservator.
- **B. After Appointment.** Bonds may be reduced at any time after appointment by a petition and order reducing bond, together with a receipt of a depository showing that assets in the amount of the requested reduction have been so deposited in a blocked account. Such a petition must set forth the assets remaining in the estate, after excluding those held by the depository, and it must appear that the reduced bond adequately covers the amount to be protected.
- **C. Direct Transmittal to Depository.** If the assets to be deposited are in the possession of a bank, savings and loan association or trust company other than the named depository, the order should direct the entity in possession to deliver such assets directly to the named depository and further direct the depository, on

receiving such assets, to issue its receipt and agreement to the fiduciary. (Fin. Code §765.)

D. Withdrawals or Releases from Depository. A Judicial Council form Order for Withdrawal of Funds from Blocked Account (MC-358) may be obtained ex parte. The Petition for Withdrawal of Funds From Blocked Account (MC-357) should set forth the approximate bond, if any, and the purpose for which the withdrawal is being made. The order may provide for funds to be paid directly to a taxing authority or beneficiary or other person entitled thereto.

14.46 Bond Modification.

A. See CRC, Rule 7.204. It is the duty of the fiduciary or the fiduciary's attorney, upon becoming aware that the bond is insufficient (e.g., on filing of an inventory or submitting an accounting), to apply immediately for an order increasing the bond. Such application may be made ex parte. An accounting will not be approved until the additional bond is on file.

B. When the bond of a fiduciary must be increased, the Court favors filing of an additional bond rather than a substitute bond. When the fiduciary's bond should be decreased, the Court favors using an order reducing the liability on the existing bond rather than a substitute bond. Reduction or cancellation of the bond will not be allowed nunc pro tunc. Where assets will be coming into or passing through the hands of the fiduciary so as to require an increase of bond, the fiduciary must set forth the information necessary to enable the Court to determine the amount of the increase.

C. Where a decrease in bond is sought because distribution has been made, copies of receipts evidencing the distribution should be presented with the petition.

14.47 Bond of Successor Trustee. The Court will require a bond of all successor trustees not named in the trust instrument unless all beneficiaries and remainder persons waive bond. The assets on hand must be listed with the fair market value to allow the Court to set the bond.

14.48 Bonds of Co-Fiduciaries. See CRC, Rules 7.202 and 7.203. The names of all fiduciaries must be on the bond. Upon resignation or removal of one fiduciary, a new bond must issue in the name or names of the remaining fiduciaries.

14.49 Bond on Change in Capacity of Fiduciary. When the Court requires a bond of a special administrator or a temporary conservator and a bond is required on that same person's permanent appointment, a new bond is required.

14.50 Request for Appointment of Referee. To obtain appointment of a referee, the San Francisco form, Request for Appointment of Referee, together with the original and one copy of the proposed Order Appointing Referee, on which the name of the referee has been left blank, must be submitted to the Clerk of the Court together with a stamped, self addressed return envelope. (San Francisco does not use the Order for Probate to appoint a referee.) Local forms are available online at www.sfsuperiorcourt.org.

14.51 Preparing Inventory and Appraisal. The Inventory and Appraisal for a decedent's estate is due within four months after Letters are issued. The California Probate Referee's

Association has published a pamphlet, Probate Referee's Procedures Guide, describing its suggested form for listing various inventory assets as well as its opinion as to whether particular assets should be listed on attachment 1 or 2. Although not an official publication, this pamphlet is a good reference.

14.52 Sufficiency of Bond. If there is a bond in force, the Inventory and Appraisal must disclose on its face whether the amount thereof is sufficient or insufficient.

14.53 Waiver of Appointment of Referee. The appointment of a probate referee may be waived only for "good cause" under Probate Code §8903, et seq. The decision whether good cause exists will be made by the Court on the basis of the facts set forth in the petition. The petition, including a copy of the proposed Inventory and Appraisal, and notice of hearing shall be served on all persons who are entitled to notice pursuant to Probate Code §8903. The petition must state the source of the values included in the Inventory and Appraisal. Waivers of appointment are not favored and are not routinely granted.

14.54 Notice to Creditors.

A. Notice to Unknown Creditors. Notice must be published in accordance with Probate Code §§8100-8125.

B. Notice to Known or Reasonably Ascertainable Creditors. If a personal representative has knowledge of a creditor of the decedent, the personal representative must give notice of administration of the estate to the creditor. Probate Code §9050(a). (Judicial Council Form DE-157.) The notice must be given as provided in Probate Code §1215 in addition to the publication of the notice under Probate Code §8120. A personal representative has knowledge of a creditor of the decedent if the personal representative is aware that the creditor has demanded payment from the decedent or the estate. Probate Code §9050.

14.55 Nature and Form of Claims.

A. Claim Versus Expense of Administration. The Court will not approve claims which represent obligations of the estate arising after the death of the decedent (except reasonable funeral expense). Such expenses are properly expenses of administration, not creditors claims and should be included for approval in the account.

B. Form of Claims. Creditors claims should be submitted on Judicial Council forms; however, the creditors claims will be liberally construed in favor of their sufficiency if the content and format are in substantial compliance with the Probate Code. Satisfactory vouchers or proof of claim shall be attached.

C. Claims when personal representative has IAEA powers. See CRC, Rule 7.402.

14.56 Claims Filed with Clerk and Mailed to Personal Representative. Creditors must file their claims with the Clerk of the Court and mail a copy to the personal representative (Probate Code §9150). The disposition of such claims must be reported to the Court prior to any distribution.

14.57 Payment of Interest on Funeral and Interment Claims. When interest has been paid in connection with the delayed payment of a claim for reasonable cost of funeral expenses, a

specific allegation must be made in the report accompanying the account in which the credit for such payment has been taken, setting forth reasons for the delay in payment. The personal representative may be surcharged the amount of the interest where the delay in payment of the claim is not justified.

14.58 Claims of Personal Representative and Attorneys.

A. Procedure. A creditor's claim of the personal representative or attorney should be noted as such. Such a claim must be processed as provided in Probate Code §9252, notwithstanding authority to act under IAEA. When there is more than one personal representative, a creditor's claim submitted by one of the personal representatives must be approved by the other(s) before submittal to the Court for approval.

B. Ex Parte Approval of Claims. Creditors claims of the personal representative or attorney for less than $2,500 may be submitted on an ex parte basis pursuant to Probate Code §9252(a). Creditors claims of personal representatives or the attorney for over $2,500 will not be approved by the Court until either a hearing has been held or written consent of the beneficiaries is on file. Such hearing should be held as set forth in Probate Code §9252(a) and notice thereof given to all persons entitled thereto including all residuary beneficiaries, together with a copy of the claim.

14.59 Waiver of Formal Defects in Claim Form. A personal representative may waive formal defects if a creditor makes a written demand for payment within four months after the date letters are first issued and pays the claim within thirty (30) days after the four-month period if the debt was justly due, paid in good faith and the estate is solvent. Probate Code §9154.

14.60 Judicial Approval. Judicial approval of sales or exchanges of real or personal property is not required in estates being administered pursuant to the IAEA with full authority. Confirmation is still required in other estates and a personal representative acting with full IAEA may return a sale for confirmation at his or her discretion.

14.61 Time and Place of Hearing. Hearings on confirmation of sales of both real and personal property are held at 9:00 a.m. every Monday, Tuesday and Wednesday, and are the first matters called.

14.62 Exclusive Listing for Sale of Property. See CRC, Rule 7.453. Probate Code §10538 is authority for a personal representative acting under IAEA to enter into an exclusive agreement to sell real property without prior Court approval. If Court confirmation is sought, either because of limited IAEA or pursuant to the agreement of sale, at the hearing on the confirmation of the sale, the Court will determine the total commission (without regard to the terms of the exclusive agreement). If an exclusive listing for sale of real property is sought by a personal representative not acting under IAEA, an application for authority to enter into an exclusive listing may be presented ex parte. A copy of the agreement for the exclusive listing must be attached. The petition must set forth the agent/broker's name, his or her experience with sales of real property in the area of the subject property and a description of the specific properties to be sold.

14.63 Tangible Personal Property (Probate Code §10250, et seq.).

A. Necessity for Appraisal. For estates subject to the IAEA, sales of personal property may be made without Court approval. In all other cases, the sale of tangible personal property will ordinarily not be approved unless the property has been appraised. For this purpose, a partial inventory and appraisal may be obtained from the appointed probate referee.

B. Commissions. Commissions on sales of tangible personal property will be allowed only to individuals holding a license authorizing them to deal in the type of property involved. A commission will be allowed on the original bid only when the commission is requested in the return of sale. When there is an overbid in Court, a commission may be allowed to the successful broker and, if the original bid was subject to the commission, apportionment between the brokers will be made according to the same rules as prescribed for real estate sales. The amount of the commission is within the Court's discretion.

14.64 Securities. Where a personal representative is proceeding under Probate Code §10200, the petition for authority to sell must set forth a minimum sales price as to all securities except those listed on an exchange. The minimum price must be a recent market quotation from the over the counter market, or, if there is no recent market quotation available or the securities are closely held, the petition must set forth the basis for fixing the minimum sales price.

14.65 Condominiums, Community or Cooperative Apartments.

A. A condominium or cooperative apartment is an interest in real property and must be sold as such, unless it is held as a limited partnership. (Civil Code §783)

B. The sale of a cooperative apartment will not be confirmed subject to the original (returned) purchaser later obtaining the acceptance of a Board of Directors or other governing body. If there is an overbid, the Court, at the request of the personal representative, will then continue the matter for the purpose of obtaining acceptance. If the personal representative does not wish to continue the matter for this purpose, the Court will not accept the overbid.

14.66 Publication of Notice of Intention to Sell Real Property.

A. Procedure. Notice of intention to sell real property must be published pursuant to Government Code §6063(a) in decedents' estates except for estates in which there is a power of sale in the will. Publication must be in a newspaper published in the county in which the real property lies.

B. Contents and Purpose of Notice. The notice should include the date and place of sale (not the date of the confirmation hearing). The published notice is a solicitation for offers. No offer can be accepted until the date on or after the time for making bids expires. The notice should contain the street address or other common designation of the property, or if there is none, the legal description of the property. If an exclusive listing has been given, the notice should so state. If the property is to be sold subject to an encumbrance, the notice should so state.

If the property is to be sold for cash only, the notice must so state. If the estate would prefer all cash but will accept part cash and part credit, the notice should include the following language: "All cash, or part cash and part credit, the terms

and conditions of credit as are acceptable to the fiduciary and the Court." See Probate Code §10300 et seq.

C. Effect of Notice. Any offer accepted and returned to Court for confirmation cannot be at variance with the terms of the sale contained in the notice.

14.67 Return of Private Sale for Court Confirmation.

A. Appraisal and Reappraisal. In order for a private sale to be confirmed, there must be on file an appraisal of the property and a reappraisal for purposes of sale if the decedent's date of death or guardian's or conservator's appointment occurred more than one year before the date of the confirmation hearing. The appraisal and reappraisal should be on file PRIOR to the hearing date on the return of sale.

B. Market Exposure of the Property. Whenever it is brought to the attention of the Court that the fiduciary has denied bona fide prospective buyers or their brokers a reasonable opportunity to inspect the property, the returned sale will not be confirmed, and the sale will be continued to allow inspection.

C. Second Deeds of Trust. The Court will approve the taking of a promissory note secured by a junior deed of trust upon a showing that it serves the best interests of the estate.

D. Hearing on Return of Sale and Overbids. Counsel must be prepared to state the minimum necessary overbid, computed at the rate of ten percent (10%) of the first $10,000, and five percent (5%) on the balance of the sale price. Counsel should inform the original bidder and his or her agent of the time and place of hearing and advise that they be in court for the hearing.

If the sale returned to the Court for confirmation is for cash and the higher offer made to the Court pursuant to Probate Code §10311 is upon credit, the offer shall be considered only if the personal representative prior to the confirmation of sale informs the Court in person or by counsel that the offer is acceptable.

If the sale returned to the Court for confirmation is upon credit and a higher offer is made for either cash or credit, whether on the same or different credit terms, the offer shall be considered only if the personal representative prior to the confirmation informs the Court in person or by counsel that the offer is acceptable.

E. Earnest Money Deposit by Increase Bidder. When a sale is confirmed to an overbidder, the overbidder must submit at the time of the hearing a certified or cashier's check in the amount of ten percent (10%) of the overbid amount.

F. Overbid Form. The Courtroom Clerk will give counsel a form to be completed on the overbid. This form is to be returned to the Clerk before the end of that morning's probate hearings.

G. Bond. The petition for confirmation of sale of real estate should set forth the amount of the bond in force at the time of the sale and the amount of property in the estate which should be covered by bond. If additional bond is required after confirmation of sale of real property, the petitioner should provide sufficient information for the Court to determine the net proceeds of sale and the amount of the required additional bond. If no additional bond is required or if bond is

waived, that fact should be alleged. Blocked accounts will not be accepted in lieu of the additional bond required.

H. **Absence of Attorney for Estate at Confirmation Hearing.** If someone is present who wishes to overbid and the estate's attorney is absent from the hearing, the hearing will be continued, except where the fiduciary is present and requests that the sale proceed without the attorney.

I. **Continuances.** Sale confirmations will be continued only under exceptional circumstances and the motion for continuance must be made in open court at the time set for the sale.

J. **Partial Interest.** Where the estate has a partial interest in real property, all information in the petition should refer ONLY to the partial interest, including the overbid amount. If the additional interest is also being sold, the total bid necessary should be announced in open court.

14.68 Broker's Commissions (Probate Code §§10161-10166).

A. **Improved Property.** The Court will ordinarily allow a broker's commission not to exceed five percent (5%) of the sale price. It is understood that commissions are negotiable and the parties may agree to a lesser percentage.

B. **Unimproved Property.** The Court will ordinarily allow a broker's commission not to exceed ten percent (10%) of the sale price. In each instance, the Court will determine what is unimproved property.

C. **Order Must Show Commission Allocation.** The order confirming sale must show the total commissions allowed and any allocation agreed on between the brokers. (For examples of allocation of commissions, see appendix B.)

D. **Commission Rates of Property Sites Will Apply.** Where the property is not located in San Francisco County, the Court will allow commissions based on the San Francisco Probate Department schedules unless it is shown that a larger commission would be allowed based on the schedule in effect in the Probate Department of the county in which the property is located.

E. **Commissions in Excess of Schedules.** A commission exceeding the normal schedule will be allowed only if the Court determines that there are special circumstances and that it is reasonable. The written agreement of the affected beneficiaries to the allowance of such commission should be obtained and presented at the hearing.

F. **Broker Bidding for Own Account Not Entitled to a Commission.** A broker bidding for his own account is not entitled to receive or share in a commission. *Estate of Toy* (1977) 72 Cal.App.3d 392.

14.69 Broker's Commissions in Overbid Situations.

A. **Only Original Bidder Represented by Broker.** When the original bidder is represented by a broker and the successful overbidder is not, the original broker is allowed a full commission on the amount of the original bid returned. Probate Code §10164(b).

B. **Where Overbidder Represented by Broker.** The overbidder's broker receives a full commission on the overbid price confirmed by the Court, reduced by one half (½) the commission on the original bid, which latter commission will be split equally between the original bidder's broker and any listing broker involved in the

sale. Over bidder's commission is limited by Probate Code §10162 to half the difference between the successful overbid and the returned bid if the original bidder is not represented by a broker.

C. Original Bidder as Overbidder. Once a net bid has been overbid in court, the original bidder may elect to be represented by a broker in further bidding.

14.70 Accounts. All accounts filed in probate proceedings, which include guardianship, conservatorship, and trust accounts, must be typewritten and must conform to Probate Code §1060 et seq. An account must be accompanied by a report of administration. The account must state the period covered by the account. A personal representative's account must begin with the date of death of the decedent.

14.71 Summary of Account Form. In decedents' estates, the Summary of Account must conform to Probate Code §1061(b). Conservatorship and Guardianship accountings must use the mandatory Judicial Council form GC-400(SUM)/GC-405(SUM) Summary of Account.

14.72 Contents of Account. Court accountings are cash, not accrual, basis. The summary must be supported by detailed schedules. The schedules of receipts and disbursements must show the nature or purpose of each item, the source of the receipt or the name of the payee, and the date thereof. Individual fiduciaries may not include transfers between accounts as they are not proper receipts or disbursements and should NOT be included. The schedule of property on hand must describe each item and the carrying value with a separate schedule setting forth the appraised value.

14.73 Reporting Income and Principal. When any part of the estate is to be distributed to a trustee of a testamentary trust, and the accumulated net income is to be paid over by the trustee to the trust beneficiaries, the account must allocate receipts and disbursements between principal and income and the amount of net income set forth.

14.74 Verification of Cash Balances. The ending balance of cash in interim and final accounts filed by individual fiduciaries must be verified. Verification is made by original bank or brokerage statements or original bank letters signed by a bank officer with the authority to sign, showing the vesting of the account, and the date and the amount of the balance. Photocopies are not acceptable. Balances shown in the account must be reconciled to the letters or statements which must be attached as exhibits to the account.

Private professional or licensed guardians, conservators, or trustees of trusts related to conservatorships or funded by Court order, as defined by CRC, Rule 7.903(a), shall continue to file only the original account statements showing the beginning balance of the first account and the ending balance of all accounts and lodge all other original account statements by submitting the statements to Room 202 of the Civic Center Courthouse in an envelope clearly marked on the outside with the case number, name of the conservatorship, guardianship, or trust, and the date the matter is on calendar. A stamped, self-addressed envelope must be included with the lodged documents which will be returned to the fiduciary when the court's determination of the guardian's, conservator's, or trustee's account has become final.

14.75 Allegations re Sufficiency of Bond. Sufficiency of bond must be addressed in all interim accounts. Where bond has been posted, there must be an allegation as to the total bond posted, the fair market value of personal property on hand at the close of the account period plus an estimated annual gross income from the real and personal property and any additional bond thereby required. (Probate Code §8482)

14.76 Trustee's First Account. The starting balance of a testamentary trustee's first account must conform to the trustee's receipt(s) filed on distribution of the assets of the decedent's probate estate. The petition for settlement of a trustee's account must include the names of beneficiaries and remainder persons and set forth the trust provisions for distribution of principal and income.

14.77 Waiver of Accounting on Final Distribution.

A. When Permissible. Waiver of accounting is permitted under Probate Code §10954 when each person entitled to distribution files either a written waiver of accounting or a written acknowledgment that the distributee has already received that to which he/she is entitled. A beneficiary of a specific cash bequest or non-income producing assets ordinarily need not execute a waiver of the accounting.

B. Effect of the Waiver. See CRC, Rule 7.550.

C. Waiver by Trustee. A testamentary trustee who waives the accounting of the personal representative must have filed a consent to act as trustee. (Probate Code §10954(b)(4).) Even though there is a waiver of accounting by the trustee, if the net probate income is to be paid by the trustee to the trust beneficiaries, the net probate income must be specified.

14.78 Specifically Devised Realty. Unless waived, a separate accounting for specifically devised real property is required. Such account shall set forth the income received from such real property and expenses allocable to it (e.g., taxes, maintenance, repairs, insurance, debt service). For apportionment of income and expenses see Probate Code §12002 (c)(d).

14.79 Reports and Petitions for Distribution.

A. Preliminary Distribution Under Probate Code §11620. In addition to the requirements contained elsewhere in this chapter, the petition for preliminary distribution must state the approximate value of the property remaining in the estate after the proposed distribution and an estimate of the total amount of unpaid taxes, unpaid claims and other liabilities. An inventory and appraisal which includes the property to be distributed must be on file.

B. Allegation re Character of Assets. In all cases where the character of the property may affect distribution, whether the decedent died testate or intestate, the petition for distribution must contain an allegation as to the separate or community character of the property.

C. Agreements for Distribution of Assets and Disclaimers. If distribution is to be other than according to the terms of the Will or the laws of intestate succession, there must be a written agreement on file executed under penalty of perjury and signed by all parties affected by the distribution. If there is a disclaimer on file, property will be distributed in accordance with Probate Code §282.

D. Assignment of Assets. (Probate Code §11604) If distribution is to be made to an assignee of an heir or devisee, the original assignment and the terms thereof must be on file.

E. Distribution to Persons under Conservatorship or Guardianship. The decree should provide for distribution of the property to the minor or the conservatee rather than to the guardian or conservator, but must provide that actual payment or delivery be made to the guardian or conservator.

F. Distribution to Minors.

1. Where delivery of the assets is to be made to the minor's parent pursuant to Probate Code §3401, the declaration by the parent complying with the provisions of that section must be on file before the hearing date.
2. Where a blocked account is to be used, the receipt and agreement of the depository must be filed and the decree of distribution shall so provide. The decree shall direct distribution of the minor's funds to a specific depository, including its location, in the name of the minor and shall state that the funds cannot be withdrawn without Court order.

G. Distribution to Trustee. If distribution is to a trustee who is not the personal representative, the consent of the nominated trustee to act must be on file prior to the hearing on the petition for distribution to the trustee. A written declination should be filed by or on behalf of the trustee who does not choose to act. The decree must contain the terms of the testamentary trust.

H. Distribution to Representative of Deceased Heir or Beneficiary. When an heir or beneficiary dies during the administration of an estate and survives any survival period stated in the will, the decree should provide for distribution to the named personal representative of the estate of the heir or beneficiary (Probate Code §§11801-11802) or, where applicable, to the person(s) entitled thereto under Probate Code §13100 or 13500. Counsel must file a copy of Letters certified within 60 days, the original 13100 affidavit or a certified copy of the Spousal Property Order before the hearing date.

I. Distribution to Intestate Heirs. The relationship of heirs who take by intestacy should be sufficiently described in the petition for distribution to permit the Court to determine whether the laws of intestate succession have been properly applied. If an heir takes by right of representation, the petition must indicate the parentage and the approximate date of the parent's death. Blood relationships and their degrees of kindred are shown in Appendix A.

J. Interest on General Pecuniary Legacies. The Court will strictly enforce the policy set forth in Probate Code §12003 and will order payment of interest at the statutory rate on all general pecuniary legacies not paid within one year from the date of decedent's death unless payment of interest is waived in the will. Probate Code §12001 sets the rate of interest. Attorneys are responsible for determining the correct rate. The order must state the date from which interest will be paid and that interest runs to the date of distribution.

K. Requirements re Petition for Final Distribution.

1. **Allegations re Creditors' Claims.** The petition for final distribution (whether or not on waiver of accounting and whether or not the personal representative is acting under IAEA) must list all creditors' claims presented to the personal representative (even if not filed with the Court)

and indicate the disposition of each claim, the name of the claimant and the amount paid. If any claim has been rejected, the date of service of notice of rejection must be stated, as well as its disposition, whether by lawsuit or otherwise. The petition must also state that the time for filing claims has expired and that all known or reasonably ascertainable creditors of the estate described in Probate Code §9050 received notice described in Probate Code §9052 or are within the class of creditors described in Probate Code §9054. This information must be set forth in the petition for final distribution even though it may have been presented to the Court in whole or in part in prior accountings or petitions for distribution.

2. **Allegations Relating to Independent Acts.** The petition must list and describe all independent acts taken without prior Court approval and if notice of the proposed action was required, the petition must contain an allegation that the notice period for the advice of proposed action was met or waived and no objections were received. The originals of the advice of proposed actions with attached declarations of mailing must be available but need not be filed with the Court. If certain acts have been properly reported in a prior petition for distribution (which was approved) they need not be repeated.
3. **Payment of Taxes.** The petition for final distribution must address the question of the source of the payment of the federal estate tax and California estate tax, if any. If the will has a clause directing the payment of the taxes out of the residue of the estate, this should be alleged. If, on the other hand, there is no tax clause or there is a tax clause which does not direct the source of the payment, the amounts required to be prorated or charged must be stated. The final account must show the computation and the order for final distribution must show the proration. The caption of the petition, notice and decree must indicate the death taxes are prorated.
4. **Retention of a Reserve.** The decree of final distribution must specifically set forth the use that may be made of the retained funds (e.g., income taxes, closing costs, property tax assessments, etc.). The application for final discharge must show the disposition of all amounts held in reserve and receipts must be filed for any distribution.
5. **Franchise Tax Board Clearance.** On the filings of a final account or report, if the estate exceeds $1,000,000 at the date of death and if $250,000 or more is distributable to nonresident beneficiaries, the certificate of the California Franchise Tax Board required by Revenue and Taxation Code §19513 must be on file.
6. **California Inheritance Tax.** In Inheritance Tax Report and Order Fixing Tax must be filed prior to final distribution in estates where the decedent died prior to June 8, 1982.
7. **Election of Surviving Spouse to Administer.** If the surviving spouse elects to probate assets that are distributable directly to him/her, the surviving spouse must file a statement that he/she has been fully informed about the reasons for a probate (rather than, e.g., a Spousal Property

Petition) and the consequences thereof, including potential delay and increased fees.

8. **Allegations re Health Care Benefits.** The first report of administration of a decedent's estate must contain the allegations required by Probate Code §9202 and 215 and that four months have elapsed since the notice was sent or that no such notice is required. This notice is required if decedent or his/her predeceased spouse received MediCal benefits.
9. **In General.**
   a. A petition for final distribution, whether or not an account is waived, must list assets on hand and list and describe the property to be distributed, either in the body of the petition, or by a schedule in the accounting, or in a separate exhibit incorporated in the petition by reference. Description by reference to the inventory is insufficient. Real property must be described by legal description.
   b. The petition for final distribution must state specifically how the estate is to be distributed, including the amount of cash (as of a date certain) distributable to each beneficiary. A general allegation that distribution is "in accordance with the terms of the will" or "in accordance with the laws of intestate succession" is insufficient.
   c. When the petition seeks a non-pro rata distribution, it must show the computation on which the proposed distribution is based. Consents of interested beneficiaries must be filed.
   d. Whether or not an accounting has been waived, the order of distribution must set forth specifically the manner in which the estate is to be distributed by showing the distributee's name and a description of the property, including the legal description of real property, and the amount of cash (as of a date certain) to be distributed. This must be in the body of the order. Mere reference to allegations in the petition is insufficient and not acceptable to the Court. Schedules attached to the order are also unacceptable.
   e. The order shall provide that the savings institution or other depository holding blocked funds belonging to the estate draw checks payable to the named distributees. Funds held in blocked accounts in lieu of bond will not be released to the personal representative for distribution.
   f. Receipts for any preliminary distribution must be on file prior to the approval of final distribution.

14.80 Family Allowance (Probate Code §§ 6540-6545).

A. Necessary Allegations of Petition. All petitions for family allowance must state facts to show that the allowance prayed for is necessary and reasonable, including:

1. the nature and separate or community character of the probate estate and whether or not it is solvent;
2. whether others are entitled to a family allowance;
3. the approximate needs of the applicant, with reference to his or her standard of living; and

4. the applicant's income from other sources.

B. Duration of Family Allowance. All orders will limit family allowance to a definite period of time. If the order is on an ex parte petition, family allowance will normally not be granted for a period exceeding six months.

C. Probate Code §6540(a). Before an inventory is filed, an order for family allowance under Probate Code §6540(a) may be made or modified ex parte or on noticed hearing; after an inventory is filed, such an order may be modified only on noticed hearing, as provided by Probate Code §6541(b).

D. Probate Code §6540(b). An order for a family allowance under Probate Code §6540(b) may be made or modified only on noticed hearing as provided by Probate Code §6541(c).

E. Income and Expense Declaration. If a petition for family allowance is contested, the petitioner must file an income and expense declaration prior to the hearing. (Judicial Council Form FL-150.)

14.81 Borrowing Money (Probate Code §§9800-9807).

A. Inventory Must Show Security. If the loan is to be secured, an inventory describing the security must be on file prior to the hearing.

B. Bond Requirements. The petition under Probate Code §9802 must state whether the personal representative is serving with or without bond. If with bond, the Court must be advised in the petition, by supplemental declarations filed before the hearing or by testimony at the hearing as to the necessity for an increase in bond.

14.82 Operating a Business (Probate Code §9760). The petition must show the advantage to the estate and the benefit to the interested persons of the order requested. Notice of the hearing must be given as provided in Probate Code §1220.

14.83 Determining Title to Real Property or Personal Property (Probate Code §850). The Court requires that all notices of hearing given under Probate Code §851 must contain a description of the property sufficient to give adequate notice to any party who might be interested in the property, including with respect to real property, the street address or, if none, an indication of its location.

14.84 Substitution or Withdrawal of Attorney. If an attorney wishes to withdraw from a probate proceeding as the attorney of record, the attorney may do so by filing a noticed motion in the probate department or by filing a substitution of attorneys. Substitution of the personal representative or the conservator or guardian, in pro per, will require a noticed motion and appearance. Notice to a bonding company, if any, is required.

14.85 Petition for Instructions. A petition for instructions is only available when no other different procedure is provided by statute. For example, the Court will not determine how a will should be interpreted or the manner in which an estate should be distributed on a petition for instructions. Such direction can only be obtained by a petition for distribution or by a petition for determination of persons entitled to distribution, Probate Code §11600 et seq., and §11700 et seq.

14.86 Obtaining Final Discharge. Counsel or self-represented parties must submit Judicial Council Form DE-295 with endorsed filed copies of receipts attached. If funds have been retained in reserve, the application for final discharge must show the disposition of all funds, and receipts. The Court at its discretion may require a supplemental account of the reserve. The order portion should be completed in full except for the date and name of the Judge.

14.87 Proceedings to Establish Fact of Death (Probate Code §§200-204).

A. Filing Under Name of Decedent. A petition to establish the fact of death must be filed in the name of the deceased person whose interest is to be terminated.

B. Separate Petition Preferred. Although Probate Code §202(b) authorizes a petition to establish the fact of death to be included in a verified petition for probate of will or for letters of administration, attorneys are requested to file the petition as a separate petition.

C. Description of Property. If the property affected is realty, a copy of the document showing the decedent's interest must be attached to the petition and incorporated therein, or the verified petition must set forth the entire instrument vesting title, including the recordation data. If the property affected is personalty, the location and the description of the property and the decedent's interest therein must be set forth with particularity.

D. Death Certificate. A certified copy of the death certificate must be filed with the petition.

E. Attorney's Fees. There is no provision in the Probate Code for allowance of attorney's fees in proceedings to establish the fact of death. The attorney should make fee arrangements directly with the client.

If a surviving joint tenant failed during his or her lifetime to establish the fact of death of a previously deceased joint tenant, an extraordinary fee may be awarded in the probate proceeding involving the surviving joint tenant for those services performed after the death of the surviving joint tenant.

14.88 Temporary Guardianships and Conservatorships

A. Grounds. A temporary guardianship or conservatorship will not be granted without a showing of good cause. The petition must set forth facts showing the emergency or urgent nature of the request.

B. Filing Petitions and Setting on Ex Parte Calendar. Ex parte petitions for appointment of temporary conservators must be set at least seven (7) court days in the future. Ex parte petitions for appointment of temporary guardians must be set at least five (5) court days in the future. An endorsed filed copy of the petition must be presented to Room 202 before a hearing date will be calendared. Petitioners must obtain a hearing date and time from the Probate clerk in Room 202 or by calling 415-551-3659.

A separate petition for appointment of a general conservator or guardian must first be on file and a hearing date assigned before a petition for appointment of temporary conservator or guardian will be considered.

Endorsed filed copies of both the general and temporary petitions must be delivered to the Probate Department at least seven (7) court days before the scheduled hearing date for temporary conservatorship petitions and at least five (5) calendar days before the scheduled hearing date for temporary guardianship petitions.

C. Notice.

1. **Temporary Conservatorships**. Unless the Court for good cause otherwise orders, at least five (5) court days before the hearing on the appointment of temporary conservator, the petitioner must give notice by
   a. Personally serving notice of hearing and a copy of the petition on the proposed conservatee, and
   b. Mailing notice of hearing and a copy of the petition to the persons required to be named in the petition for appointment of conservator.

   The proofs of service and a declaration regarding notice in compliance with CRC, Rule 3.1204, must be filed and endorsed filed copies presented to the Probate secretary in Room 202 at least three (3) court days before the temporary conservatorship hearing.
2. **Temporary Guardianships.** Unless the court for good cause otherwise orders, at least five (5) court days before the hearing on the appointment of a temporary guardian, the petitioner must
   a. Personally serve notice of hearing and a copy of the petition on the proposed ward, if the proposed ward is 12 years of age or older; to the parents of the proposed ward; and to anyone having a valid visitation order with the proposed ward, and
   b. Give 24 hours' notice by telephone or fax to relatives within the second degree of the proposed ward. A declaration regarding notice in compliance with CRC, Rule 3.1204, to relatives within the second degree must be filed and presented to the Probate secretary in Room 202 no later than 12:00 p.m. on the day before the ex parte hearing.

   The proofs of service of notice to the proposed ward (if the proposed ward is 12 years of age or older) to the parents of the proposed ward, and to anyone having a valid visitation order with the proposed ward must be filed and endorsed filed copies presented to the Probate secretary in Room 202 at least three (3) court days before the temporary guardianship hearing.

D. Appearance at Hearing. The Public Guardian need not appear at the hearing of an uncontested ex parte petition for appointment of the Public Guardian as temporary guardian or conservator. In all other cases, the petitioner, proposed temporary conservator or guardian, and counsel, if any, must appear at the hearing. The proposed temporary conservatee must appear unless the court investigator's report or a Capacity Declaration, Form GC-335, excuses the proposed temporary conservatee's appearance under Probate Code §2250.4. In guardianship proceedings, the minor must be present.

E. Bond. A full bond will normally be imposed upon a temporary guardian or conservator of the estate, pursuant to Probate Code §2320(c) and CRC, Rule

7.207(c). If a lesser amount is requested, good cause must be shown in the petition.

F. Powers of Temporary Guardians and Conservators. Temporary guardians or conservators have the same powers as regular guardians or conservators with the following exceptions:

1. Sales. Temporary guardians or conservators may not sell any property including securities, vehicles, personal property, or real property.
2. Change of residence. Temporary guardians or conservators may change the residence of the ward or conservatee only with Court authorization except in an emergency or if there is a need for an acute hospitalization.

G. Special Powers. Special powers are not favored in temporary guardianships or conservatorships. If special powers or other special orders are sought, they must be specified in the petition and supported by factual allegations constituting good cause. In any case involving a special medically related power, a physician's declaration should be presented with the petition in accordance with LRSF Rule 14.90.G.1.b.

H. Length of Appointment. A temporary guardian will not be appointed for a period exceeding thirty (30) days. An extension can be ordered by the Court for good cause. A temporary conservator will be appointed only pending the hearing on the petition for the appointment of the conservator.

I. Copies. All filings regarding guardianships and conservatorships must be accompanied by a copy designated for the Court Investigation Unit of the Probate Department.

14.89 Guardianship

A. Notice.

1. **On Petition for Appointment of Guardian**. Notice of petition must comply with Probate Code §§1510-1511. In situations where an order dispensing with notice is sought on the ground that a relative within the second degree cannot be found with reasonable diligence, and no other notice is required under Probate Code §1511, the Court requires a declaration stating specifically what efforts were made to locate the relatives.
2. **Screening.** When a petition for guardianship of person is filed, a copy of the petition and other documents must be given to the San Francisco HSA and to the Director of Social Services at the Director's Office in Sacramento pursuant to Probate Code §1516 and 1542. This will enable the agencies to screen the proposed guardian for neglect or abuse of children. The following documents should be provided to the San Francisco HSA within a week of the filing of the documents at the Superior Court. The following documents are required by the Probate Code and the HSA:
   a. Notice of Hearing
   b. Petition for Guardianship
   c. The order and Letters of Temporary Guardianship, if one was granted
   d. The Declaration of the Proposed Guardian

e. The Declaration under the Uniform Child Custody Jurisdiction Act
f. Any consents, nominations, or waivers of notice and consent
g. A cover letter which provides the following information for the proposed guardian and each other adult living in the household(s) of the proposed guardian(s):
(1) The complete name of each adult
(2) The date of birth of each adult
(3) The social security number of each adult
(4) The driver's license number or California identification number of each adult
h. The documents should be sent to:
Theresa McGovern, N120
Family and Children's Services
HSA
Box 7988
San Francisco, CA 94120-7988

In cases where a natural parent is seeking to be appointed guardian of a minor, the screening by the HSA will not be required.

3. **Other Court Proceedings.** If a minor is involved in any other court proceeding, i.e., Juvenile Court for dependency or delinquency, litigation or Family Court Services, past or present, it must be stated in the petition for guardianship. The dates and case numbers of those actions must be included.
4. **Appearance of Proposed Ward at Hearing for Appointment of Guardian.** An appearance by the proposed ward is required.

B. Investigative Reports. Unless waived by the Court, an investigative report may be given to the Court prior to appointment of a guardian of the person and/or estate pursuant to Probate Code §1513 (a).

In all cases where a non-relative petitions to be appointed guardian, the HSA will perform an investigation including a home visit, and make a report to the Court prior to the hearing date. When the proposed guardian is a relative, a Court Investigator will conduct an investigation pursuant to Probate §1513, including a home visit, and provide a report to the Court prior to the hearing date. Further investigation or mediation will be performed as required by the Court.

C. Review of Guardianships. The Court has a program to use trained, supervised volunteers to assist the Court in reviewing guardianships. Guardians will receive a visit from the Court to discuss the needs and progress of the minor. The Court Visitor will make a report to the Court as to the needs of the minor. Where the guardian is a natural parent, the Court will not require a visit.

D. Information to be Supplied.

1. **Required Declaration.** The Court requires that a declaration in support of the petition for guardianship of the person be filed with the petition by the proposed guardian. The declaration will become part of the court file which is a public record. The declaration must include the following:

a. The need for guardianship including the specific reasons why the parents are unable to care for the proposed ward, and whether they consent to the guardianship.
b. The proposed guardian's complete legal name, date of birth, education, employment, and state of health.
c. Information if the proposed guardian is presently serving as a guardian in San Francisco County or any other county and, if so, the names of the wards.
d. The complete legal name, date of birth and relationship of all persons residing in the proposed guardian's household.
e. A statement concerning the development of the minor, indicating with whom minor has resided since birth, and any special emotional, psychological, educational or physical needs of the minor and the guardians' ability to provide for such needs.
f. The proposed daycare for the minor, if applicable, and the name, address and telephone number of the minor's school, if any.
g. The housing arrangements of the guardian, indicating whether the minor will have his or her own room or will be sharing a room with another member of the guardian's household, and if so, with whom.
h. The anticipated amount and source of any financial support of the minor. Counsel is reminded that the appointment of a guardian does not relieve the minor's parents of their primary obligation of support.
i. A photocopy of the visa of a minor in the United States on a student visa.
j. Any arrest record of the guardian and each person who will reside in the guardian's home, including the nature of the offense, the date, place, and disposition.
k. Any pending or prior proceedings in Juvenile Court (dependency or delinquency), Family Court, or any other court involving the minor. Any pending proceedings in Juvenile Court (dependency or delinquency) involving any other persons who will be residing in the guardian's home should also be stated. Information required in this section should include the date, place, case numbers, and disposition of the matter(s).
l. Any prior contact by the minor, the guardian, and any persons who will reside in the guardian's home with Child Protective Services or the HSA.
m. The name and telephone number of the physician or medical clinic where the child receives his/her medical care.
n. Information which should be revealed to the Court but which the petitioner wishes to have remain confidential, shall be addressed to the Court Investigator and labeled, "For Confidential Use Only." A Confidential File may be established by the Clerk of Court to contain confidential information filed with the petition for

guardianship. Generally confidential files will not be created under any other circumstance.

2. **Declaration Under UCCJA.** A declaration under the Uniform Child Custody Jurisdictional Act (UCCJA) must be filed with the petition and at any time there is a change of address of the ward. Judicial Council Form GC-120.

E. Inventories and Accounts for Several Wards. When a guardianship of the estate has been instituted for more than one minor, the interests of each minor must be separately stated in the inventory and separate accounting schedules must be presented so that the receipts, disbursements and assets pertaining to each minor's estate are readily ascertainable.

F. Accounts and Reports.

1. **In General.** The report accompanying each accounting should contain a statement of the age, health and whereabouts of the ward. In addition, the report should contain an allegation concerning the amount of bond currently in effect and should address the question of the adequacy thereof.
2. **Waivers of Accounts.** Waivers of final accounts on termination are not favored and the Court will require the ward to be present at the hearing.
3. **Calendaring of Inventory and Appraisal and Accounting.** All guardianships of estate will be placed on calendar for the filing of the Inventory and Appraisal approximately ninety (90) days after appointment of the guardian. If the Inventory and Appraisal are on calendar, no appearance will be required unless deemed necessary by the Court. The Court will also place the First Account on calendar for one year after appointment. If the accounting is on file, no appearance will be required unless the Court deems it necessary.
4. **Status Report**. A Confidential Guardianship Status Report is required in guardianships of the person, estate or both guardianship of person and estate. At the time of appointment of the guardian, the Court will set a date by which the Confidential Guardianship Status Report must be filed, generally six months to one year after appointment. The Court Clerk will mail a blank Confidential Guardianship Status Report form to the guardian in advance of the due date for the guardian to complete and return to the Court. If the Confidential Guardianship Status Report is on file by that date, no appearance will be required unless determined otherwise by the Court.
5. **Final accounts.** See CRC §§ 7.1005-7.1007.

G. Discharges. Discharge of the guardian will not be made in the order settling the final account. A separate declaration for final discharge must be submitted, together with the receipt executed by the former ward and a copy of the order settling the final account and ordering delivery of the assets to the former ward. The declaration must state the date on which the ward reached majority. A guardian is not entitled to a discharge until one year after the ward has reached majority, unless the ward has given the guardian a valid release. Probate Code §2627.

H. **Copies.** All filings regarding guardianships must be accompanied by a copy designated for the Court Investigation Unit, Probate Department.

I. **Current Addresses.** All attorneys and guardians are required to keep the Court informed of their current addresses and phone numbers as well as the current address and phone number of the ward.

J. **Use of Minor's Assets for Support in Guardianship Cases.** Prior Court approval must be obtained before using guardianship assets for the minor's support, maintenance or education (Probate Code §2422). The petition must set forth what exceptional circumstances would justify any use of guardianship assets for the minor's support. Such request may be included in a petition for the appointment of a guardian. An order granting such petition should normally be for a limited period of time, usually not to exceed one year, or for a specific and limited purpose.

K. **Disposition of Minor's Funds (Probate Code §§3410-3413).**

1. **Contents of Petition.** A petition under these sections must set forth jurisdictional facts, state the amount to be paid and by whom, the amount of fees and reimbursement of costs requested, the relief requested, and a statement showing that the requested relief will best serve the interests of the minor.
2. **Notice.** The petition may be presented ex parte if the only relief sought (other than reimbursement for filing fee and award of reasonable attorneys' fees) is to deposit funds in a blocked account. Otherwise, the petition must be noticed.
3. **Blocked Accounts.** Orders to Deposit Money into Blocked Account, and Receipt and Acknowledgment of Order for Deposit into Blocked Account must be on Judicial Council forms MC-355 and MC-356.

L. **Orders for Withdrawal of Blocked Funds.**

1. **Prior to Majority.** Where withdrawal is sought prior to the time the minor reaches the age of majority, the guardian must complete Judicial Council forms 357 and 358 and may present them to the Probate Department ex parte. The purpose and necessity of the withdrawals should be explained in detail. Withdrawals generally will not be approved except in cases of medical emergencies or exceptional need when the parents cannot afford to meet the needs of the minor in full. The order will specify that checks shall be made payable to the provider of goods and services and not to the guardian.
2. **Upon Termination.** Where withdrawal is sought because the minor has reached majority, and the order establishing the blocked account is not self-executing, a certified copy of the minor's birth certificate or other convincing evidence of the minor's age must be presented with the petition for withdrawal. The order must provide for payment of the funds only to the former minor.

M. **Court Appointed Counsel**. If, in the Court's discretion, it is necessary, the Court will appoint an attorney to represent a ward or proposed ward.

N. **Withdrawal of Attorney of Record.** Attorneys who wish to withdraw from a guardianship must formalize that withdrawal with a noticed hearing. Generally

the Court will not accept the substitution of a guardian of the estate as a self-represented party.

M. Termination of Guardianship. A petition for the termination of a guardianship of person may be filed at any time during the guardianship but need not be filed when the ward turns 18 years of age. Where there is a guardianship of estate, a petition for termination is required even if accountings have been waived. At the hearing date for consideration of the petition for termination on waiver of final account, the attorney, guardian, and newly-turned adult must appear. Petitions for termination before the minor attains age 18 will be set for Tuesdays at 1:30 p.m.

14.90 Conservatorship

A. Special Requirements.

1. **Copies.** An extra copy of all conservatorship filings must be given to the Clerk of Court designated for the Court Investigation Unit, Probate Department.
2. **Order Appointing Court Investigator.** San Francisco does not use the Judicial Council form Order Appointing Court Investigator. Instead, the San Francisco form Contact Information shall be used and shall be filed in duplicate. An extra copy must be given to the Clerk of Court designated for the Court Investigation Unit, Probate Department.
3. **Contact Information.** The Contact Information form must be filed with all petitions for appointment of conservator, with petitions for appointment of successor conservator, and with all accountings in conservatorship matters. The Contact Information form is available in the clerk's office or online at www.sfsuperiorcourt.org.
4. **Confidential Supplemental Information.** All petitions for conservatorship must be accompanied by the Judicial Council form, Confidential Supplemental Information.
5. **Deficits In Mental Functions**. The proposed conservatee's deficits in mental functioning as set forth in Probate Code §812 should be addressed within the Confidential Supplemental Information form. If the conservatorship is contested, or if the petitioner requests determination that the proposed conservatee lacks capacity to give informed consent to medical treatment, the petitioner must file a capacity declaration (Judicial Council form GC 335) completed by the proposed conservatee's doctor.
6. **Petition for Appointment of Successor Conservator.** Petitions for appointment of successor conservators are heard on the Thursday morning calendar. Petitions for appointment of successor conservators must be filed in documents separate from accountings and other documents. Such petitions must be accompanied by two other forms:
   a. Contact Information Form and
   b. conservator confidential supplemental information
7. **Court Supervision of Conservatee's Living Trust or Special Needs Trust.**
   a. A petition to bring a (proposed) conservatee's living trust or a Special Needs Trust under court supervision must be filed under a separate case number.

b. All accounts of, and petitions involving, trusts related to conservatorships must be filed under a separate case number.
c. The conservatorship or trust case number should be noted in parentheses under any pleading caption in the related matter.

B. Qualifications of Conservators who are not Private Professional Conservators. All conservators in this category must complete the education classes as ordered at the time of their appointment as conservator. These classes must be completed within six months of appointment as a conservator. A schedule of available classes will be provided to the appointed conservator at the time of the hearing. A Certificate of Completion must be filed with the Court. Failure to complete these classes may result in an order to appear in Court.

C. Handbook for Conservators. Before Letters of Conservatorship are issued, each conservator of the person or estate must obtain and file a receipt for the Handbook for Conservators. The Handbook includes a separate Resource Supplement. The cost of the Handbook may be reimbursed from the conservatorship estate. The Handbook is available in the Clerk of Court Office at the Probate Window.

D. Order Appointing Conservator. On the Judicial Council form Order Appointing Conservator, paragraphs 2f and 3f concerning the ability to vote should be left blank.

E. Additional Powers. The Court may, on the petition of the conservator either at the time of appointment or later, grant additional powers to the conservator as authorized by the Probate Code §§2590 and 2591. The Court does not favor the granting of special powers absent a showing of good cause. Any additional powers will be tailored to the specific circumstances of each case.

F. Medical Consent Authority. Probate Code §2354. All conservators of the person have the power to consent to medical treatment of the conservatee so long as the conservatee does not object. In emergencies, the conservator may require the conservatee to receive medical treatment even though the conservatee does not consent.

G. Exclusive Medical Consent Authority and Request for Dementia Powers.

1. **Probate Code §2355.** General mental confusion, disorientation, etc. will not alone support an order for exclusive medical authority. Such authority will only be granted if the following conditions are satisfied:
   a. **Court Investigator Report**. It clearly appears from the court file that a Court Investigator has advised the conservatee of the effect of granting such authority and of the conservatee's rights in regard to such request.
   b. **Capacity Declaration**. A Capacity Declaration, Judicial Council form GC 335, is filed stating an opinion that the proposed conservatee lacks the capacity to give informed consent to any medical treatment and that the proposed conservator should be granted the exclusive authority to give such consent and to consent over the objection of the proposed conservatee. The Capacity Declaration form is required when a petition requests dementia powers or when a Petition for Exclusive Authority to Give Consent for Medical Treatment is filed. Such declaration must state the

factual basis for the opinion and the nature and extent of the examination and investigation.

c. **Dementia Powers.** Dementia powers for medication or secured placement may be requested at the time of the filing of the temporary or general conservatorship of the person or any time thereafter. Attachment Requesting Special Orders Regarding Dementia Powers, Judicial Council Form GC-313, must be filed: for proposed conservatorships, attach to the petition for conservatorship; for existing conservatorships, attach to Petition for Exclusive Authority to Give Consent for Medical Treatment. Requests for dementia powers require that the Court appoint an attorney for the conservatee.

2. **Conservatee Regains Capacity.** If a conservatee regains sufficient capacity to give informed consent to any form of medical treatment, the conservator shall promptly petition, pursuant to Probate Code §1891, to revoke any previous order granting the conservator exclusive authority to consent to medical treatment on behalf of the conservatee.

H. Notice.

1. **Giving Notice.** Notice of hearing must be given in accordance with Probate Code §§1821 and 1822. Where the proposed conservatee is also subject to a LPS Conservatorship, notice must be given to the attorney representing the proposed conservatee in that action and to the LPS conservator.
2. **Petition for Appointment of Conservator.** There is no statutory basis for shortening the time for notice or for dispensing with notice on a petition for the appointment of a conservator.
3. **Power of Attorney.** If the proposed conservatee has executed a power of attorney (bank, limited, durable, general, for finances or for health care), the attorney in fact should receive notice of the petition for conservatorship. This information should also be included in the petition for conservatorship. The name, address, and telephone number of the person designated as the attorney in fact must be included in the Contact Information form.

I. Changes of Address. The conservator must promptly file notice with the Court of any changes of address or telephone number of the conservator, the conservatee, or the attorney for the conservator and provide the copy for the Court Investigation Unit.

J. Accounts and Reports.

1. **Inventory and Appraisal; Payment of Assessment Fee; Recording of Letters.** The Inventory and Appraisal is due ninety (90) days from appointment. The conservator must also pay the assessment fee for the first investigation unless the fee was waived or deferred by the Court. The conservator must also produce evidence of the recording of Letters as prescribed in Probate Code §2313. The Court will calendar a date for the filing of the Inventory and Appraisal, the proof of payment of the assessment fee and the filing of the evidence of the recording of Letters. The amount of the assessment fee and the filing date will be stamped on

the Order Appointing Conservator at the time of the hearing. No appearance will be necessary if the Inventory and Appraisal, Proof of Payment of Assessment Fee, and evidence of recording of Letters are on file.

In lieu of a receipt, successor conservators must file an information only Inventory and Appraisal, using the values from the prior conservator's inventory for non-cash assets.

2. **General Plan.** At the time the conservator is appointed, the Court will set a date for filing of the General Plan. A copy of the General Plan must be given to the Court Investigation Office. If the General Plan is on file on the date set by the Court, no appearance will be required unless deemed necessary by the Court. This local Court form is available in the clerk's office or online at www.sfsuperiorcourt.org.
3. **First Account.** The first account is due one year after appointment. The Court will calendar the filing of the first account at the time of appointment of the conservator. Probate Code § 2620. If the account is on file with a hearing date set in the future, no appearance will be required unless deemed necessary by the Court.
4. **Status Report.** All conservators of estate who are also the conservators of person must file a Status Report at the time of all accounts. This local Court form is available in the clerk's office or online at www.sfsuperiorcourt.org. The Contact Information form, with current information, must be filed with all Status Reports. The Court will calendar the filing of the first Status Report at the time of appointment of the conservator. If the Status Report is on file with a hearing date set in the future, no appearance will be required unless deemed necessary by the Court. The Status Report must contain information as to the health and placement of the conservatee, the amount and source of any monthly allowance for the support of the conservatee, the adequacy of the bond if there is one, and the amount of any outstanding liabilities.

   Though not required by statute, these rules require that all conservators of person file a Status Report one year after appointment and every other year thereafter. The Status Report is required even if no conservatorship of estate exists.

   The Status Report is Confidential and must be labeled as such by counsel. Status Reports must be filed separately from accountings and will be placed in the Conservatorship Confidential File.
5. **Waiver or Deferral of Account.** Waivers or deferrals of account will be accepted in the Court's discretion only in the following instances:
   a. When the proceeding is terminated by Court order, and the conservatee thereafter waives an account.
   b. When the proceeding is terminated by death of the conservatee and (a) there is no Will and a written waiver is obtained from all of the conservatee's heirs, or (b) there is a Will and a written waiver is

obtained from the executor and the beneficiaries under the Will after the order admitting the Will has become final. Waivers will be accepted only from heirs or beneficiaries who are competent adults.

c. When a Court Investigator determines that the estate may qualify for deferral of accountings, a form will be furnished to the conservator. If the form is signed by the conservator and returned to the Court Investigation Unit within the time allowed, the Court may make an order deferring future accountings.

6. **Final accounts where the conservatorship has been terminated by the death of the conservatee**. Final accountings must be filed within 90 days of the death of a conservatee. Conservatorships where there has been a waiver of accountings or a deferral of court assessment fees must file a final report stating the current circumstances of the estate re: the need for a final accounting or the possibility of payment of the assessment fee. When the court learns that a conservatee has died and no final accounting or report has been filed, the court will set a status date for filing of the final accounting or report. When there is a conservatorship of person only, a declaration must be filed noting the date of death, and addressing the possibility of payment of the assessment fee.

Notice of the hearing on the settlement of the final account or report must be given to the personal representative of the probate estate, if one has been appointed, as well as to all of the parties as set forth in Probate Code §2621. If there is no personal representative, or if the representative and the conservator are the same person, then notice must be given to all devisees named in the conservatee's will and to the heirs of the conservatee so far as is known to the conservator.

The petition accompanying the final account must state the name of the personal representative of the deceased conservatee's estate if one has been appointed. If probate proceedings have been filed in San Francisco, the number of the pending probate must be indicated. If probate proceedings are pending in another county, a certified copy of letters must be filed in the conservatorship. If probate proceedings have not been commenced and delivery of the assets may be made pursuant to Probate Code §13100, the names of those persons entitled to the delivery of the assets must be set forth and original §13100 affidavits must be on file.

The order settling the final account must provide for delivery of the assets to the named personal representative or to the devisees or heirs as indicated in the petition, and compliance with the order is a basis for discharge of the conservator.

The hearing on the petition for settlement of the final account should not be set until a personal representative has been appointed or the required declarations, pursuant to Probate Code §13100, are on file.

When the conservatee has died, and no final accounting has been provided to the court, the court investigator may set the matter for hearing. Notice of the hearing date will be given to the conservator and to the attorney using the form notice to close conservatorship. If the final accounting is on file and set for a future hearing date, and if the "proof of payment of assessment fees" has been filed, no appearance will be required unless the court requires it.

7. **Final account where conservatee is living**. Counsel are reminded that the final account must be served on the conservatee where the conservatorship has been terminated with respect to a living conservatee. In such cases, the proof of notice must clearly indicate the notice of the petition and the final account.

K. Sale of Real Property.

1. **Court Confirmation.** The Court will only grant a power to sell real property under Probate Code §2591 where the power is made subject to Court confirmation of any sale made by the conservator.
2. **Petition for authorization to grant exclusive broker listings and to sell real property**. A petition for authorization to grant an exclusive listing will be considered ex parte but only after prior authority to sell has been obtained on a noticed petition at the time of the appointment of the conservator or on a subsequent noticed petition. The petitions may be combined as a noticed petition. All conservatorship sales are subject to court confirmation notwithstanding Probate Code §2540. et. seq.

L. Sale of Conservatee's Residence. If the conservator petitions to sell the conservatee's present or former residence, the petition must allege that the conservatee is unable to return to the residence or, if able, that the conservatee agrees to the sale, or that the sale is necessary to generate cash to support the conservatee. The petition must include the information that the sale has been discussed with the conservatee pursuant to Probate Code §2540 (b). The report must include the responses of the conservatee. Where the sale of the conservatee's residence is sought, a copy of the petition must be provided to the Court Investigation Unit at the time of the filing of the petition. The Court may require further investigation of the issue.

M. Establishment of Trusts Funded by Court Order.

1. **Application of this rule**. The requirements set forth below apply to all trusts funded by court order, as defined by CRC, Rule 7.903(a), regardless of whether the beneficiary is subject to conservatorship. The court may waive one or more requirements upon a showing of good cause.
2. **Terms of trust.** Regardless of any other provision of a trust established under court order, in administering the trust, the trustee shall be subject to the same terms and conditions as a conservator of estate during the lifetime of the conservatee, unless specifically waived by the Court upon a showing of good cause.
3. **Notice.** Notice of all petitions relating to the trust must be given to all interested government agencies.

4. **Order.** The order authorizing creation of the trust must attach a copy of the proposed trust with space for the judicial officer's signature on the final page.

N. Assessment Fees. In accordance with Probate Code §1851.5, assessments for court investigations will be made at the time of the filing of each investigation report. Payment for the initial report and reports when a petition for a successor conservator has been filed are due and payable at the time of the filing of the Inventory and Appraisal. The Order Appointing Conservator will include the necessary information regarding the amount of the assessment and the date of payment. For review investigations, payment is due and payable **prior to approval of the current account** unless payment has been waived or deferred by the Court. At the time that the review investigation is mailed to counsel, the Assessment Fee and an Order for Payment will be included.

The form Proof of Payment of Assessment Fee must be on file for the Court to be notified that the fee has been paid. Where good cause is shown by petition, the assessment fee may be waived or deferred by the Court.
If the assessment fee is paid within 5 (five) court days of the calendared hearing date, a courtesy copy of the Proof of Payment of Assessment Fee should be delivered to the Probate Department.

If any assessments for the cost of investigations have been deferred due to the small size of the estate and the estate will be filing a final account, that account should address the issue of whether the estate can bear the cost of the amount of assessments deferred at the time of termination of the conservatorship. If the requirement for accountings has been waived and some or all of the amount of assessments has been previously deferred, the conservator may submit a declaration addressing the issue of whether the estate can bear the cost of the amount of assessments deferred at the time of termination of the conservatorship prior to being discharged.

If any assessment ordered for the cost of an investigation has not been paid as documented by the filing of a Proof of Payment of Assessment Fee form, the final accounting of the conservator will not be approved and the conservator will not be discharged. Attorney fees will not be approved for payment. Proof of Payment of Assessment Fee forms are available in the office of the clerk of the court, Room 103.

O. Distribution of Assets. The order distributing assets must contain the name of the personal representative or the distributee(s) and a list of the assets.

P. Death or Resignation of Conservator.

1. If there are multiple conservators and one dies or resigns, the remaining conservator(s) must petition for a new bond and amended letters.
2. An order accepting a co-conservator's resignation must provide a status date for the former conservator's final account.
3. The bond of the former conservator will not be discharged without approval of the former conservator's final account.

Q. Withdrawal of Attorney of Record. Attorneys who wish to withdraw from a conservatorship must formalize that withdrawal generally with a noticed hearing. Conservators of the estate must be represented by an attorney unless the Court determines otherwise.

R. Court-Appointed Attorneys. If, in the Court's discretion, it is necessary or when required, the Court will appoint an attorney to represent a (proposed) conservatee.

1. **Attorney Application Process.** Attorneys who wish to be considered for Court appointment must submit a completed Certification of Attorney Concerning Qualifications for Court Appointment (Judicial Council form CG-010) and proof of professional liability insurance coverage. Applications will be reviewed by the Probate bench officers, who will determine if the attorney is approved for Court appointment.
2. **Time of Appointment.** Upon appointment, attorneys will be furnished with a Court Order and a copy of relevant filings. Court Investigator reports will also be made available. Court-appointed attorneys are expected to remain in close communication with the Court Investigator.
3. **Personal Visit.** Court-appointed attorneys are expected to personally visit the person they have been appointed to represent and to interview other individuals as the case may merit.
4. **Representation as to Conservatorship Only.** Court-appointed attorneys are expected to represent the (proposed) conservatee only on the issue of conservatorship. Other legal work, such as wills, real estate transactions, estate transactions, estate planning, tenant disputes, must be approved separately by the Court.
5. **Role of the Court Appointed Attorney.** Court appointed attorneys are expected to inform the Court of the wishes, desires, concerns, and objections, of the (proposed) conservatee. If asked by the Court, the attorney may give his or her opinion as to the best interests of the (proposed) conservatee and whether a conservatorship is necessary. No written report is required or necessary unless requested by the Court.
6. **Fees.** Fees for court-appointed attorneys are set by the Probate Department. Fees will be paid from the estate of the conservatee if there are assets. If there are no assets, payment will be made from the Controller's Office of the City and County of San Francisco at the prevailing rate $98 per hour for court-appointed attorneys. Fee requests under $10,000.00 will be considered on an ex parte basis. Fee requests of $10,000.00 or more must be filed as a noticed petition and set on the regular probate calendar.
7. **Discharge.** Court-appointed attorneys are expected to request discharge from the case at a time deemed appropriate by them and the Probate Department. At that time, the court-appointed attorney will petition for discharge and for fees. A declaration as to the nature and hours of work performed must be included with any petition for fees. A court appearance may not be necessary if all parties agree that discharge is appropriate. The matter may be handled ex parte with notice to the conservator.

14.91 Extraordinary Services in Decedent's Estates. See CRC, Rules 7.702 and 7.703. For administration of a decedent's estate commenced before July 1, 1991, §902 of the 1990 Probate Code is applicable.

For the administration of a decedent's estate commenced after July 1, 1991, additional compensation for the extraordinary services of the personal representative may be granted pursuant to Probate Code §10801 and additional fees for the extraordinary services of the attorney may be granted pursuant to Probate Code §10811.

Extraordinary compensation for representing the estate in litigation outside the regular administration of the estate, whether by the attorney for the representative or outside counsel, should be requested in advance and will ordinarily be allowed upon a properly noticed petition estimating the cost of the litigation. Upon proper showing, the Court may authorize progress payments prior to completion.

14.92 Compensation for Trustees, Guardians and Conservators.

A. Criteria. Estate of Nazro (1971) 15 Cal.App.3d 218, 93 Cal. Rptr. 116, states the following applicable criteria:

1. the gross income of the estate;
2. the success or failure of the administration of the fiduciary;
3. any unusual skill or experience that the fiduciary in question may have brought to his/her work;
4. the fidelity or disloyalty displayed by the fiduciary;
5. the amount of risk and responsibility assumed;
6. the time spent in carrying out his/her duties;
7. the custom in the community as to allowances by settlors or courts, and as to charges of corporate fiduciaries;
8. the character of the work performed, i.e., whether routine or involving skill or judgment;
9. the fiduciary's estimate of the value of his/her own services.

14.93 Compensation for Guardians and Conservators of the Person. Fees for guardians and conservators of the person will be awarded on the basis of the amount and quality of the services rendered, actual time expended and hourly rate. All requests should be accompanied by declaration of the guardian or conservator.

14.94 Compensation Guidelines for Management of the Estate. Ordinarily, annual fees for guardians, conservators and trustee shall not exceed the following: One percent (1%) of the fair market value of assets at the end of the accounting period. Alternatively, a fee of six percent (6%) of income may be allowed in the Court's discretion. The Court will accept an allegation in the verified petition as to market values of the assets of the guardianship, conservatorship, or trust to support the fees requested according to the above guidelines.

Fee requests which exceed these guidelines must be supported by a declaration of services rendered, time expended, average hourly rate requested, results obtained and the benefit to the estate. Should the application of the guideline fee appear excessive, the Court may also require

additional documentation and justification. The Court will evaluate the services as a whole rather than designate part of the services as "ordinary" and part of the services as "extraordinary."

14.95 When Will or Trust Instrument Sets Trustee's Fees. If the will or trust instrument contains provisions for a trustee's compensation, the trustee is entitled to receive compensation as provided therein. On a proper showing, the Court may allow a greater compensation when:

A. the trustee's services are substantially greater than those contemplated by the testator or settlor at the time the will was signed or the trust was created;

B. the compensation provided in the will or trust is so unreasonably low that a competent trustee would not agree to administer the trust, or

C. there are extraordinary circumstances.

14.96 Expenses of Tax-Related Services, Accounting and Bookkeeping. The personal representative may employ tax counsel**,** tax auditors, accountants or other tax experts for the preparation of tax returns and for other tax related services, and pay from the funds of the estate for such services. The Court may deduct from the personal representative's statutory commission any sums paid from estate funds for performance of the representative's ordinary duties such as ordinary accounting and bookkeeping services, including the preparation of schedules for court accountings.

14.97 Attorney's Fees in Conservatorships, Guardianships and Trusts. The Court does not grant attorney fees in the Order Appointing Conservator. Attorney's compensation is allowed according to the work actually performed. Fee requests must be supported by a declaration under penalty of perjury of services performed, time expended, average hourly rate, results accomplished and benefit to the entity. In the event the attorney's office has performed bookkeeping services for a fiduciary, the Court may award the attorney a larger compensation and the fiduciary a lesser compensation. Fees requested for time billed by a paralegal must be supported by the attorney's declaration regarding the paralegal's compliance with Business and Professions Code §6450.

14.98 Contingency Fee Contracts. All contingency fee contracts to which a personal representative, guardian or conservator is a party must be submitted to the Court for approval on noticed hearing. A copy of the contingency fee contract must be attached to the petition requesting approval. Probate Code §2644 and §10811.

14.99 Time for Allowing Compensation.

A. In Decedent's Estates. Statutory compensation will be granted by the Court only in proportion to the work actually completed. In any event, the last twenty-five percent (25%) of the statutory compensation generally will not be allowed before the final distribution.

Compensation for extraordinary services will be allowed before final distribution only when it appears likely that the estate will remain in probate for an unusually long time, whether due to litigation or other cause, or on a showing that present payment will benefit the beneficiaries or the estate.

When a personal representative, who is an attorney, requests fees for services as the attorney in addition to the personal representative's compensation, Court approval must be requested within 90 days after Letters are issued to the attorney as the personal representative. The petition for approval of such additional statutory fees must be set on the regular hearing calendar and must set forth specifically why it would be to the advantage, benefit, and best interests of the decedent's estate (Probate Code §10804).

B. **In Guardianships, Conservatorships and Trusts.** No fees to the fiduciary or the fiduciary's attorney will be ordered paid in guardianships or conservatorship proceedings until the filing of an inventory and in no event, before the expiration of ninety (90) days from the issuance of letters. Probate Code §§2640-2642. The Court prefers to determine the amount of fees at the time an accounting is considered. If numerous Orders to Show Cause have been issued to effect compliance, the Court will consider reducing requested fees.

C. **Fees or Commissions Taken in Advance.** There is no authority for payment of any commissions or fees in decedent's estates, testamentary trusts, guardianships or conservatorships in advance of a court order authorizing such payment. Unless the Court has fixed an amount of a periodic compensation under Probate Code §§15682 and 2643, where commissions or fees are paid in advance of Court authorization, the Court will ordinarily require an appearance by counsel and a declaration stating the reasons for such payments. The Court may require a payment of interest on such payments or impose a surcharge.

In petitions requesting reimbursement to a conservator or guardian for the payment of a retainer, the attorney must describe services performed and their benefit to the estate, before the Court will allow reimbursement.

14.100 Procedure.

A. **Form of Application for Compensation.** An application for compensation may be included in a petition for settlement of account, in a petition for distribution, or in a separate petition under Probate Code §§2640, 2642, 10831(b) and 17200. The application should request a specific amount and not merely "reasonable fees."

B. **Contents of Petition.** All applications for commissions and fees in trusts, guardianships and conservatorships must be supported by a description of the services forming the basis of the request, including the surrounding circumstances, the benefit to the entity, the time spent and the average hourly rate.

Applications for compensation for extraordinary services in a decedent's estate will not be considered unless the caption of the petition and the notice of hearing include a reference to the request.

C. **Notice.** Notice will be required to a non-petitioning personal representative or fiduciary and when appropriate, to the residuary beneficiaries or, in an insolvent estate, to the major creditors.

D. **Notice to Prior Representative or Attorney.** If there has been a change of personal representative or fiduciary or a substitution of counsel, notice of hearing must be given to such prior representative, fiduciary or counsel of any petition in

which fees or commissions are requested by the present personal representative, fiduciary or counsel unless:

1. a waiver of notice executed by the prior personal representative, fiduciary or counsel is on file;
2. an agreement on the allocation of fees and/or commissions is on file or included in the petition; or
3. the file and the petition demonstrate that the fees and/or commissions of the prior personal representative, fiduciary or counsel have been previously provided for and allowed by the Court.

E. Contents of Proposed Order. When extraordinary or other fees are requested, the amount requested should be inserted in the proposed order, even though the fees have not yet been allowed by the Court. If the Court allows a fee other than that requested, counsel may revise the order or have the Court change and initial the amount allowed.

14.101 Imposition of Lien. Where all or a portion of the fee awarded exceeds the cash on hand in the estate, the Court may issue an order imposing a lien accruing five percent (5%) simple interest for fees on any or all of the assets in the estate. Ordinarily, enforcement of the lien will be deferred until the assets of the estate, subject to the lien, have been liquidated for reasons other than the satisfaction of an unpaid fee.

14.102 Costs Reimbursed or Absorbed in Fee.

A. Reimbursed.
Court clerk's fees.
Newspaper publication fees.
Surety bond premium.
Appraisal fees.

B. Absorbed as part of fees.
Secretarial and word processing time.
Computer time.
Local mileage and parking.

C. Reimbursed only in Court's discretion, depending upon circumstances disclosed.
Long distance telephone
Long distance travel

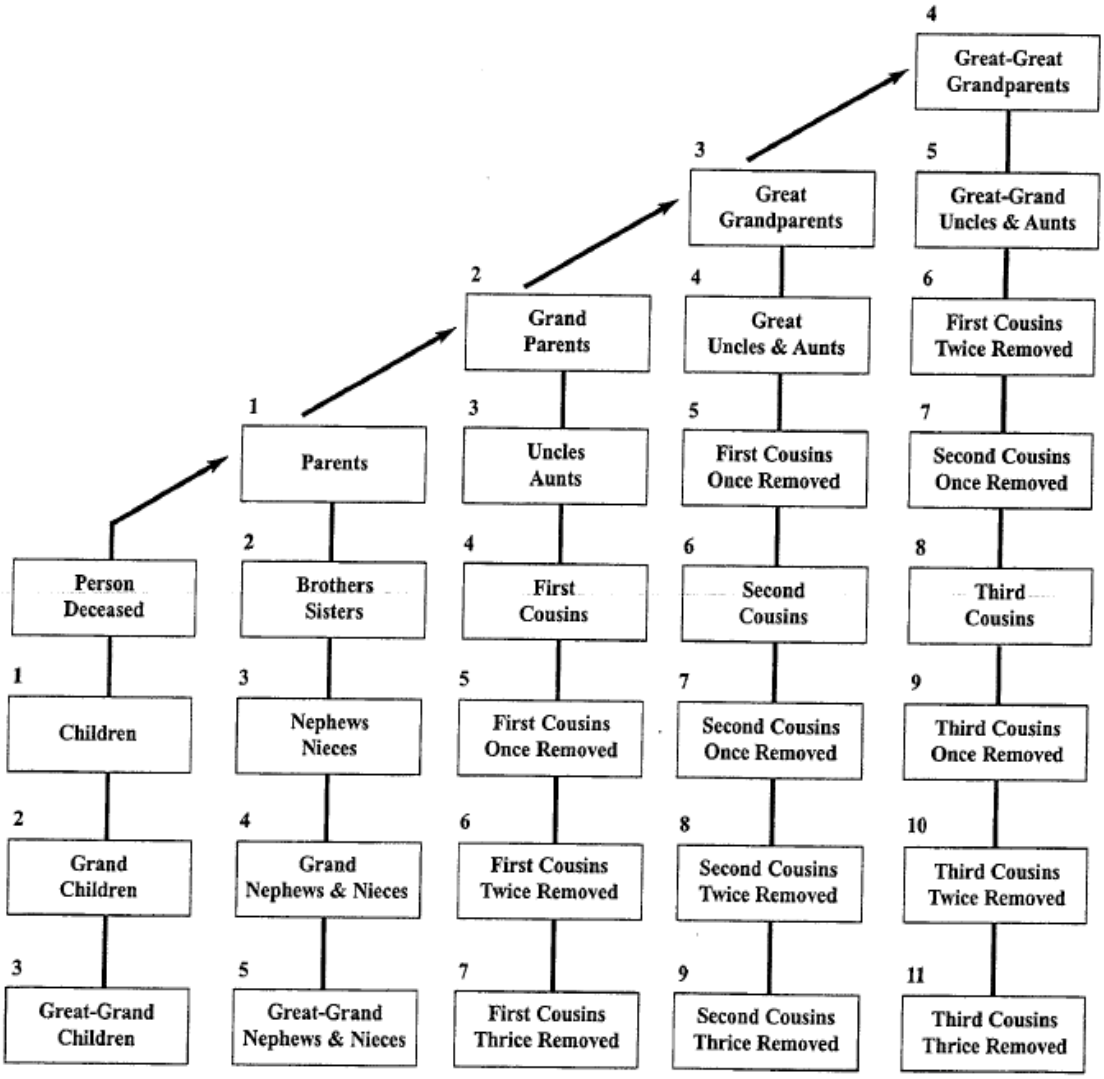
D. If attorney's fee is waived (as when attorney is also representative) show details of costs in first accounting covering period of disbursement.

E. Obtain prior Court permission if amounts are unusually large.

14.103 Executor/Attorney Compensation on Sale of Real Property. Where the attorney or personal representative is also a licensed real estate agent or broker, the attorney or personal representative may collect the statutory fee as well as the commission on the sale of real property subject to prior Court approval, however, no extraordinary fees shall be awarded.

Rule 14 amended effective July 1, 2010; adopted July 1, 1998; amended effective January 1, 2000; amended effective January 1, 2001; amended effective January 1, 2003; amended effective January 1, 2004; amended effective January 1, 2005; amended effective July 1, 2006; amended effective January 1, 2007; amended effective July 1, 2007; amended effective January 1, 2008; amended effective July 1, 2008; amended effective January 1, 2009; amended effective July 1, 2009.

Appendix A


Person Deceased
1
Children
2
Grand Children
3
Great-Grand Children
1
Parents
2
Brothers Sisters
3
Nephews Nieces
4
Grand Nephews & Nieces
5
Great-Grand Nephews & Nieces
2
Grand Parents
3
Uncles Aunts
4
First Cousins
5
First Cousins Once Removed
6
First Cousins Twice Removed
7
First Cousins Thrice Removed
3
Great Grandparents
4
Great Uncles & Aunts
5
First Cousins Once Removed
6
Second Cousins
7
Second Cousins Once Removed
8
Second Cousins Twice Removed
9
Second Cousins Thrice Removed
4
Great-Great Grandparents
5
Great-Grand Uncles & Aunts
6
First Cousins Twice Removed
7
Second Cousins Once Removed
8
Third Cousins
9
Third Cousins Once Removed
10
Third Cousins Twice Removed
11
Third Cousins Thrice Removed

Appendix B

Rules for Determining Commissions on Sales of Real Property (Probate Code §§10160-10167)

AGENT A – represents original bidder where bid is being returned for court confirmation.

AGENT B – represents successful overbidder.

(1) One-half of commission on the original bid returned for confirmation.

Agent B's Commission

(1) Calculate full commission on successful overbid.
(2) Subtract Agent A's commission.
(3) The balance will be Agent B's commission.

Example 1

AGENT A -- represents original buyer whose bid is …….	$ 200,000
AGENT B -- represents successful overbidder at …….	$ 210,500
Agent A's Commission - $200,000 at 5% 10,000 divided by 2 ……..	$ 5,000
Agent B's Commission - $210,500 at 5% less $5,000 ……..	$ 5,525

Example 2

No agent on original overbid.
Agent B for successful overbidder at $210,500. Commission limited to
50% of overbid amount: $10,500 divided by 2 ……. $ 5,250
Probate Code §10162.
See Law Revision Commission comment 1987 Addition – Probate Code §10161.

Appendix C

Checklist of Commonly Encountered Problems and Reasons for Delay

1. Proposed orders not submitted on time (2 weeks before hearing).
2. Proofs of mailing notice not on file or defective, or required notice not given, as for example:
   a) on probate distributions, beneficiaries not noticed;
   b) on trust accounts, remaindermen not noticed;
   c) on petitions under Probate Code §17200, failure to mail copies of petition when required, or to refer to that mailing on the proof;
   d) when pleadings are amended - new notice required;
   e) on petitions to admit a will and codicils, failure to give notice to a beneficiary whose bequest has been revoked by a codicil;
   f) failure to give notice to a contingent beneficiary, e.g., where a will proscribes a survival period and the survival period has not elapsed.
3. Account in poor form:
   a) no summary reconciling charges and credits;
   b) starting figure incorrect or missing (e.g., amount of inventory, amount received on distribution, or amount on hand at last account);
   c) inadequate itemization of income, not showing source and dates;
   d) showing principal items as income or "receipts;"
   e) inadequate itemization of disbursements, not showing dates of payments, to whom paid and for what purpose;
   f) failure to show property on hand;
   g) computation of statutory fees unclear or defective;
      1) claiming "statutory fees" on community property passing to a spouse, where there has been no §13502(b) election;
      2) erroneously increasing estate accounted for by refunds received on death taxes, returned deposits on sales and advances by beneficiaries;
4. Failure to caption petition so as to give complete notice and full information as to contents.
5. Death taxes not allocated or prorated in petition for final distribution, where there is no tax clause.
6. Creditors claims filed with Clerk of the Court, but not acted upon by the personal representative.
7. Failure to describe assets on hand in petitions for distribution, or to describe assets in orders making distribution and failure to include full legal description of real property in decree of distribution and in orders confirming sale of real property.
8. Failure to sufficiently allege and describe services rendered on extraordinary fee requests.
9. Incomplete facts re identity and genealogy of issue of predeceased child and heirs of predeceased spouses and other non-obvious heirs.
10. In petitions to settle trust accounts, failure to justify by appropriate allegation (e.g., consent of beneficiaries) any deviation from the usual method of charging fees one-half to income and one-half to principal.

11. In petitions and orders for distribution, failure to provide for the statutory interest on general pecuniary bequests.
12. Failure to allege and explain a plan of distribution in cases where there is insufficient cash, where cash adjustments are required, or where there are complexities in allocating or prorating death taxes or computing distributable percentages of residue.
13. In appropriate cases (e.g., specific bequests and distributions to trusts), failure to allocate probate income on final distribution.
14. Failure to use current Judicial Council forms.
15. Failure to allege the status of bonds and the possible need for increase or decrease in petitions to settle accounts of guardians and conservators, or in petitions to release blocked funds.
16. Omission of verification by petitioner.
17. Attachment of inappropriate "exhibits" to proposed orders.
18. In petitions for final distribution, failure to justify the proposed distribution by references to the will or by outlining the intestate entitlement.
19. In proposed orders for final distribution, proposing findings or orders not covered in the petition, or incorporating trust provisions of the will by reference, rather than setting them forth in full.
20. Ex Parte Orders:
    a) lack of personal appearance by attorney and proposed fiduciary on applications for special letters of administration or temporary letters of guardianship or conservatorship;
    b) failure to submit copies of receipts and decree of distribution with applications for discharge.
    c) failure to allege status as to requests for special notice;
    d) failure to allege specific jurisdictional facts on petitions to approve sales of depreciating property or property causing expense, particularly with respect to jewelry, coins or furniture;
    e) on application for exclusive listing agreements, failure to attach a copy of the proposed agreement on an appropriate form adapted for probate sales, and to allege reasons why the exclusive listing is advantageous;
    f) on petitions or stipulations for correcting orders, failure to make allegations or recitals showing entitlement to relief under CCP §473.
21. Inventories:
    a) no indication as to whether property is separate or community;
    b) property inadequately described;
    c) properly inventoried assets omitted;
    d) improper assets included.

Appendix D

EX PARTE GUIDELINES FOR PROBATE

1. Ex parte hearing calendar. The following matters may be set on the daily ex parte probate calendar for appearance according to existing procedures for scheduling and notice:

- Petition for appointment of temporary conservator
- Petition for supplemental powers of temporary conservatorship if an urgent need arises during the temporary conservatorship
- Petition for appointment of temporary guardian
- Petition for letters of special administration
- Petition for appointment of temporary trustee if there is a need for an immediate appointment
- Application for order shortening time
- Application for temporary restraining order
- Other matters only with approval of the court

2. Mail-in or drop-off requests.

All ex parte matters not listed above for setting on the daily ex parte probate calendar may be submitted by leaving an endorsed filed copy with the probate secretary. If the papers have a date by which action must be taken, the petitioner must attach to the Probate Department copy a cover sheet in the form provided by the court to inform the court of the date and the action.

3. Matters that will not be considered on an ex parte basis.

- Petitions to determine entitlement to property (e.g. *Heggstad* & §850 petitions)
- Petitions for substituted judgment under Probate Code §2580
- Petitions for preliminary or final distributions
- Requests for partial statutory fees or commission
- Appointment of successor trustees
- Petitions for termination of trusts, for settlement of accounts and/or for final distribution
- Petitions to approve settlement agreements (unless previously authorized by a judicial officer in open court)
- Reducing conservator's bond during an interim accounting period when no accounting is presented
- Sale of a conservatee's residence
- Encumbering a conservatee's residence including requests for reverse mortgages, equity lines, etc.
- Conservator's fees on account
- Authorization to retain counsel on contingency fee contract

For any of the above matters, the court will consider a special setting upon the presentation of a declaration explaining the necessity and reasons for a special setting. An order shortening time for notice can also be obtained through the ex parte appearance calendar.

Appendix E

FOR ALL PROBATE FEE SCHEDULES
2003 – 2005

Log onto website
sfgov.org/site/courts_page.asp?id=3802

Rule 15 - Guidelines for Preparing Appeals from San Francisco Superior Court

15.0 General Provisions.

A. These guidelines apply only to appeals in unlimited jurisdiction matters to the First District Court of Appeal in San Francisco. The guidelines do not apply to small claims appeals or to appeals in limited jurisdiction cases. The guidelines also do not apply to appeals to federal courts.

B. The guidelines describe what needs to be done in appealing an unlimited jurisdiction case. For information about what additional information or documents the Court of Appeal needs, please contact them at (415) 865-7200.

15.1 Notice of Appeal. The notice of appeal is filed with the Appeals Division of the Office of the Clerk of the Superior Court, Room 103. The notice of appeal should be accompanied by two checks for clerks' fees, as specified in LRSF 15.2.

15.2 Filing Fees. Filing fee in the amount pursuant to G.C. 68926, made payable to the Court of Appeal, and deposit pursuant to G.C. 68926.1, made payable to San Francisco Superior Court, for the clerk's transcript.

A. Failure to deposit the appropriate fees within ten (10) days after filing the notice of appeal will result in the appeal being placed in default.

B. Payment of these fees is not avoided by electing to follow CRC §8.120.

C. The same fee requirements apply to the filing of a cross appeal.

D. These fees may be waived only if the appellant is proceeding in forma pauperis, has completed the appropriate court forms and meets the criteria or is approved by the Court.

E. Note, there will be additional fees to complete the record on appeal which are described in more detail below.

15.3 Notice Designating Clerk's Transcript.

A. The record needed for appeal consists of two parts. The first is the clerk's transcript which contains the relevant documents from the Court file in the case. The second part is the reporter's transcript which is the transcript of the oral testimony heard in the case. The process for identifying the contents of each part of the transcript is described below.

B. Every civil appeal requires the appellant to file a designation of what should be in the clerk's transcript on appeal. The Clerk's Transcript consists of those documents filed or lodged with the clerk of the Superior Court designated by the parties to be included in the record on appeal. Appellant must file their notice of designation with the Appeals Division within ten (10) days after filing the notice of appeal. A proof of service of the designation on respondents must be attached to appellant's notice.

C. Designation of the clerk's transcript can be made either through CRC §§8.120-8.124, 8.128. You should evaluate each of the following alternatives and determine which is the most cost effective method for you and your client.

1. Election to follow CRC §8.124 requires the appellant to prepare an appendix of documents pertinent to the appeal rather than the Court

preparing the transcript. Under this rule, there is no additional cost (beyond the $100) to the appellant for the clerk's transcript.

2. Election to follow Rule 5 involves appellant designating the specific documents contained in the court file which are then copied and made into the clerk's transcript on appeal. Appellant must pay the Superior Court for the cost of preparing this transcript (discussed further below).

D. The CRC §8.120 designation should be specific, and limited to documents specifically pertinent to the appeal record. Rule 5(d) describes the documents that are required to be included in the clerk's transcript.

E. A computer printout listing the documents in the court file may be obtained from the Record's Division in Room 103, 400 McAllister Street.

F. Respondent may file a notice designating additional papers for inclusion in the clerk's transcript within ten (10) days of service of the appellant's designation.

1. Election to follow CRC §8.128 (see also Local Rule 9 of the Court of Appeal for the First Appellate District) means that the original court file will be numbered and indexed by the clerk's office. The file will then be bound and sent to the Court of Appeal. Copies of the index are then sent to counsel of record for use in paginating their files and for references to the record in their briefs. Parties do not receive copies of the file as they do under CRC §8.120.

G. The Clerk's Office will provide an estimate of the cost of preparing the file and index.

H. Cost of Clerk's Transcript Under CRC §8.120. Once the total cost has been estimated the Superior Court will notify the appellant and respondent of the estimated cost of preparation of the clerk's transcript on appeal. Appellant is charged at a rate of $1.50 per page for two copies of the clerk's transcript. For example, if appellant designates 400 pages of court documents, the total cost of the clerk's transcript will be $600. After notification of the estimated fee, the appellant must deposit that amount with the clerk.

I. Failure to deposit the required fees in a timely manner will result in the appeal being placed in default.

J. After the appellant has deposited the estimated cost of the clerk's transcript, the Appeals Division begins preparation of the record. This includes numbering, indexing, copying, and binding each volume of the clerk's transcript on appeal.

K. Trial exhibits are not copied into the record. Instead, they are transmitted directly to the Court of Appeal pursuant to CRC §8.147 if they are in the possession of the court. If exhibits are not in the court's possession and were ordered returned, parties or their attorneys need to be contacted and instructed to send exhibits directly to the Court of Appeal.

L. When the entire record on appeal has been completed in accordance with CRC §§8.144-8.150, it is filed and certified to the Court of Appeal by the Superior Court. Copies will be sent to the parties.

M. Correction or augmentation of the record is made pursuant to CRC §8.155.

15.4 Notice Requesting Reporter's Transcript.

A. The Reporter's Transcript is the verbatim record of the court proceedings necessary for appellate review. To procure the Reporter's Transcript, the appellant

must file a Notice to Prepare Reporter's Transcript (this is often combined with the Notice to Prepare Clerk's Transcript) within ten (10) days of the filing of the Notice of Appeal. The appellant must also deposit fees at this time to pay for the preparation of the record. If fees are not deposited, your notice to prepare will not be filed, but merely stamped "Received" and returned to you. If the fees are not deposited within ten (10) days of the stamping of the notice, the appeal will be placed in default.

B. Proceedings to be included in or omitted from the Reporter's Transcript must be designated by date, not subject matter.

C. To determine the correct amount to deposit, you may use one of the following methods:

1. Statutory Deposit. Staff of the Appeals Division of the Superior Court Clerk's Office, upon your request, will send you a listing of all calendared proceedings in this case. You may complete your request by listing the dates of transcripts you wish prepared, and enclosing a check made out to the Clerk of San Francisco Superior Court for $325 for each half-day (or less) session and $650 for each full-day session listed. For instance, a hearing lasting 30 minutes requires a deposit of $325. You should carefully select the items from the computer printed list, because every time a matter is on calendar, it generates a listing and a "reported by" line, even if the matter was only continued, or if there were no appearances or oral proceedings at all. This is the fastest method of complying with the code. Any surplus deposit will be refunded to you when the transcripts are completed.
2. Deposit of Reporter's Estimate. You may get an estimate from each reporter involved in your appeal transcript, and deposit the total of such estimates. The attorney's declaration of reporter's oral estimate or a written estimate from the reporter must justify such total. If there are numerous short matters, this estimate could be less than the statutory deposit. As an aid to those choosing this method, you may circle the sessions you require (note italicized caveat above) and fax it to the managing reporter at (415) 551-3775. The managing reporter will attempt to get estimates from the individual reporters and will fax the information back to you so you can make the correct deposit. This procedure will take several days. Please indicate a contact person in your firm who will be responsible for preparing this notice and deposit. If you have any questions, please contact the managing reporter at (415) 551-3775.
3. Filing in Lieu of a Deposit. A third method of complying with this rule is if you already have in your possession original reporters' transcripts of the proceedings you wish to use, you may file them in lieu of a deposit. If the reporter has already been paid for and prepared the transcripts, even though you do not have possession of the originals, he or she may be willing to waive deposit of fees.

D. Reporters' transcript fees cannot be waived for parties *in forma pauperis* who are unrepresented by counsel.

E. The above reporter's fee requirements also apply to the respondent who wishes to designate additional proceedings to be transcribed. However, respondent may not

request a reporter's transcript of proceedings unless the appellant has done so, and must do so within ten (10) days of the appellant's notice.

F. The voir dire examination of jurors, the opening statements, the arguments to the jury, and the proceedings on a motion for new trial will not be transcribed as a part of the oral proceedings unless they are specified in the notice to the Clerk.

15.5 Preparation of Reporter's Transcript.

A. The reporter's transcript will generally be prepared within sixty (60) days after receiving the Clerk's notice that all deposits have been made and directing the reporter to prepare the transcript, pursuant to CRC §8.130. Under CRC §8.130, the reporter is given thirty (30) days to complete the transcript with an automatic 30-day extension if it involves a trial of one day or longer. Transcripts of short matters, such as law and motion matters, are generally finished earlier, but the entire transcript must be complete before it is transmitted to the Court of Appeal.

B. The original of the transcript will be filed by the reporter with the Clerk who will forward it to the Court of Appeal when all transcripts are completed. The reporter will deliver a copy of the transcript to any party who has paid for it.

15.6 Notice of Cross Appeal. Once a notice of appeal has been filed, any party other than the appellant may file a notice of cross-appeal, within twenty (20) days after the mailing of the clerk's notice of filing of notice of appeal (CRC §8.108). Pursuant to CRC §8.150, one record on appeal is prepared for both the appellant and the cross-appellant, and each party is required to deposit the full cost of preparation of the clerk's and reporter's transcript.

15.7 Appeal in Default. If the record on appeal is not designated or if required fees are not paid within the prescribed time limits, the appeal may be placed into default by the Superior Court. This means that no further work will be done on the appeal until the defect which caused the default is cured. If this is not done within fifteen (15) days, the Court of Appeal may dismiss the appeal.

A. For more information, contact the San Francisco Superior Court Appeals Division at (415) 551-3670. The Court of Appeal can be contacted at (415) 865-7200.

Rule 15 amended effective January 1, 2004; adopted July 1, 1998; amended effective January 1, 2000.

Rule 16 - Criminal Division

16.0 Criminal Departments. The Presiding Judge designates departments to hear criminal matters.

- **A.** The criminal division of the Courts consists of the felony and misdemeanor trial courts and the preliminary hearing courts.
- **B.** The criminal division must include a master calendar department which must assign all felony trial matters and such other criminal matters as the Presiding Judge may direct. The Judge sitting in the master calendar department is referred to in this LRSF16 as the "Supervising Judge."
- **C.** The criminal division clerk's office is located at the Hall of Justice, 850 Bryant Street, San Francisco, California, Room 101.

16.1 General Proceedings

- **A. Court Sessions**. The time for conducting sessions of the criminal court departments will be established by the Presiding Judge.
- **B. Posting Calendars**. Calendars for the criminal division departments are posted outside of Room 101 and outside each criminal division department.

16.2 Filings. All filings except writs must be made in Room 101, except filings may be made in court with the permission of the assigned judge. Writs must be filed in the appropriate court pursuant to LRSF 16.11 and 16.12. In advance of filing motions, the moving party must confirm the availability of dates set for hearings.

16.3 Withdrawal of General Time Waivers. If after entering a general time waiver, a Defendant elects to withdraw that waiver pursuant to Penal Code section 1382(a)(2)(A) or (a)(3)(A), and such notice is not given on the record in open court, Defendant shall provide notice by filing a separate pleading specifically captioned NOTICE TO WITHDRAW GENERAL TIME WAIVER PURSUANT TO PENAL CODE SECTION 1382 and shall lodge a courtesy copy of the notice with the clerk in the department where the matter is pending. Defendant shall also schedule a pretrial conference in the department where the matter is pending within five (5) Court days of filing the notice with the Clerk of the Superior Court.

16.4 Continuances.

- **A.** Counsel must consider trial dates to be fixed obligations and must be prepared to commence trial when scheduled.
- **B.** If, on the date set for trial counsel is actually engaged in the trial of another case, the case scheduled for trial will be continued from day to day until completion of the trial of the other case or until the Court determines that trial should proceed.
- **C.** Motions for continuances of trials or other matters must be in writing and noticed for hearing in felony cases: in the criminal division master calendar department at 9:00 a.m. on any court day. In misdemeanor cases and preliminary hearing cases: in the assigned department in accordance with its calendar procedures. These motions must be supported by appropriate declarations, which must include the date the complaint and/or information was filed, the number of continuances previously granted, and at whose request. Oral motions for continuances will not be considered absent extraordinary circumstances.

16.5 Pretrial Conferences.

A. Policy of the Court. The Court holds meaningful pretrial conferences for the purpose of facilitating the orderly disposition of cases, by trial or otherwise. Accordingly, counsel must prepare for and actively participate in pretrial conferences.

B. Scheduling. A pretrial conference must be scheduled by the master calendar department in every felony trial matter. Pretrial conferences may be scheduled in any other case at the discretion of the assigned judge.

C. Matters to be Discussed. Counsel must be prepared at the pretrial conference to discuss any matter relating to the disposition of the case, including but not limited to, trial or hearing readiness, estimated length of the trial or hearing, identity of anticipated witnesses and the substance of their testimony, special problems, and whether a disposition without trial or hearing is feasible.

16.6 Trial Related Filings. Jury instructions must be submitted in accordance with the requirements set forth in CRC 2.1055 and 2.1050 and are due the first day of trial. Witness lists including time estimates for direct testimony, proposed voir dire questions if any, and requests for 402 hearings, are also due the first day of trial.

16.7 Transcripts in Criminal Proceedings. Any request by a defendant or defendant's counsel for a transcript at court expense must be submitted to the judge before whom the matter was heard. The request must be accompanied by a declaration stating (1) that the defendant is unable to pay for the cost of the transcript and a current *In Forma Pauperis* form, and (2) the legal reasons the transcript is necessary. The motion must be accompanied by a proposed order.

If a transcript is requested by a member of the Office of the Public Defender, the public defender must first seek funding from its own budget before requesting a Court order for such funding at public expense. If such funding is not available a request must show by declaration that no such funding is available.

16.8 Withdrawal as Attorney of Record. An attorney representing a client in a criminal proceeding must not be relieved from such representation except by order of the Court either upon a timely motion or by the consent of the defendant.

16.9 Discovery.

A. Discovery Requests.

1. At the time of the defendant's first appearance on a felony trial or misdemeanor trial matter, an informal mutual request for continuing discovery is deemed to have been made. Disclosures required by Penal Code §§1054.1 and 1054.3 shall be made not later than the pre-trial conference.
2. Discovery material provided to the opposing side, including documents, photographs, audio or video tape recordings, must be recorded in a receipt retained by the party providing the discovery and signed by the opposing side, setting forth the specific items provided and the date they were provided to the opposing side.

B. Motions to Compel Discovery.

1. Upon receipt of any written informal request, the receiving party must respond by providing the information requested, or by specifying in writing the items the party refuses or is unable to produce and the reason for the refusal or inability, or by seeking a protective order.
2. A motion pursuant to LRSF16.9 may be made to compel discovery under Penal Code §1054.5(b) which (1) describes the oral and written requests to obtain discovery, (2) specifies the items sought by the motion, and (3) states that the moving party has met and conferred with the other party on the substance of the motion.

C. Pitchess Motions – Evidence Code 1043. All motions for discovery of peace officer personnel records pursuant to Evidence Code §1043 must conform to the notice requirements of CCP §1005. The motions are calendared in Department 30 at 9 a.m.

16.10 Motions.

A. Unless otherwise authorized by law,

1. all pre-trial motions must be filed within sufficient time to be heard and determined at the pre-trial conference or they will be deemed waived.
2. Motions relating to pending information, indictments or misdemeanor complaints and all supporting papers must be filed and served at least 15 calendar days before the date of the hearing. All other motions and supporting papers, including those relating to pending felony complaints, must be filed and served at least 10 calendar days before the date of the hearing. All papers opposing the motion must be filed at least 5 calendar days and all reply papers at least 2 court days before the time appointed for hearing.

B. Deadlines for certain motions:

Penal Code §1538.5 motion to suppress	
Motion at preliminary hearing	5 court days
Opposition	2 court days
Special hearing in felony trial court	10 court days
Opposition	2 court days
Penal Code §995 motion to dismiss	15 calendar days
Motion to sever/consolidate	15 calendar days
Evidence Code §1043 (Pitchess) discovery	16 court days
Opposition	9 court days
Reply	5 court days
Motion to recuse counsel	10 court days
Motion to release on bail before sentencing	2 court days
Motion to release on bail after sentencing	5 court days
Motion to compel discovery	3 court days
Motion to continue	2 court days
Motion to recall bench warrant	2 court days
Motion to amend information or indictment	2 court days
Motion to modify probation	2 court days
Motion to substitute or withdraw as counsel	2 court days

C. All motions must be accompanied by supporting points and authorities that must include a description of the facts, a specification of the charged offenses and authorities relied upon. References to the record must be supported by specific citations. References to any transcribed proceeding must designate the date and nature of the proceeding and cite the page and line of the reference.

D. Points and authorities must not exceed 15 pages. On application, the Court may permit additional pages upon good cause shown.

E. A copy of any document or pleading that is referenced in a motion, other than a court transcript, must be attached to the motion. If relevant, the defendant must attach legible copies of the search warrant, affidavit in support of the warrant and/or receipt and inventory of property.

F. To the extent practicable, multiple motions relating to the same case must be filed and heard at the same time.

G. Courtesy copies of all motions, oppositions and replies must be provided directly to the courtroom where the motions are to be heard.

H. Ex parte motions. Ex parte motions must include recitations that the opposing party has been informed of the relief sought, and agrees or does not agree with that relief. Counsel must provide ex parte motions directly to the clerk and not the judge.

16.11 Penal Code § 1538.5 Motions.

A. Motions pursuant to Penal Code § 1538.5 must

1. describe and list the specific items of evidence which are the subject of the motion;
2. specifically state the legal basis which will be relied upon; and
3. cite the specific authorities relied upon.

B. If the motion relates to a warrantless search

1. the People's response must state the justification for the seizure and may include declarations,
2. the Court at the commencement of the hearing may
   a require the defense to state the basis for the alleged Fourth Amendment violation,
   b. require an offer of proof from the People why there is no such violation and
   c. then confine the taking of evidence to material controverted issues.

C. Harvey-Madden notice. Whenever there is an issue in a motion with regards to either:

1. *People v. Harvey*, (1958) 156 Cal. App. 2d 516, *People v. Madden*, (1970) 2 Cal.3d 1017, and their progeny, or
2. The existence of an arrest warrant (*People v. Romanoski* (1984) 157 Cal. App. 3d 353, 360), then motion and the memorandum of points and authorities must so indicate.

D. Motions to traverse or quash must be brought before the judge who signed the search warrant that is the subject of the motion.

16.12 Writs of Habeas Corpus (CRC 4.552(c)).

A. Matters relating to all criminal proceedings must be presented to the Supervising Judge.

B. Matters relating to the juvenile court must be presented to the Supervising Judge of the family law division.

16.13 Writs Other Than Habeas Corpus. Petitions for writs in criminal proceedings, other than habeas corpus, must be filed as follows:

A. **Petitions for writs of mandate or prohibition** in misdemeanor and infraction cases must be filed in the Appellate Division of the Superior Court.

B. **Petitions for writs of mandate or prohibition** in felony cases filed before indictment or information must be filed in Room 101 at the Hall of Justice and presented to the Criminal Supervising Judge in Department 22.

C. **Petitions for writs of mandate or prohibition** in felony cases filed after indictment or information must be filed in the District Court of Appeal.

D. **Petitions for writs of error coram nobis** must be presented as follows:
In felony cases, to the Criminal Supervising Judge in Department 22.
In misdemeanors, to the Misdemeanor Department in which relief is sought.
In traffic cases, to the Traffic Department in which relief is sought.

16.14 Trial Calendar. The felony trial calendar for each week is called in the courtroom of the Supervising Judge at 9:00 a.m. each Friday and such other days and times as that judge designates with the approval of the Presiding Judge.

16.15 Daily Calendar. All other felony matters will be called no later than 9:00 a.m. daily, or such other times as the Supervising Judge may direct with the approval of the Presiding Judge and such other days and times as that judge designates with the approval of the Presiding Judge.

16.16 Felony/Misdemeanor/Infraction Bail Schedules. The Court must regularly maintain bail schedules available from the clerk of the court, and available online at www.sfsuperiorcourt.org.

16.17 Bail Setting and Rehearing.

A. Requests for bail reduction or increase must state the date of all other applications, by any person, that have been previously made, including to whom such application was made and the prior ruling(s).

B. Requests for an increase or reduction of bail must be made to the judge who set such bail, except:

1. **Bail Set Ex Parte.** Bail set ex parte is subject to modification by the judge before whom the defendant appears for arraignment.
2. A judge presiding over a preliminary examination or trial may, in that judge's discretion, after receipt of evidence, modify the bail.
3. A judge hearing a criminal matter may, upon motion of either the defendant or the People, modify the bail.
4. **Change of Plea**. Upon defendant's change of plea to guilty or no contest, the assigned judge may, in the judge's discretion, with or without motion

of any party, modify bail.

16.18 Bench warrants: felony trials and felony probation matters. Upon the return of a bench warrant issued in a felony trial or felony probation matter, the action is restored to the Master Calendar. The action will be calendared by the next Court day after the warrant is received in the criminal court clerk's office, Room 101, provided the warrant is received no later than 3:00 a.m. on the day the warrant is to be calendared.

16.19 Court-Appointed Attorney Compensation.

A. Policy. The Court will appoint counsel if the attorney has the requisite legal ability and diligence to represent a given defendant who is eligible for such services as set forth in The San Francisco Superior Court Guidelines for Determination of Financial Eligibility for Appointment of Counsel and Ancillary Services in Adult Criminal and Juvenile Delinquency Cases effective January, 2004. Counsel accepting appointment will be required to agree to and adhere to the following policies and fee schedules.

B. Compensation. The compensation of private counsel appointed by the Court to represent indigent defendants must be fixed by the compensation schedule set by the judges of the Court and set forth in the current Policies and Procedures Manual ("MANUAL"). All requests for payment must be directed to the Bar Association of San Francisco (BASF). The current Manual is found at the Bar Association site as follows:
HTTP://WWW.SFBAR.ORG/FORMS/INDEX/ASPX (Forms Under Heading Indigent Defense Administration Program).

C. Excess Attorneys' Fees. If appointed counsel claims compensation in excess of the scheduled amounts, the attorney may seek additional compensation pursuant to the procedures in the Manual.

D. Expenses-Prior Approval Required. Expenses such as expert witness or investigator costs, reasonably necessary for private counsel must be reimbursed by the Court only if a written order of the Court has been previously obtained authorizing such amount, unless the expenses are authorized by the Manual. Unauthorized expenses will not be reimbursed.

E. Submission. Claims for payment of services rendered must be submitted in accordance with the regulations detailed in the Manual.

F. Format. Claims for compensation of attorneys' fees and expenses must be made following a format set forth in the Manual. Counsel must set forth with particularity the nature of the services performed and are expected to make available time sheets or other documentation if requested by the Court or by any entity or person authorized by the Court to review such fee requests.

GUIDELINES FOR DETERMINATION OF FINANCIAL ELIGIBILITY FOR APPOINTMENT OF COUNSEL AND ANCILLARY SERVICES IN ADULT CRIMINAL AND JUVENILE DELINQUENCY CASES.

SCOPE

These guidelines apply to the appointment of the office of the Public Defender, private counsel or an ancillary service.

Determining Financial Eligibility/Standard Test

The standard test for financial eligibility for the appointment of counsel is whether or not a private attorney would be interested in undertaking representation of the client, given the applicant's present economic circumstances.

Written Financial Statement

A financial statement must be completed by the defendant, and the court must review such statement, prior to any appointment of counsel or ancillary services for an out of custody defendant.

In-custody individuals may be directed to complete a financial statement where the Court concludes, based upon inquiry of the applicant that the applicant's or spouse's income and/or holdings, or other financial information, that the applicant may not qualify for appointment of counsel.

The defendant must complete a financial statement if (1) the Public Defender has declared a conflict and/or the applicant is seeking a *Harris* appointment or (2) counsel for the defendant is retained by a third party, but appointment of ancillary services is requested.

The financial statement is confidential and privileged and is not admissible as evidence in any criminal proceeding except the prosecution of an alleged offense of perjury based upon false material contained in the financial statement.

Should the applicant need assistance in locating counsel, the Court or the Office of the Public Defender may refer the applicant to the Lawyer Referral and Information Service of the Bar Association of San Francisco (LRIS/BASF). LRIS/BASF maintains a list of attorneys, called by rotation, all of whom meet the same experience required of the Criminal and Delinquency Conflicts panels. LRIS/BASF will supply the Court with referral information. Neither the Court nor the Office of the Public Defender or any other officer or member of the Court shall refer an applicant to any particular attorney or provider of services.

16.20 Fee Hearings (Penal Code §987.8). If the Court has appointed counsel to represent a defendant unable to afford the cost of retaining an attorney the Court may conduct a fee hearing. The Court must use the fee schedule below unless there is good cause to impose a different fee.

INDIGENT FEE REIMBURSEMENT SCHEDULE

The Court has the discretion to set fees higher than set forth here. Cases involving insubstantial or brief representation are not subject to a fee.

If the Court enters a fee order, the person will be referred to the Treasurer's Office for payment and given payment instructions.

MISDEMEANOR CASES

Case resolves prior to trial	$200
Case proceeds through trial	$500 up to $1,000 (depending on complexity of case)

FELONY CASES

Case resolves prior to preliminary hearing	$200
Case proceeds through preliminary hearing	$200 up to $500
Case proceeds through trial	$1,000 up to $2,500 (depending on complexity of case)

JUVENILE CASES

Case resolves prior to trial	$200
Case proceeds through trial	$500 up to $1,000 (depending on complexity of case)

16.21 Redaction of Police and Related Reports. Any person attaching police reports, arrest reports, and investigative reports attached to any document filed with the court must redact information as listed below, before the document is filed. The court will not file documents without the required redaction. Any document or report that is refused for filing for failure to comply with this order is not considered filed for the purpose of a filing deadline. The information that must be reacted is: driver license and identification card numbers; dates of birth; social security numbers; names and birth dates of victims and witnesses; addresses and phone numbers of victims and witnesses; financial institution account numbers and credit card numbers.

Rule 16 amended effective January 1, 2010; adopted July 1, 1998; amended effective January 1, 2000; amended effective January 1, 2003; amended effective January 1, 2006; amended effective August 2, 2007; amended effective July 1, 2008.

Rule 17 - Traffic Proceedings

17.0 Court Sessions. The time for conducting sessions of the traffic court departments will be established by the Presiding judge.

17.1 Driver's License Suspension; Failure to Appear. When any person "Fails to Appear" on an infraction as authorized under Vehicle Code §§40509 and 40509.5, the Court will notify the Department of Motor Vehicles in lieu of issuing a bench warrant. The Department of Motor Vehicles will notify the motorist.

17.2 Traffic School. The clerk shall collect a fee from everyone ordered or permitted to attend traffic school pursuant to Vehicle Code §42005.

- **A. Fee.** The fee may be in the amount equal to the total bail set forth for the eligible offense on the uniform countywide bail schedule. The “total bail” means the amount established pursuant to Penal Code §1269b in accordance with the Uniform Statewide Bail Schedule adopted by the Judicial Council, including all assessments, surcharges and penalty amounts.
- **B. Proof of Completion.** If a defendant who elects to attend a traffic school in accordance with Vehicle Code §42005 fails to submit proof of completion within the time ordered by the Court or any extension thereof, the Court, may, following notice to the defendant, order that the fee paid by the defendant be converted to bail and declare the bail forfeited. Upon forfeiture of the bail, the Court may order that no further proceedings shall be had in the case.

17.3 Traffic Appeals.

- **A. Notice of Appeal Form.** Complete an original and two (2) copies of the "Notice of Appeal" form. Obtain from Room 101, Hall of Justice, a certified copy along with two (2) copies of the judgment or order appeal. These documents and the copies must be filed with the appeals clerk, Room 101, Hall of Justice, within thirty (30) days of the date of judgment.
- **B. Statement on Appeal Form.** Complete an original and two (2) copies of the "Statement on Appeal" form. These documents must be filed with the appeals clerk, Room 101, Hall of Justice, within fifteen (15) days of the filing of the "Notice of Appeal." (**NOTE:** In the rare event that the proceedings being appealed from were reported by a court reporter, a certified transcript by the reporter may be requested by you from the reporter. The fees involved will be stated by the reporter.)
  1. When all of the above papers have been filed, the appeal clerk will mail a notice of the date and time of hearing to the appellant requiring him or her to appear before the trial judge to "settle" the statement on appeal.
  2. When the trial judge certifies that the statement is substantially correct, he or she will forward it to the appeals clerk, Room 101, Hall of Justice, who will forward all papers to the appellate department of the Superior Court. Written notice will be sent to the appellant from the Superior Court of the next steps.
- **C. Stays.** An appeal does not stay the judgment (payment of fine, etc.). To stay execution of a judgment, the appellant must either:

1. obtain an "Order Staying" from the Trial Court and file it with the Appeal Clerk, Room 101, Hall of Justice; **OR**
2. file a "Bond on Appeal" in Room 101, Hall of Justice.

17.4 Traffic Bail Schedule.

A. Effective Date. The Traffic Bail Schedule, pursuant to Penal Code §1269b(d), is in effect as adopted.

B. Revision. The Traffic Bail Schedule shall be prepared, adopted and annually revised, and shall be effective on the first day of July following approval by the Judges of this Court. The Traffic Bail Schedule may be amended during the year for good cause, upon approval by the Judges of this Court and upon recommendation of the Board of Supervisors.

17.5 Parking Violation Appeals. An appeal, filed pursuant to Vehicle Code §40230, shall be filed with the traffic division, and not with any other division of the Court.

17.6 Procedures for Informal Trial Under Vehicle Code §40901.

A. Purpose. This rule establishes procedures for conducting an informal trial under VC §40901.

B. Discretion of a Judicial Officer to Grant an Informal Trial under Vehicle Code §40901. A judicial officer may allow an informal trial upon a request at arraignment by a defendant that is eighteen (18) years of age or older. Informal trials are conducted according to the following requirements and procedures:

1. Eligible Offenses. An informal trial may be allowed for infraction violations of the Vehicle Code or of a local ordinance adopted under the Vehicle Code.

2. Procedure. An informal trial under VC §40901 is to be conducted as follows:

a. If an eligible offense is scheduled for an arraignment, the law enforcement officer who issued the notice to appear for the offense must submit to the court, before the scheduled arraignment, a declaration under penalty of perjury stating the facts that support the charge.

b. At the arraignment, the court must inform the defendant of the nature of the informal trial proceedings and of his or her constitutional rights to confront and cross-examine witnesses, to subpoena witnesses, to hire counsel at the defendant's own expense, and to proceed with a formal court trial before a judicial officer.

c. At arraignment, the court must inform the defendant of the right to have a trial by written declaration under VC §40902, and, if found guilty, the right to a trial de novo on appeal.

d. If an informal trial is requested by a defendant with a class A, class B, or commercial class C driver's license or a defendant charged with a violation of VC §22406.5 (tank vehicles), or a violation that occurred in a commercial vehicle as defined in VC §15210(b), the court must inform the defendant that the offense is not eligible for a dismissal in consideration of completion of traffic violator school.

e. The judicial officer must determine that an offense is eligible for an informal trial and obtain a signed statement that the defendant

knowingly and voluntarily waives the rights listed in 2.b. and 2.c. before proceeding with an informal trial.

f. The informal trial is to be held at the time of arraignment before the judicial officer conducting the arraignment.

g. The judicial officer may accept testimony or other relevant evidence introduced in the form of a notice to appear issued under VC §40500 or §40600, a sworn declaration of the law enforcement officer who issued the notice to appear, a business record or receipt, or other legally admissible evidence.

h. If a defendant requests an informal trial under this rule, before the trial the defendant must have the opportunity to review any sworn declaration or other evidence submitted by law enforcement.

i. If a law enforcement officer issuing a notice to appear does not submit the declaration required by this rule, the judicial officer may dismiss the case, adjudicate the case based on the sworn declaration in the notice to appear and on the testimony and evidence submitted by the defendant, or schedule a formal court trial at a later date.

3. Appeal. An appeal of a finding of guilt in an informal trial under this rule must be filed within 30 calendar days of the date of judgment, as required by CRC 8.782.

17.7 Procedures for Informal Trial of Non-Traffic Infraction Offenses.

A. **Purpose.** This rule establishes procedures for conducting an informal trial of non-traffic infraction offenses.

B. Discretion of a Judicial Officer to Grant an Informal Trial. A judicial officer may allow an informal trial for non-traffic infraction offenses upon a request at arraignment by a defendant that is eighteen (18) years of age or older. Informal trials are conducted according to the following requirements and procedures:

1. **Eligible Offenses**. An informal trial may be allowed as provided in this rule for infraction violations of a local ordinance or the California Code, except for the Vehicle Code.
2. **Procedure**. An informal trial under this rule is conducted in the same manner as an informal trial under rule17.6, except:
   d. the notice and waiver of rights in paragraphs 2.c. and 2.e. of rule 17.6 regarding trial by written declaration do not apply, and
   b. a notice to appear form introduced as evidence under paragraph 2.g. of Rule 17.6 is issued under PC §853.9.

Rule 17 amended effective July 1, 2007; adopted July 1, 1998; amended effective January 1, 2006.

Rule 18 - Small Claims

18.0 Case Disposition.

a. Plaintiff's failure to appear at the scheduled trial may result in the case being dismissed.

b. If the plaintiff has not served the defendant, plaintiff must request resetting three (3) calendar days before the scheduled trial.

c. If the defendant(s) has not been served by the date of trial, and the plaintiff does not reset the matter, the case will be dismissed without prejudice when the case is called.

d. If the case is dismissed on the date of trial for lack of service and resetting, and the plaintiff wishes to further litigate the claim, plaintiff must file a new claim and pay a new filing fee.

e. At the time of filing a small claims case, a notice shall be given to the plaintiff by the clerk, advising plaintiff of the need to serve and provide proof of service prior to the time of trial.

18.1 Continuances. A request for continuance in a Small Claims case must be filed ten (10) or more calendar days before the hearing or trial, unless for good cause the Court orders otherwise.

18.2 Commissioners. Small Claims cases are heard by a commissioner assigned by the presiding judge, as authorized by Government Code §72190. A commissioner shall hear small claims cases without the need for stipulation or consent by a party to the small claims action.

Rule 18 amended effective July 1, 2009; adopted July 1, 1998; amended effective January 1, 2004.

Rule 19 - Court Communication Protocol For Domestic Violence and Child Custody Orders; Modifications of Criminal Protective Orders; Referrals from Criminal to Unified Family Court; Procedures in Juvenile and Probate Courts

19.0 Statement of Principles And Goals.

A. This protocol is adopted to reflect the joint goals of protecting all victims of domestic violence and promoting the best interests of children. Exposure to violence within the home and between parents can result in long term emotional and behavioral damage to minor children. Severing all contact between an offending parent and the children may exacerbate the harm and not be in the best interests of the children or family unit. The Unified Family Court has programs and services, such as supervised visitation and parenting education programs, that enable children to have visitation with an offending parent in a safe and constructive setting. At the discretion of the Judge presiding over a domestic violence criminal case, a referral can be made to the Unified Family Court giving the latter Court the authority to modify a criminal protective order as to minor children.

B. This protocol recognizes the statutory preference given to criminal protective orders. Such orders will not be modified by the Unified Family Court unless specifically authorized by the Judge in the criminal proceeding.

C. A plea or conviction of domestic violence in the Criminal Division triggers the presumption regarding physical and legal custody set forth in Family Code §3044.

D. Services and programs are available through the Unified Family Court to provide and facilitate safe parent-child contact and assist people in providing violence free parenting to their children.

E. Courts hearing cases involving child custody and visitation will take every action practicable to ensure that they are aware of the existence of any protective orders involving the parties to the action currently before them.

19.1 Procedure in Criminal Court.

A. When the Criminal Court does or has issued a protective order from the minor children of the defendant:

1. The Court may, at the Judge's discretion:
   a. Allow the protective order, as to the minor children, to be modified by the Unified Family Court;
   b. Mail a copy of its order to the Unified Family Court Case Manager. A copy of the order shall be given to the defendant and the victim by the Criminal Court;
   c. Advise the defendant and victim that the Unified Family Court may be able to provide services that will assist them in meeting the needs of their children in a safe and supportive way and advise the defendant and victim of the right to seek visitation through the Unified Family Court; and
   d. Provide the defendant with the Judicial/Information letter which shall inform the defendant the protective order, with respect to the minor children, will not be modified unless he or she files a motion and participates in all programs required by the Unified Family

Court. The Information letter will also advise defendant that the Unified Family Court will be informed of all court dates in the criminal department and any violations of the protective order or other probation conditions.

2. The District Attorney's Office will:
   a. Provide the victim with the Information letter; and
   b. Advise the victim of the right to seek a restraining order, child support and supervised visitation through the Unified Family Court.
3. Upon receipt of the Unified Family Court orders, the Criminal Court shall either give the order to the appropriate department (if there is a future date) or place the order in the case file (if the case has been adjudicated).

B. At Other Hearings: The Criminal Court will inform the Unified Family Court of any changes in Court orders, violations of probation.

19.2 Procedure in Unified Family Court.

A. The Court will:
1. Set all cases referred from the Criminal Court on the Domestic Violence Calendar;
2. Include the criminal case number as a cross-reference on all orders that result in a modification of the criminal protective order;
3. Specify the fact, on any Visitation Order, that the criminal protective order is being modified and have the order registered on the CLETS network;
4. Schedule periodic appearances for progress reports.

B. Family Court Services will:
1. Provide a parent orientation program specific to domestic violence issues;
2. Provide mediation services to the parents in conformance with safe practices in domestic violence cases; and
3. Provide a referral to Parenting Without Violence education program that highlights the effects of domestic violence on children, if appropriate.

C. The Unified Family Court Case Manager will:
1. Track Unified Family Court hearings involving custody and visitation issues and cross-reference orders from both the Criminal Court and Unified Family Court;
2. Send a copy of Unified Family Court orders to the Adult Probation Department and to the Criminal Court; and;
3. Assist both parents in accessing the following services when ordered by the Court:
   a. Parent Orientation
   b. Mediation
   c. Supervised Visitation
   d. Parent Education
   e. Child Trauma Project
   f. SafeStart
   g. Family Law Facilitator (when there are child support issues).

D. Self-Help Center will:

1. Provide legal assistance to both Defendant and or Victim, to properly place the matter on calendar.
2. Include a copy of the protective order in Criminal Proceedings in the motion with all requests to modify a criminal protective order.

19.3 Procedure in Juvenile Dependency Court.

A. The San Francisco HSA will:

1. Perform a search for criminal and civil court protective orders involving a prospective custodian when filing a dependency petition and recommending a minor's change of custody to that person;
2. The HSA must not place a minor with a prospective custodian who is restrained by a protective order, but must inform the Dependency Court of the existence and terms of the protective order.

19.4 Procedure in Juvenile Delinquency Court.

A. The San Francisco Juvenile Probation Department will:

1. Perform a search for criminal and civil court protective orders involving a prospective custodian other than the minor's regular legal custodian before releasing a minor to that person.
2. The Juvenile Probation Department must not release a minor to a prospective custodian who is restrained by a protective order, but must inform the Delinquency Court of the existence and terms of the protective order.

19.5 Procedure in Probate Court. The Probate Court will cross check petitions for probate guardianship for cases in juvenile and family court. The Probate Court will also search for criminal and civil protective orders involving the proposed guardian and other adults living in the proposed guardian's household.

Rule 19 adopted January 1, 2005.

APPENDIX A

Fee Schedule for Attorney Compensation for Limited Jurisdiction Cases

Where the principal sued for is:	Attorney's Fee:
$ 10 to $ 50	$ 10
51 to 75	15
76 to 100	30
101 to 150	50
151 to 200	70
201 to 300	95
301 to 400	120
401 to 500	150
501 to 600	180
601 to 700	210
701 to 800	240
801 to 900	270
901 to 1,000	300
1,001 to 1,100	325
1,101 to 1,200	350
1,201 to 1,300	375
1,301 to 1,500	400
1,501 to 1,750	425
1,751 to 2,000	450
2,001 to 2,250	485
2,251 to 2,500	520
2,501 to 2,750	560
2,751 to 3,000	600
3,001 to 3,250	630
3,251 to 3,500	660
3,501 to 3,750	690
3,751 to 4,000	720
4,001 to 4,250	750
4,251 to 4,500	775
4,501 to 4,750	800
4,751 to 5,000	825
5,001 to 5,250	850
5,251 to 5,500	875
5,501 to 5,750	900
5,751 to 6,000	925
6,001 to 6,250	950
6,251 to 6,500	975
6,501 to 6,750	1,000
6,751 to 7,000	1,025
7,001 to 7,250	1,050
7,251 to 7,500	1,075

7,501 to 7,750	1,100
7,751 to 8,000	1,125
8,001 to 8,250	1,150
8,251 to 8,500	1,175
8,501 to 8,750	1,200
8,751 to 9,000	1,225
9,001 to 9,250	1,250
9,251 to 9,500	1,275
9,501 to 9,750	1,300
9,751 to 10,000	1,325
10,001 to 10,250	1,350
10,251 to 10,500	1,375
10,501 to 10,750	1,400
10,751 to 11,000	1,425
11,001 to 11,250	1,450
11,251 to 11,500	1,475
11,501 to 11,750	1,500
11,751 to 12,000	1,525
12,001 to 12,250	1,550
12,251 to 12,500	1,575
12,501 to 12,750	1,600
12,751 to 13,000	1,625
13,001 to 13,250	1,650
13,251 to 13,500	1,675
13,501 to 13,750	1,700
13,751 to 14,000	1,725
14,001 to 14,250	1,750
14,251 to 14,500	1,775
14,501 to 14,750	1,800
14,751 to 15,000	1,825
15,001 to 15,250	1,850
15,251 to 15,500	1,875
15,501 to 15,750	1,900
15,751 to 16,000	1,925
16,001 to 16,250	1,950
16,251 to 16,500	1,975
16,501 to 16,750	2,000
16,751 to 17,000	2,025
17,001 to 17,250	2,050
17,251 to 17,500	2,075
17,501 to 17,750	2,100
17,751 to 18,000	2,125
18,001 to 18,250	2,150
18,251 to 18,500	2,175
18,501 to 18,750	2,200
18,751 to 19,000	2,225
19,001 to 19,250	2,250

19,251 to 19,500	2,275
19,501 to 19,750	2,300
19,751 to 20,000	2,325
20,001 to 20,250	2,350
20,251 to 20,500	2,375
20,501 to 20,750	2,400
20,751 to 21,000	2,425
21,001 to 21,250	2,450
21,251 to 21,500	2,475
21,501 to 21,750	2,500
21,751 to 22,000	2,525
22,001 to 22,250	2,550
22,251 to 22,500	2,575
22,501 to 22,750	2,600
22,751 to 23,000	2,625
23,001 to 23,250	2,650
23,251 to 23,500	2,675
23,501 to 23,750	2,700
23,751 to 24,000	2,725
24,001 to 24,250	2,750
24,251 to 24,500	2,775
24,501 to 24,750	2,800
24,751 to 25,000	2,825

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