Uniform Local Rules of Court

Superior Court of California

County of San Francisco

Effective: July 1, 1998
Revised: January 1, 2020

Website

Court Fee Schedules

Superior Court of California
County of San Francisco

UNIFORM LOCAL RULES OF COURT

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Superior Court of California
County of San Francisco

LOCAL FORMS—*all local forms are optional*

All forms can be located on the Court's website.

CIVIL—Limited, Unlimited, and Small Claims

Form Name	Form No.	Revision Date
Alternative Dispute Resolution (ADR) Information Package	ADR Package	2018
Amendment to Complaint	F 1011	
Appeal Information	MCF 6	
Attorney Fee Schedule	MCF 18	
Automatic Continued Notice for Court	SCF 17	
Certificate of Facts Re: Unsatisfied Judgment (DMV 30)	SCF 29	
Certificate of Service by Mail by Attorney – CCP1013A(2)	F1297B	
Checklist for Court Judgment—Claim and Delivery	MCF 196	2017
Continuance Request and Order	SCF 18	
Declaration in Joint Debtor Proceeding	SCF 14	1999
Description of Defendant	SCF 27	
Disabilities Act Information	MCF 84	
Disabilities Act Information (pamphlet)	SCF 31	
Fee Schedule—Civil, Probate, Small Claims	MCF 120	
Guideline for Obtaining Default and Default Judgment	MCF 117	
Information—Service of Plaintiff's Claim and Order	SCF 6	2017
Judgment by Default by Clerk in Proceedings Against Judgment Debtor	MCF 50	
Judgment Pursuant to CCP 1710.25	MCF 177	
Judgment Pursuant to CCP 427C	MCF 33	
Letter Re: How to Proceed Against a Minor Defendant in Small Claims Court	SCF 43	
Letter Re: Untimely Served Cases	SCF 39	
Letter to the Secretary of State (Legal Review)	SCF 23	
Mandatory/Discretionary Dismissal	MCF 9	
Notice of Entry of Judgment—Sister State Judgment	MCF 5	
Order Extending Time	F1232	
Order on Claim of Exemption and Notice of Entry of Order	MCF 30(a)	
Plaintiff's Claim Package—Small Claims Division	SCF 8	2017
Request for Refund	MCF 147	
Request to Appear at Hearing by Telephone		1996
San Francisco Small Claims Legal Advisor Office Sheet	SCF5	
Service by Return Receipt Mail by Clerk	SCF 26	2017
Small Claims Court Worksheet		
Small Claims Information	SCF 38	
Stipulation Re: Jury	MCF 98	
Stipulation to Alternative Dispute Resolution	ADR Package	2018
Submitted Form	MCF 80	

DISSOLUTION

Form Name	Form No.	Revision Date
Family Law At-Issue Memorandum		2003
Family Law Judgment Checklist		2003

PROBATE

Form Name	Form No.	Revision Date
Attorney Billing Template	PRBT 201	2013
Contact Information	PRB 102	2009
Declaration of Proposed Guardian—Confidential	PGF-1	2019
Declaration of Real Property	SFA-001	2003
General Plan for Personal & Financial Needs of Conservatee	P74	2007
Mediation Agreement	PRBM 502	2018
Mediation Consent and Confidentiality Form	PRBM 501	2018
Notice of Change of Address	PRB-101	2019
Order Appointing Referee	F1331	2008
Proof of Payment Of Assessment Fee	PRB 103	1989
Request for Appointment of Referee	F1337	1991
Request to End Guardianship	PFG-4	2019
Status Report on Conservatee	P75	2007

UNIFIED FAMILY COURT (UFC)

Form Name	Form No.	Revision Date
Application and Declaration for Telephonic Appearance	11.7D(1)	2017
Child Custody Evaluation Order	11.16F	2010
Declaration Regarding Acceptance of Service at " In Care Of" Address	11.9-B	
Declaration Regarding Acceptance of Service at P.O. Box	11.9-A	2007
Declaration Regarding Custody and Visitation	11.7A	2009
Declaration Regarding Notice of Ex Parte Application	11.8	
Family Law At-Issue Memorandum	11.11	2007
Information on Title IV-D Telephone Appearances in Dept. 416	11.7D(3)	2006
Notice of Nature and Availability of Alternative Dispute Resolution and Procedures in Family Law	11.17	2019
Proposed Order for Telephonic Appearance	11.7D(2)	2017
Request for Discovery	12.21	
Request for Earlier Mandatory Settlement Conference Date Form	11.13	2007
Status Conference Statement	11.12	2008

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.

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

Adopted: July 1, 1998
Last Revised: January 1, 2018

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, Real Property Court, Juvenile, Criminal, Traffic, 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 Newspaper and Publisher.

A. *The San Francisco Daily Journal*, a newspaper of general circulation, published in the City and County of San Francisco, is designated an official newspaper of the Superior Court.

B. The Court Executive Officer is the official publisher of the Court's rules pursuant to CRC 10.613.

2.2 Photographing, Recording, and Broadcasting in Court Facilities.

A. Definitions.

As used in this rule:

1) "Courtrooms" means the actual courtroom of any individual judicial officer including any attached foyers, offices, conference rooms, chambers and non-public/secured hallways.
2) "Photography" or "Photographing" means recording a still or moving likeness, regardless of the method used, including by digital or photographic methods.
3) "Recording" means the use of any analog or digital device to aurally or visually preserve a still or moving likeness.

4) "Broadcasting" means a visual or aural transmission of Photography or Recording, by any method, including any electronic transmission or transmission by sound waves.

B. Courtrooms.

Photographing, Recording, and Broadcasting proceedings in courtrooms are subject to CRC 1.150.

C. Non-courtroom areas.

Photographing, Recording, and Broadcasting in areas outside of courtrooms are subject to the following:

1) In order to protect the safety and privacy of minors, all forms of Photography and Recording are prohibited in the following areas:
   a. The 4th Floor of the Civic Center Courthouse (except for public events in the Rotunda which have been officially approved by the Court); and
   b. Anywhere in the Juvenile Justice Center unless otherwise authorized by the City and County of San Francisco Juvenile Probation Department.
2) In order to protect the safety and privacy of jurors, all forms of Photography and Recording are prohibited in the following areas:
   a. The jury assembly room, any jury deliberation rooms, and any criminal grand jury proceeding in the Civic Center Courthouse; and
   b. The jury assembly room and any jury deliberation rooms at the Hall of Justice.
3) In order to protect the safety and privacy of court personnel, all forms of Photography or Recording are prohibited in the following areas:
   a. All clerk offices, all clerk windows, and all employee work areas in each courthouse, including the Civic Center Courthouse, the Hall of Justice, the Polk Street Annex (also known as the Community Justice Center), and the Juvenile Justice Center; and
   b. The self help center at the Civic Center Courthouse.

D. Sanctions.

Any violation of this rule or an order made under this rule is subject to CRC 1.150(f).

2.3 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.

2.4 Advertising Matters in Court.

No written advertising including that on calendars may be displayed in any courtroom.

2.5 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.

2.6 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. Submitting 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 paragraph (A) above may submit a complaint with the Presiding Judge or Court Executive Officer.

Complaints must be in writing. The submission of a complaint to the Presiding Judge does not preclude the submission of a complaint to any other appropriate disciplinary authority.

C. Review of Complaints.

Complaints filed with the Fairness Committee will be reviewed by the Committee according to the policies and procedures specified in subsection D 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.

D. 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.

2.7 Presentation and Filings of Court Papers.

A. Format of Papers.

See CRC 1.200, 2.100-2.119, 3.1110-3.1116.

B. Courtesy Copies.

Courtesy copies are required for any Papers filed with the court. The term Papers includes: any filed document requiring court review, action, or signature, any case management statement, response to order to show cause, brief, memorandum, petition, application, request for order, motion, opposition, reply, or response.

1) Timing

Unless a different deadline is required in the local rules pertaining to a specific court, department or division, or in an order shortening time, parties must lodge courtesy copies of any papers as follows:

For all papers filed by Conventional filing, parties must lodge courtesy copies at the time of filing.

For all papers filed fewer than 7 court days before the hearing, parties must lodge courtesy copies on the day of filing.

For papers filed by E-filing 7 or more court days before the hearing, parties must lodge courtesy copies no later than 2 court days after the date of E-filing.

2) Location

Unless a different location is required in the local rules pertaining to a specific court, department or division, parties must deliver the courtesy copies to the department in which the matter will be heard.

3) Contents

Courtesy copies must include any supporting documents filed with the Papers. If the Papers challenge the sufficiency of a pleading already on file, the moving party must also supply a courtesy copy of that pleading**.** For papers filed by E-filing, all courtesy copies must include the relevant Transaction Receipt. With prior court approval, parties may provide copies of voluminous exhibits on electronic media (e.g., a USB device).

4) Consequences

Failure to lodge courtesy copies of moving Papers as required by statute, rule or court order may, in the discretion of the judicial officer presiding over the hearing, result in denial of the motion, continuance of the hearing, or taking the motion off calendar. Failure to lodge courtesy copies of opposition Papers as required by statute, rule or court order may, in the discretion of the judicial officer presiding over the hearing, result in the granting of the motion or continuance of the hearing. Failure to lodge courtesy copies of reply Papers as required by statute, rule or court order may, in the discretion of the judicial officer presiding over the hearing, result in the reply Papers not being considered.

C. 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.

D. Drop Box.

Pursuant to CRC, Rule 2.210, the Court's drop box for civil filings is only available when the Clerk's office is closed during Court days between 8:30 a.m. to 4:00 p.m. 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 the main entrance of 400 McAllister Street.

2.8 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 set 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**.**

2.9 Judges' Vacation Day.

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."

2.10 Fees For Certain Court Service or Products.

Pursuant to CRC 10.815, the Court may charge a reasonable fee not to exceed the Court's cost of providing the following products and services: forms, information materials, publications, off-site retrieval and return of documents to the off-site storage facility, and postage. These fees shall be published in the Court's fee schedules.

2.11 E-Filing Rules.

A. Definitions.

1) "Clerk" means the clerk of the Superior Court, County of San Francisco.
2) "Conventional" service and filing means service and filing of documents pursuant to the CCP and CRC absent these E-Filing Rules, i.e. using paper format.
3) "Designated Case" means single assignment cases, complex cases, all general civil cases (with the exception of limited unlawful detainer cases and small claims cases), misdemeanor appeals, misdemeanor writs, and ex parte applications involving misdemeanor convictions, any case in which the parties have stipulated and the Court has designated that the case will be governed by these E-Filing Rules, any case designated by Court Order pursuant to CRC 2.253 and any other cases designated by the Court under these E-Filing Rules. A case provisionally complex pursuant to CRC 3.400(c), or otherwise designated by a party as complex, is not a Designated Case until such time as the Court enters a

classification order pursuant to CRC 3.403. Probate matters, to the extent set forth in LRSF 14.91, are Designated Cases. A matter becomes a Designated Case as of the date it is so designated.

4) "E-Document" means an electronic version of a document generally composed of text.
5) "E-File" means electronic version of an original document transmitted to the Clerk via the Vendor's system or electronically filed and/or served. An E-File consists of an E-Document, E-Image, or both.
6) "Vendor" means a private entity approved by the Court to provide electronic filing and service. The Court is not a Vendor. Vendors provide E-Service. The Court does not provide E-Service.
7) "E-Image" – An electronic version of a document that has been scanned or converted to a graphical or image format.
8) "E-Service" – Electronic transmission of an original document to all other designated recipients directly, by an agent, or via the a court approved vendor's system. (See CRC 2.251(e)(1).) Upon the completion of any transmission to the Vendor's system, a Transaction Receipt is issued to the sender. Once the Vendor has served all recipients, proof of electronic service must be available to the sender from Vendor.
9) "Transaction Receipt" means a confirmation that is transmitted to a registered User after a registered User has submitted a transaction to the Court through a Vendor. The Transaction Receipt displays the date and time the transaction was submitted by the registered User through the Vendor.
10) "User" – Any party or non-party to a Designated Case who has not been excluded.

B. Scope.

These rules govern the E-filing and E-service of documents in Designated Cases. Except as provided below, all Designated Cases must comply with E-Filing Rules.

C. Exclusion From E-Filing and E-Service Requirements.

1) Self-represented parties and non-parties are excluded from the requirements of these E-Filing Rules, but are encouraged to comply with them voluntarily. Self-represented parties and nonparties must be served Conventionally, unless the self-represented party or non-party agrees, in writing, to accept electronic service.
2) Represented parties may apply to be excused from E-Filing Rules. The Court may grant such an application if the party establishes that compliance with the E-Filing Rules would pose an undue hardship or cause significant prejudice. A

represented party seeking to be excused from E-Filing Rules must file either an ex parte application for relief or a Request for Exemption from Mandatory Electronic Filing and Service, (Judicial Council Form EFS-007). The request must be heard in the department to which the case is assigned (or Department 206 if the case has not been assigned). The applicant must be present at the hearing. The application must be accompanied by a proposed order and a declaration under penalty of perjury setting forth with specificity the undue hardship or significant prejudice that the applicant asserts would result from compliance with the E-Filing Rules. Judicial Council Form EFS-007 must be accompanied by Judicial Council Form EFS-008, Order of Exemption from Mandatory Electronic Filing and Service. After the ex parte hearing, the applicant must serve written notice on all other parties of the Court's ruling.

D. Retroactive Effect of Designation.

The Court's designation of a case does not require the re-filing, re-service, or translation into electronic format of any document filed or served before the designation. The judge assigned to a Designated Case may order the parties to e-file papers previously conventionally filed.

E. Obtaining Access to System.

1) All E-Filings must be filed through a Vendor. Users must enter into a standard service agreement during the registration process that will govern all transactions completed within the scope of these E-Filing Rules in addition to additional features that Users may but are not required to use in connection with the E-filing and/or E-service of documents through the Vendor.
2) The Court Executive Officer of the Court may solicit bids from other potential vendors and submit to the Presiding Judge any recommendations for a change in the designation of the Vendor or the terms of the Service Agreement. The Court Executive Officer must provide current and potential vendors all information reasonably necessary to develop a bid to render the services necessary to implement these rules.

F. Assignment of Username and Password.

The Vendor will assign to the party's designated representative a confidential username and password. No attorney or party representative may knowingly or recklessly authorize or permit his/her username or password to be utilized by anyone other than the authorized attorneys or employees of the attorney's law firm.

G. Obligation to Keep Information Current.

Each represented party must furnish that party's electronic service address on the first occasion that the party e-files any paper. Each party can have only one e-service address in each case. The case-specific electronic service address must specify the party. The electronic service address for entities designated for courtesy service can be provided to the vendor, but will not become a part of the Court's service list. A party whose electronic service address changes while the action or proceeding is pending must promptly e-file a notice of change of electronic service address or Judicial Council Form EFS 010, Notice to Change Electronic Service Address, with the court and must serve this notice on all other parties or their attorney(s) of record. An electronic service address is presumed valid for a party if the party files electronic documents with the court from that address and has not filed and served notice that the address is no longer valid.

H. E-Filing of Pleadings and Other Documents

1) Except as expressly provided by these rules, all pleadings, motions, memoranda of law, declarations, orders, or other documents must be electronically filed. All papers relating to a pleading or request for an order (e.g. notice of demurrer, request for judicial notice, memorandum of points and authorities and proposed order) must be e-filed together in a single transaction.
2) During trial, motions, memoranda, and matters presented to the Court in writing for decision may be served in open court in hard copy form. These items and proofs of service must be filed electronically no later than the Close of Business on the court day following service by hand in open court, and the electronic proof of service must reference the date originally served in open court.

I. Responsibility for Redaction.

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

J. Confirmation of Receipt of Lodged and Filed Documents.

Vendor is hereby appointed agent of the Clerk as to the E-filing, receipt, service and/or retrieval of any document in the E-File system. Vendor must promptly send Users confirmation of the receipt of any document that Users have transmitted to Vendor for filing or lodged with the Clerk. Such confirmation must indicate the date and time of receipt stated in Pacific Time. The Clerk must review the document and transmit to the Vendor confirmation that the document has been reviewed, accepted, or rejected by the Clerk. The Clerk must electronically endorse any document accepted for filing in

accordance with CRC 2.259(e), or must promptly transmit the Clerk's notice of rejection or amendment to the User through Vendor.

K. Payment of Statutory Filing Fees.

Vendor is hereby appointed as the agent of the Clerk with respect to collecting statutory filing fees for any electronically filed document. Each User must pay all required filing fees for electronically filed documents to Vendor. Vendor will invoice each User monthly for the total amount of such filing fees. Vendor must remit filing fees to the Clerk. At such time, those fees are the sole property of the Clerk of the Superior Court of California, County of San Francisco. All requests for refunds of filing fees must be addressed to the Clerk and may be submitted electronically in the manner prescribed by the Clerk.

L. Format of E-Filed Documents.

All electronically filed documents, to the extent practicable, must be formatted in accordance with the applicable rules governing formatting of paper pleadings.

M. Signatures on E-Filed Documents.

1) Every item which is E-Filed and/or E-Served is deemed to have been signed by a judge, licensed attorney, court official, or person authorized to execute proofs of service if it bears a typographical signature of such person, e.g., "/s/ Adam Attorney," along with the typed name, address, telephone number, and State Bar of California number of a signing attorney. Such typographical signatures are personal signatures for all purposes under the CCP. Judges may use graphic signatures.
2) E-Filed and/or E-Served documents requiring a signature under penalty of perjury must be imaged to reflect the handwritten signature of the declarant to accomplish valid filing and service.
3) E-Filed and/or E-Served documents which do not require a signature under penalty of perjury are deemed signed by the submitting party if it bears a typographical or graphic signature**.**
4) The original of E-Filed and/or E-Served documents including original signatures must be retained by the party filing the document for at least the period after the termination, including all appeals, of the case required for conventionally filed documents. Upon reasonable notice, the filing party must provide in advance of any hearing on the matter the original of such typographically signed or imaged documents.

N. Electronic Title of Documents.

The document title entered on the Vendor system must be the same as that reflected in the caption of the document.

O. E-Service of Documents and Proof of Service.

1) Users must E-Serve all E-Filed documents on all parties. Users may E-Serve other documents not E-Filed. This Rule does not modify the obligations of service as set forth in the CCP.
2) A party may choose to serve documents required to be E-Filed under these Rules by means in addition to E-Service, but not instead of E-Service. The time for response to documents shall be the earlier of those attributable to the various means of service.
3) The Transaction Receipt is a valid proof of service if it complies with CRC 2.251(e)(1) and CCP § 1013(a). A proof of service page may be attached to the last page of any E-Filed and E-Served document. Proof of Service may be accomplished by: (a) stating the necessary information on the last page of any E-Filed and E-served document; or (b) filing a separate document. If the proof of service is filed as a separate document, it must include: a caption page including the case name and number; a reference to the Transaction Receipt; and a title identifying the documents served.

P. Effect of E-Service.

The E-Service of a document is effective service on all Users. Documents E-Served by the Close of Business on court days are deemed to have been served on that day. Otherwise, they are deemed served the next court day. The filing and service provisions of CCP § 1010.6 and CRC 2.251 apply.

Q. Documents Under Seal. A motion to file documents under seal must be filed electronically. The redacted and un-redacted (conditionally sealed) documents must be electronically filed in the same transaction. Courtesy copies of the conditionally sealed document(s) must be lodged with the department where the motion will be heard (please see E-filing Special Instructions, located on the Court's website, www.sfsuperiorcourt.org, for more details).

R. Conventional Filing of Documents.

Notwithstanding the foregoing, the following types of documents may or must be filed conventionally unless otherwise required by the Court:

1) **Initiating Filings.** A new case shall originate with the filing of a conventional copy of the initial pleading. All documents thereafter must be electronically filed.
2) **Documents Issued by Clerk.** Issuance of summons and writs, Abstracts and Out of State Commissions, Certificate of Facts RE: Unsatisfied Judgment, Order of Examinations must be handled conventionally.
3) **Non-electronic Exhibits or Other Items.** Exhibits to declarations or other documents that are non-text articles, physical objects, or other documents not readily susceptible to E-filing may be filed or lodged conventionally and in accordance with the direction of the Clerk. A notice of such filing must be filed and served electronically.
4) **Documents served by hand in open court during trial** (including motions, memoranda of points & authorities and other matters presented to the Court in writing for decision) may be served conventionally. The document and proof of service must be E-Filed before the Close of Business on the court day following service by hand in open court. In addition, the proof of service must reference the date the document was originally served in open court.
5) **Motions with Jurisdictional Time Limits.** The following may be filed and served conventionally: Motions with jurisdictional time limits including motions for new trial, motions JNOV, motions to quash service for personal jurisdiction, any notice of appeal, and petitions for writs. The Court's service copy of any petition to the Court of Appeal for extraordinary relief must be served electronically.
6) The following documents will continue to be required to be submitted in original form for filing in the Clerk's Office:
    a. Request to Waive Court Fees; Request to Waive Additional Court Fees and Order on Court Fee Waiver
    b. Original Bonds
7) **Petition for Guardian ad Litem.** A Petition for Guardian ad Litem must be submitted in original form to the Presiding Judge's department. The filing fee must be paid in the Clerk's Office, Room 103, before submission of the petition.

S. E-Filing and Service of Orders and Other Papers by Court.

The Court may issue, file, and serve notices, orders, and other documents electronically subject to the provisions of these E-Filing Rules.

T. User Technical Problems.

1) In the event that a User is temporarily unable to E-File due to technical problems, the User should follow procedures set forth by the Court. The Court may establish policies and procedures for Users to follow when requesting an extension of time due to technical problems; otherwise, such requests may be

made by ex parte motion, addressed to the judicial officer stated in Section E. The Clerk, pursuant to established policies and procedures in effect at that time, may determine whether a User has complied with established policy and procedures entitling User to an extension of time.

2) The User may alternatively file by faxing documents and attachments to the Vendor. Vendor must then convert those documents to electronic form, file them with the Clerk, and serve designated parties as provided. Users filing via facsimile through the Vendor must be charged fees reflecting Vendor's then current published rates for filing and service in this manner.

U. User Error or Vendor Technical Problems.

If E-filing or service does not occur due to (1) error in the transmission of the document to Vendor or served party which was unknown to the sending party, (2) Vendor's failure to process the electronic document, (3) a party's erroneous exclusion from the service list, or (4) other technical problems experienced by the Vendor, then the User affected may be entitled to an extension for any response or the period within which any right, duty, or other act must be performed, provided the User demonstrates that he or she attempted to file or complete service on a particular day and time. The Court may establish policies and procedures for the way in which a User may demonstrate he or she attempted to file or complete service on a particular day and time. The Clerk, pursuant to established policies and procedures in effect at that time, may determine whether a User has complied with established policy and procedure entitling User to an extension of time.

V. E-Filing of Documents in Asbestos, Complex Litigation, Probate and Appellate Division Misdemeanor Proceedings.

All parties, with the exception of a self-represented litigants, must file all subsequent documents electronically through File & ServeXpress in the following designated case types: Asbestos, Complex Litigation, Probate and Appellate Division Misdemeanor proceedings.

Adopted: July 1, 1998
Last Revised: July 1, 2019

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 610.

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 610 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 must be brought on written ex parte application in that Department.

3.1 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 and a courtesy copy with a proposed order delivered to Department 610.

B. Extension to Respond.

A written application must be filed. Opposition to a request for extension of time to respond must be filed within two (2) Court days of service of the request. Courtesy copies of the application and opposition with a proposed order must be lodged in Department 610 in compliance with LRSF 2.7.

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, except for applications for leave to serve summons in an action for unlawful detainer by posting, pursuant to § 415.45, which shall be made to the Real Property Court. (See Rule 8.10). Applications to be made to the Presiding Judge 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); or
2) An application for leave to serve a summons by publication, pursuant to CCP § 415.50.

3.2 Case Management Conference Date (CRC 3.720-3.730).

A. Case Management Conference Date.

When a complaint is filed, the clerk will issue a notice to plaintiff that includes a case management conference date. Plaintiff must serve that notice on all defendants.

B. 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 judicial arbitration;
2) Mandatory Expedited Jury Trial; or
3) Assignment of a trial date.

C. Objections.

A party objecting to an order to arbitration or a trial setting, must file and serve a "Notice of Objection." A courtesy copy of the "Notice of Objection" must be lodged in Department 610 in compliance with LRSF 2.7. All parties must appear personally, through counsel or by telephone on the objection hearing date specified in the Court's order or notice (see LRSF 3.2(E) for Appearance by Telephone). A party objecting to a

trial setting must meet and confer with the other side(s) in an effort to agree upon an alternative trial date before the hearing is held in Department 610.

D. 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.

E. Appearance by Telephone (CRC 3.670).

Parties may elect to appear for an Objection Hearing or a civil case management department conference by telephone. To do so, the participant must serve and submit to an approved vendor, not less than five (5) Court days prior to the hearing date, a request for telephonic appearance form and pay a fee. Required submission, forms, and payment procedures are detailed on the Court's website www.sfsuperiorcourt.org/. The person requesting to appear by telephone must be available for two (2) hours after the time noticed for the hearing. For all Order to Show Cause Hearings in the civil case management department, parties must appear in person.

3.3 Stipulation to Judge Pro Tem.

A. A party is deemed to stipulate that all matters heard in the Civil Case Management Department may be heard by 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 temporary judge may:

1) Submit the matter on the papers without oral argument, or
2) present oral argument before the **temporary judge**. 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.

3.4 Ex Parte Applications.

In Department 610, 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.

3.5 Complex Cases.

A. Asbestos Cases.

Actions for personal injury and wrongful death arising out of exposure to asbestos are designated complex litigation. Plaintiff must pay a complex case fee, in addition to the first appearance fee, at the time of filing of the first paper.

B. Cases Provisionally Complex.

Provisionally complex cases are set forth in CRC, Rule 3.400(c). In addition, the Court designates cases subject to Add-on Petitions in Coordinated Actions and cases related to Multi-District Court (MDL) litigation as provisionally complex under CRC, Rule 3.400(d). CEQA cases are provisionally complex and are covered by LRSF 6.10.

C. Complex Treatment (for other than Asbestos and CEQA cases).

1) Provisionally complex cases will not be treated or designated as complex until the Court so orders.
2) Parties seeking complex designation must file an application (or joint application), in all cases, including cases where the complex box has been checked on the Civil Case Cover Sheet (CM-010), stating the reasons why the case should be designated complex. A copy of the application must be delivered to Department 304. Any opposition to an application must be filed within 5 court days (or as may be extended by the Court) of the date on which the application was filed and a copy of the opposition must be delivered to Department 304. The Court will issue an order either (i) deeming the case complex and assigning it to a single judge for all purposes or (ii) denying the application.
3) Any party at any time may apply for complex designation, whether or not the Cover Sheet identified the case as complex or whether a case is provisionally complex under (B) above.

D. Complex Filing Fees.

The filing fee established by Government Code § 70616(a) must be paid at the time a party applies for complex designation. In the event complex designation is not granted, a party may apply for a refund of the complex filing fee by submitting a Request for Refund.
(http://www.sfsuperiorcourt.org/sites/default/files/pdfs/RequestforRefund.pdf)

Adopted: July 1, 1998
Last Revised: January 1, 2018

4 Alternative Dispute Resolution

4.0 Policy.

Every long cause, non-criminal, non-juvenile case should participate either in voluntary mediation, arbitration, neutral evaluation, an early settlement conference or other appropriate alternative dispute resolution process prior to trial. Information regarding the available alternative dispute resolution programs is posted on the Court's website (http://www.sfsuperiorcourt.org/divisions/civil/dispute-resolution) and included in the ADR information package that plaintiff must serve on each defendant.

4.1 Mandatory Judicial Arbitration.

A. Policy.

All non-exempt at-issue long cause civil actions subject to CCP § 1141.11 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 Administrator.

C. Motions Regarding Arbitration and Discovery Motions.

All motions regarding arbitration pursuant to CRC 3.810 et seq. are heard in the Law and Motion Department. All discovery motions are heard in the Law and Motion Departments.

D. 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.

E. 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.

1) Grounds for Resignation, Suspension and Removal from ADR Panel, and Complaint Procedures.

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.

2) Complaint Procedures and Complaint Proceedings against ADR 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 ADR panel member 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 in the ADR process that is the subject of the complaint.

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 ADR panel member. 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 his/her designee may authorize public disclosure of the name of the ADR panel member 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 4.1E.2.(d)(5) above or as otherwise required by law.

F. Order to Show Cause (OSC) Procedure.

Upon appointment of the arbitrator, the Court may 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 3 p.m. the court day preceding the hearing date at (415) 551-4000.

G. Continuances of Arbitration Date and Jurisdiction of More than 90 Days.

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. A courtesy copy must be delivered to Department 610.

H. 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.

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

J. 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.

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

L. Mediation in Lieu of Judicial Arbitration.
Parties to any civil action assigned to judicial arbitration may elect voluntary mediation in lieu of judicial arbitration by filing a stipulation to mediate. The stipulation must be filed and a courtesy copy delivered to Department 610 in compliance with LRSF 2.7.

M. No Tolling of Time Limits.
The election to mediate in lieu of judicial arbitration will not suspend any time periods specified by statute, the CRC or these LRSF.

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. Selection of Mediation Provider.
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.

4.3 Voluntary Arbitration.

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

Adopted: July 1, 1998
Last Revised: July 1, 2019

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 unlawful detainers where there is a jury demand. In all other cases, Mandatory Settlement Conferences may be ordered by the Presiding Judge under the appropriate circumstances within the Court's discretion. LRSF 5.0 applies to any settlement conference so ordered.

C. 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 proposed order and 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. Courtesy copies must be delivered to Department 610. The application is submitted on the papers and no personal appearance is required. The Presiding Judge will consider among other factors the ability of the Court to provide a settlement officer, and whether the case procedurally appears ready for settlement. LRSF 5.0 applies to any settlement conference so ordered.

D. 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.

E. 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.

F. 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, an evaluation of 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 to the Court must not be made part of the clerk's file.

G. A party ordered to participate in a Mandatory Settlement Conference may ask to continue the settlement conference, or vacate it, by filing an ex parte application in Department 610 which application must include a proof of service and a declaration stating good cause for the continuance or removal of the settlement conference. Opposition to such request must be filed within two (2) Court days of service of the request and a courtesy copy must be delivered to Department 610. The request is submitted on the papers and no personal appearance is required. Proposed orders and a self-addressed, stamped envelope must be included. See LRSF 3.4. Any request to continue or vacate a settlement conference must be filed and lodged separately from a motion or ex parte application to continue the trial date. See LRSF 6.0(B).

Adopted: July 1, 1998
Last Revised: July 1, 2019

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, except unlawful detainers, asbestos cases, and cases assigned to a single judge for all purposes. (For Unlawful Detainers see LRSF 8.10). The trial calendar separately designates cases set for jury trial, expedited jury trial, non-jury trial, and short cause trial (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, except for unlawful detainer actions. (See LRSF 8.10) and asbestos cases. 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. No motion to continue will be heard on the day of trial call, absent unusual circumstance or permission of the Presiding Judge. The Presiding Judge on stipulation of the parties may continue trial to a date convenient to the Court by an ex parte application. Parties seeking a stipulated continuance of the trial date must submit:

1) An 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 filed stipulation by all parties including an agreement to a specific trial date. Trial dates are on a Monday, if Monday is a court holiday, on the Tuesday after a Monday court holiday; 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) will be assigned for trial by the Presiding Judge, Monday through Friday. The calendar for limited and 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.

D. Standby Assignment.

Any 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 cases not assigned may be re-calendared, or remain on the master calendar until trial assignment 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 for why the action should not be dismissed, or otherwise assigned as the Presiding Judge determines.

6.1 Nonapplicability to Expedited Jury Trials.

The provisions of Rules 6.2 through 6.4 and Rule 6.8 do not apply to expedited jury trials conducted pursuant to Code of Civil Procedure (CCP) § 630.01 or § 630.20, except as specified in the consent order or as ordered by the trial judge.

6.2 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. Any written opposition to in limine motions must be personally served and filed no later than the date set for trial. Courtesy copies of any in limine motions and oppositions thereto 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.

6.3 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.

6.4 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.

6.5 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.

6.6 Default and Default Judgment.

A. The Two-Step Process.

The court will only consider entry of default judgment after the clerk has entered a default. A party seeking a default judgment in a civil action ("the requesting party") must either: (1) ask the clerk to enter default first and then request default judgment; or (2) request entry of default and default judgment at the same time. In either instance, the requesting party must deliver all required courtesy copies.

B. Request for Entry of Default.

1) The requesting party must comply with all relevant statutes and rules, including CRC 3.110(g) and this rule.

2) The requesting party must submit all requests for entry of default to the clerk's civil default division.
3) The request for entry of default packet must include the following:
   a. The original and a copy of the Request for Entry of Default on Judicial Council Form CIV-100;
   b. An endorsed-filed copy of the proof of service of summons or relevant notice of order fixing time for further responsive pleading;
   c. An endorsed-filed copy of the operative complaint;
   d. A venue declaration;
   e. In actions in which the requesting party is relying on service of summons by substituted service pursuant to CCP § 415.20(b), a completed declaration by the process server (see LRSF 6.6(C), below);
   f. In injury or death actions where a damage amount is not alleged in the complaint or pleading, a statement of damages and proof of service demonstrating timely service and compliance with CCP § 425.11(d);
   g. In actions where punitive damages are sought in the complaint and may be sought in the request for default judgment, a reservation of rights to seek punitive damages on default judgment and proof of service demonstrating timely service and compliance with CCP §425.115(g);
   h. Any additional documents required by law; and
   i. A self-addressed stamped envelope.
4) Additional information about lodging documents may be found on the Court's website: https://www.sfsuperiorcourt.org/divisions/civil/default-unit.
5) The requesting party must ensure that all information matches the operative pleading and summons.
6) Represented parties must e-file their default packet.
7) The requesting party must lodge a courtesy copy of any e-filed default packet with the Court's civil default division in compliance with LRSF 2.7.
8) If the clerk rejects a request to enter default, the defect is not cured to the clerk's satisfaction, and the requesting party disagrees with the clerk, then the requesting party may apply for ex parte relief to Department 514 on Tuesdays and Thursdays at 10 a.m.

C. Process Server's Due Diligence Declaration In Support of Request for Default.

A requesting party who is relying upon service of summons by substituted service pursuant to CCP § 415.20(b) must submit a declaration by the process server stating:

1) 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; and

2) That not less than three attempts at personal service were made at three different times of the day, on three different days; and
3) At least one of these attempts was made at the last known residence address of the person to be served.

D. Request for Default Judgment.

1) A requesting party must comply with all relevant rules, including CRC 3.1800, and statutes, including CCP §§ 585 through 587, as well as this rule. Unless the requesting party strictly complies with these requirements, the request may be rejected, continued to a future date to allow for compliance, or taken off calendar.
2) The requesting party must include in the default judgment packet all documents identified in CRC 3.1800, plus the following:
    a. An endorsed-filed copy of the operative complaint and summons;
    b. Any relevant statement(s) of damages, as well as proof(s) of service demonstrating timely service and compliance with the applicable service requirements of CCP § 425.11(d) and related case law;
    c. Any relevant reservation(s) of right to seek punitive damages, as well as proof(s) of service demonstrating timely service and compliance with the applicable service requirements of CCP § 425.115(g) and related case law;
    d. A completed default judgment checklist, if applicable, which can be found at https://www.sfsuperiorcourt.org, under Forms & Fees - Local Forms;
    e. A notice of payment of reporter's fees, if required;
    f. A declaration identifying the basis for the attorney's fees request (e.g., particular contract provision or specific statute) and, if the amount requested exceeds the amount set forth in the fee schedule in Appendix A, sworn testimony supporting the amount requested where the requesting party seeks attorney's fees (see CRC 3.1800(a)(9));
    g. An interest computation, including a declaration identifying with particularity the basis for pre-judgment interest request (e.g., specific statute), the rate and the authority for the rate, as well as the relevant calculation where the requesting party seeks pre-judgment interest (see CRC 3.1800(a)(3));
    h. The proposed form of judgment (see CRC 3.1800(a)(6)) on the Judicial Council judgment form unless a lengthy or detailed judgment is necessary, or when different relief is sought against different defendants; and,
    i. A self-addressed stamped envelope.
3) Additional information about lodging documents may be found on the Court's website: https://www.sfsuperiorcourt.org.

4) The clerk's civil default division will process requests for default judgment consistent with CCP §§ 585(a) and 585(d). Such requests for default judgment must be by affidavit pursuant to CCP § 585(d). The requesting party may request a court judgment. As to any such request, the Court may require a prove-up hearing in which case the clerk will schedule a hearing.
5) In limited jurisdiction actions not covered by paragraph (4), the requesting party must submit papers sufficient to obtain default judgment by affidavit pursuant to CCP § 585(d). The clerk's civil default division will process the request. The requesting party may request a court judgment. As to any request covered by this paragraph, the Court may require a prove-up hearing in which case the clerk will inform the moving party of the date, time and place of the hearing and the moving party will have to file a notice of hearing and pay related motion and court reporter's fees.
6) For all requests covered by paragraphs (4) and (5), the requesting party must lodge a courtesy copy of the default judgment packet with the clerk's civil default division in compliance with LRSF 2.7.
7) In all unlimited jurisdiction actions not covered by paragraph (4) above, the requesting party will be required to participate in a hearing to prove-up the default.
    a. Prove-up hearings are held in Department 514 on Tuesdays and Thursdays at 9:00 a.m. The default judgment packet must be filed without a hearing date. The clerk, upon the filing of the papers, will select and schedule the hearing in accordance with CCP § 1005 and available calendar space. Represented parties must e-file their default judgment packet. Parties should utilize the "Note to Clerk" option to indicate preferred or unavailable date(s). After the packet is e-filed the moving party can obtain a copy of the e-filed motion with the hearing date from the Court's website at https://www.sfsuperiorcourt.org. The requesting party must deliver an endorsed-filed courtesy copy of the default packet to Department 514 in compliance with LRSF 2.7. In its discretion and based on calendar management considerations, the Court will determine the number of motions filed by the same counsel that will be set for, or heard on, a given day; however, no more than three motions by the same counsel will be set for, or heard on, any given date.
    b. Counsel and all witnesses necessary to establish the essential facts must appear at the prove-up hearing. The requesting party may request a waiver of the witness requirement and permission to proceed by declaration in whole or in part by filing an ex parte application showing good cause, declaration(s) in support of the good-cause showing and a proposed order. Represented parties must e-file their application and related materials. All such applications must be

filed at least 10 days before the date of the prove-up hearing. The requesting party must lodge a courtesy copy of their papers in Department 514 in compliance with LRSF 2.7.

c. All testimony, whether live or by declaration, must be presented by competent witnesses having personal knowledge of the essential facts

8) Absent a showing of good cause, a dismissal of all "Doe" defendants must be on file at the time of the request for default judgment.

9) If a requesting party seeks a single judgment to resolve an entire action in which some defendants have appeared and some have defaulted, the requesting party must demonstrate in writing that a judgment can be entered as to the appearing defendant(s) and the terms of such judgment as to the appearing defendant(s).

10) Absent a showing of good cause, the Court will not enter a several judgment before resolution of the entire action (see CRC 3.1800(7) and CCP § 579).

11) In an action brought by a debt buyer upon a consumer debt sold or resold on or after January 1, 2014, the operative complaint must satisfy CCP § 1788.58 and the requesting party's evidence in support of default judgment must satisfy the evidentiary requirements of CCP § 1788.60.

12) Applications for Auto Default Judgment must be submitted on affidavits pursuant CCP§ 585(d) and include an Auto Deficiency Judgment Declaration Form. See court's website (http://sfsuperiorcourt.org/ Forms& Fees; Local Forms: Deficiency Judgment Declaration- Auto Sale.

E. Default Judgment in Forfeiture Actions.

See LRSF 8.8.

F. Dissolution Cases.

See LRSF 11.14.

6.7 Temporary Judge Procedures.

A. Administration of the Program.

Administrative duties for Temporary Judge proceedings are performed by the administrative office of the Courthouse at (415) 551-3951 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 Guardian ad Litem must be submitted in original form to the Presiding Judge's department. The filing fee must be paid in the Clerk's Office, Room 103, before submission of the petition.
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 514 on Tuesdays and Thursdays at 9:00 a.m. The hearing will be scheduled at the time the petition is filed. Counsel must lodge an endorsed-filed copy of the petition and a proposed order with Department 514 at least five (5) 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.

If the request to approve settlement of a claim includes distribution of funds to a Special Needs Trust, a fully noticed petition to establish a Special Needs Trust shall be filed with,

and approved by, the Probate Department prior to any distribution being made to that trust.

C. Civil Department to Track Filing of Petition to Establish Trust.
The Order Approving Compromise shall set a status date in the Civil department that approves the compromise to confirm the filing of a Petition to Establish Special Needs Trust in the Probate Department.

6.11 CEQA Cases.

A. Definition of a CEQA Case.
A CEQA case is any case where a petition or complaint filed by any party alleges one or more claims under the California Environmental Quality Act, Cal. Public Resources Code § 21000, *et seq.*

B. Assignment of CEQA Cases/CEQA Judge/CEQA Department.
Per Public Resources Code § 21167.1, all CEQA cases are assigned to a single judge for all purposes, including hearing on a petition for writ of mandate and trial. The designated CEQA judge and the number of the CEQA Department are posted on the "CEQA Department" link on the court's website (www.sfsuperiorcourt.org/).

C. CEQA Cases Provisionally Complex.
The Court designates CEQA cases provisionally complex pursuant to CRC, Rule 3.400(c). Upon filing of the first paper in a CEQA case, the case will be assigned to the CEQA Department for the purpose of assessing whether or not the case is complex.

D. Initial Pleading Alleging a Claim under CEQA Designation/Courtesy Copy.
The caption page of the first pleading in any case that alleges one or more claims under CEQA shall clearly identify that the case is a CEQA case. The words "CEQA case" must appear on the caption page. In addition, at the time the pleading is filed, the person presenting the pleading for filing must notify the deputy clerk processing the filing that the case is a CEQA case. The party who filed the first pleading in any case that alleges one or more claims under CEQA must deliver a courtesy copy of the petition to the CEQA Department in compliance with LRSF 2.7.

E. Initial Case Management Conference/Case Management Statement.
At the time of the filing of the first pleading in any case that alleges one or more claims under CEQA, the person presenting the pleading for filing will be informed of the date, time and location of the initial case management conference. Within fifteen court days of the filing of this pleading, the party filing the pleading must notify all parties of the date, time and location of the initial case management conference. The initial case

management conference will occur approximately 80-90 days from the date the first pleading alleging a CEQA claim is filed. At the initial case management conference, the parties should be prepared to discuss all issues pertinent to the expeditious and least expensive resolution of the case, including but not limited to the preparation and certification of the administrative record and a briefing and hearing/trial schedule for all claims alleged by the parties. The parties may, but are not required to, file a case management statement in advance of the initial case management conference. In the event that a party wishes to file a case management conference statement, the statement need not be in any particular form, but must be filed and a courtesy copy delivered to the CEQA Department in compliance with LRSF 2.7.

F. Settlement Conference/CEQA Case Settlement Manager.

Prior to the initial case management conference, the CEQA case settlement manager will contact the parties to arrange for a settlement conference. If any party wishes to arrange for a settlement conference before being contacted by the CEQA case settlement manager, that party may initiate contact with the CEQA case settlement manager. The name and contact information of the CEQA case settlement manager are posted on the "CEQA Department" link on the court's website (www.sfsuperiorcourt.org/).

G. Obtaining Dates for Hearings on Ex Parte Applications and Motions.

Parties wishing to obtain a date for a hearing on an ex parte application or motion must comply with the procedures for obtaining a date stated in the "CEQA Department" link on the court's website (www.sfsuperiorcourt.org/).

H. Courtesy Copies.

Other than for an ex parte application, the parties must deliver courtesy copies to the CEQA Department of all papers filed in support of or in opposition to any motion or petition in compliance with LRSF 2.7.

Adopted: July 1, 1998
Last Revised: January 1, 2019

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.

7.1 Confidentially 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 http://www.sfsuperiorcourt.org/sites/default/files/images/Questionnaire%20Cover%20Sheet_040114_1.pdf 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. 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. 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 May 31st.

C. 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. The Grand Jury Committee also serves as an advisory body to the Court on matters concerning the Grand Jury.

D. 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) volunteers selected for the Civil Grand Jury pool. The Grand Jury Committee must endeavor to select for Civil Grand Jury Service persons representative of the community.

E. 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 19 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.

Adopted: July 1, 1998
Last Revised: January 1, 2018

8 Civil Law and Motion/Writs and Receivers

8.0 Civil Law and Motion Departments and Real Property Court.

There is one Law and Motion Department handling matters listed in Rule 8.1A.

There is a Real Property Court, which hears motions and ex parte applications in real property and housing related matters as specified in Rule 8.10.

8.1 Law and Motion Departments: Matters and Exceptions.

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

1) Pretrial motions, except as specified in LRSF 8.1(B) and 8.10;
2) Petitions to enforce, modify or vacate contractual arbitration agreements and awards including motions to stay proceedings pending arbitration, except as specified in LRSF 8.10;
3) Writs and Receivers matters, including:
    a. Petitions for a writ of mandate, prohibition, alternative writ or other extraordinary relief except in cases where there is one or more claims asserted under the California Environmental Quality Act (CEQA) and cases specified in LRSF 8.10;
    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, except as specified in LRSF 8.10; and
    d. Applications for the appointment of a receiver, to settle final accounts in the receivership and to terminate the receivership, except as specified in LRSF 8.10.

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, all pretrial motions including those affecting the trial date 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 are heard by the Presiding Judge;

3) Discovery and other motions assigned to be heard by pro tem judges are heard in the Discovery Departments;
4) 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;
5) Apportionment motions in asbestos cases are heard in Department 514 on Tuesdays and Thursdays at 9:00 a.m. Call Department 514 at (415) 551-3788 after 2:00 p.m. to schedule a hearing date;
6) Applications for civil harassment restraining orders must be submitted to 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 514 on Wednesdays and Fridays at 9:00 a.m. by judicial officers;
7) Probate Law and Motion matters as set out in LRSF 14.10.

8.2 Law and Motion Calendar.

A. Hearing.

1) **Time of Hearing.** All limited and unlimited jurisdiction matters are heard in Department 302 at 9:30 a.m. Monday through Friday. The time may be changed by the Judge presiding in the 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. Parties should confer with all other parties before scheduling and noticing a hearing.
    b. Before filing a motion, the moving party must obtain a hearing date and reservation number from the Court by sending an email to calendar302@sftc.org. In that e-mail, the moving party must provide the case name and number, the name of the party represented, the type of motion, and two preferred dates for the hearing. If a litigant does not have an email address, the litigant may call the court at: (415) 551-3688 between 8:00 a.m. and 12:00 noon to obtain a hearing date. Requests submitted after 12:00 noon will be processed the next business day. Parties must wait at least 5 business hours after sending the e-mail reservation request before contacting the clerk regarding assignment of the hearing dates.

c. After obtaining a hearing date, the moving party must electronically file the motion. At the time of efiling, in addition to any required fee for the motion, moving party must pay $30 court reporter fee. Instructions on how to pay the court reporter fee may be found at: http://www.sfsuperiorcourt.org/online-services/efiling/efiling-special-instructions#court_reporter_fees. Parties excluded from the requirements of LRSF 2.11 must file the motion in Room 103. After filing, the moving party must bring a courtesy copy of the filing to Department 302. If a motion challenges the sufficiency of a pleading already on file, the moving party must also supply a courtesy copy of that pleading. Courtesy copies of all subsequent filings relating to the motion must be delivered to Department 302. See LRSF2.7.

d. **Asbestos Law and Motion matters are heard every Tuesday, Wednesday, and Thursday at 9:30 a.m. in Department 503.**

e. A motion may not be noticed in a Law and Motion Department on or after the date set for trial.

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

3) Appearance by Telephone. Parties may appear by telephone at all hearings unless such permission is expressly denied by the judicial officer presiding over the hearing. Telephone appearances must be arranged through Court Call by calling 1-888-88-COURT.

B. Continuances and Motions Off Calendar.

1) **Informing the Court**. A request that a motion be taken off calendar or that a hearing be continued to a later date must be made by email, with a copy to all other parties, to calendar302@sftc.org. The request must include the name of the party making the request, the name of the person making the request on behalf of the party, the case number, and the current date of the hearing. If the request is to continue the motion to a later date, the request must state that all parties affected by the motion have agreed to the new date. If a party requesting that a motion be taken off calendar or that a hearing be continued to a later date does not have email access, the party may, in lieu of email, provide all of the foregoing information in a letter personally delivered to the Law and Motion department. 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 noon the Court day before the hearing.
3) **Re-noticed 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.
4) **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 re-notice 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. For Real Property Court, compliance with 8.10(B) is required.

B. Parties may obtain a tentative ruling issued by the Law and Motion and Discovery Departments by telephoning (415) 551-4000 or visiting the court's website at www.sfsuperiorcourt.org and clicking the online services link. Changes in telephone numbers will appear in the official newspapers.

C. 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 and the court 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. Notice of contesting a tentative ruling must be provided by sending an email to the court to contestdept302tr@sftc.org with a copy to all other parties stating, without argument, the portion(s) of the tentative ruling that the party contests. 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.

G. The prevailing party on a tentative ruling is required to prepare a proposed order repeating verbatim the substantive portion of the tentative ruling and must bring the proposed order to the hearing even if the motion is not opposed or the tentative ruling is not contested. If the prevailing party is appearing at the hearing by telephone, the proposed order may be sent to the court by an email to contestdept302tr@sftc.org. If the proposed order is for a summary judgment and/or adjudication motion, the proposed order must comply with the requirements of CCP § 437c(g). If the proposed order is for a motion, such as a motion to withdraw as counsel, where there is a Judicial Council form order, the prevailing party should complete the Judicial Council form as the proposed order.

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 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. An endorsed-filed 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 any documents that have been filed in a San Francisco Superior Court case must attach copies of those documents to the party's Request for Judicial Notice.

B. Other Court Files.
A party requesting judicial notice of any documents that have been filed in a court file other than the San Francisco Superior Court must attach certified copies of those documents to the party's Request for Judicial Notice.

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.
Summary judgment/adjudication motions (except in cases assigned to a single judge and cases specified LRSF 8.10) are heard in the Law and Motion Departments.

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 Department 514 on any Tuesday, Wednesday or Thursday 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 Department 514 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 Department 514, 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 judicial officer 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.

8.10 Real Property Court.

All the matters not specifically addressed by the Real Property Court Rules are governed by the relevant provisions outlined in other parts of the LRSF e.g., for Continuances and Motions Off Calendar see LRSF 8.2B.

A. Motions in Department 501.

1) **Types of Motions**. Department 501 handles all law and motion matters for cases arising out of ownership of real property, possession of real property, acquisition of real property, damage to real property, and trespass (except construction defect cases) AND all aspects of unlawful detainer matters (motions, discovery and trial call).
2) **Hearing Times.** Motions are heard at 9:30 a.m. Monday through Friday (except holidays). Motions include: (1) all motions in unlawful detainer matters, including motions to continue unlawful detainer trial; (2) all motions in real property matters (a) including specially set discovery motions and discovery motions transferred from Department 302 9:00 a.m. calendar (See Rule 8.10(A)(4)) and (b) excluding motions to continue trial, applications for service by publication, etc.
3) **Courtesy Copies.** Courtesy copies must be delivered to Real Property Court in Department 501 in compliance with LRSF 2.7. Failure to deliver courtesy copies may result in the matter being taken off calendar.
4) **Discovery.** The word "discovery" must be typed on the title page of all papers related to discovery. Discovery motions in unlawful detainer matters shall be calendared in Department 501 at 9:30 a.m. Discovery motions in real property matters shall be calendared in Department 302 at 9:00 a.m. Discovery ex parte applications in real property matters shall be heard in Department 501 at 9:00 a.m. every day, EXCEPT Tuesdays.
5) **Telephonic Appearances.** Requests for telephonic appearances must be made pursuant to CRC 3.670. (See LRSF 3.4(F)). No telephonic appearances are allowed on Discovery matters.
6) **Reservations.** Reserving a date prior to filing is not required; however, there is a limit of five discovery motions per day. Parties must schedule and notice hearings within the time limits provided by law e.g., CCP § 1005, § 1167.4, § 1170, etc.

B. Tentative Rulings.

1) Parties may obtain a tentative ruling issued by the Real Property Court by telephoning (415) 551-4000 or visiting the court's website at www.sfsuperiorcourt.org and clicking on the online services link. Changes in telephone number will appear in the official newspapers.
2) 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 a hearing is required.
3) Parties who intend to appear at the hearing must give notice to opposing parties by telephone promptly, but no later than 4 p.m. the day before the hearing unless the tentative ruling has specified that the 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.
4) 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.
5) Tentative rulings are generally available by 3:00 p.m. the day before the hearing. A tentative ruling does not become available before 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 4 above.

C. Ex Parte Applications.

1) Ex parte applications are heard every day Monday through Friday. Monday, Wednesday, Thursday, and Friday at 9:00 a.m.; and Tuesday at 10 a.m. as follows:
   a. Requests for Entry of Judgment Pursuant to Breach of Stipulation in Unlawful Detainer matters shall be heard ONLY on Wednesdays through Fridays at 9:00 a.m.
   b. Tuesday Ex parte calendar is reserved solely for Requests for Stay of execution in Unlawful Detainer cases:
      i. Ex parte applications for stays of execution shall be heard ONLY at 10:00 a.m. on Tuesdays. No other ex parte applications, except for accompanying requests for Orders Shortening Time for Motions to Vacate Judgment, may be made on Tuesdays.
      ii. Generally, only one request for stay of execution will be granted per case.

iii. Generally, stays of execution will be limited to seven (7) days from the date of eviction.

iv. Generally, no stay of execution will be granted in cases settled by agreement or stipulation among the parties unless parties have agreed otherwise in writing or good cause is shown.

c. All other Real Property Court ex parte applications (excluding requests described in sections 1(a) and 1(b)) shall be heard at 9:00 a.m. every day EXCEPT Tuesdays.

2) A party presenting an ex parte application for a temporary restraining order or similar matter to the Real Property Court must submit endorsed-filed copies of all moving papers to Department 501 no later than 12:00 p.m. before the day of the hearing.

3) All ex parte applications (except for (a) Application for Leave to Serve a Summons by Posting and (b) Stipulated Requests to Restrict Access to Records per C.C.P. 1161.2) require an appearance.

4) All ex parte applications must be accompanied by a proposed order and a proposed judgment, where applicable.

D. Applications for Leave to Serve a Summons by Posting.

1) An application for leave to serve a summons in an action for unlawful detainer by posting, pursuant to CCP § 415.45 must be made to the Real Property Court Judge in Department 501.

2) Endorsed-filed copies of the application, supporting declarations and two (2) copies of the proposed order must be delivered to the Real Property Court in Department 501. Failure to comply might result in the application being denied.

E. Proposed Orders.

With the exception of proposed orders for motions for summary judgment/adjudication, it is recommended that parties appear at the hearing with proposed orders even if the hearing is uncontested to ensure timely processing of the order. Orders submitted after the session is over may experience a delay in processing. When submitting a proposed order after the session is over, submit an original, one copy, and a self-addressed stamped envelope. Compliance with CRC 3.1312 is required.

F. Unlawful Detainer Settlement Conferences.

1) 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.

2) Settlement conferences are mandatory in unlawful detainers where there a jury demand. A Mandatory Settlement Conference will be set prior to the date set for trial.
3) A party to unlawful detainer actions may apply to the Real Property Court 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.
4) Attendance at the settlement conference by the attorney who will try the case and each party is mandatory. A request to excuse attendance of any person whose attendance is required by these rules must be made to the Real Property Court. Such request must be made not less than two (2) Court days before the date set for the settlement conference.
5) Unlawful Detainer Settlement Conferences will be held at 1:30 p.m. on Wednesdays and Thursdays in Real Property Court, Department 501.
6) Plaintiffs or their counsel must bring copies of the operative Complaint and Answer(s) to the Settlement Conference.

G. Unlawful Detainer Trial Calendar.

1) **Trial Calendar.** The trial calendar for unlawful detainer cases is maintained by the Real Property Court at 9:00 a.m. at Department 501. The trial calendar separately designates cases set for jury trial and cases set for non-jury trial.
2) **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.** To set a case for trial a party must file a memorandum to set for trial accompanied by (1) a proof of service served on all parties or (2) a written stipulation for setting signed by all appearing parties.
    b. **Demand for Jury Trial – Unlawful Detainer.** If a jury trial 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
3) **Continuances.** The Real Property Court Judge determines motions for continuance of 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 Real Property Court 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 may 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 or may make a joint oral stipulation directly to the Real Property Court Judge. No opposed continuance will be granted except for good cause shown, such as serious accident, illness or death, or unanticipated unavailability of parties or witnesses or other good cause. 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 Real Property Court or other department has not been scheduled or heard prior to the trial date.

4) **Regular Assignment for Trial.** All unlawful detainers will be assigned for trial by the Real Property Court, Monday through Friday. The calendar is called at 9:00 a.m. The Real Property Court supervises the trial calendar and assigns and disposes of such cases in the manner best designed to accomplish the business of the Court.
5) **Standby Assignment**. Any unlawful detainer 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 Real Property Court Judge. All other cases not assigned may be re-calendared by the Real Property Court Judge.
6) **Cases Ordered Off Calendar**. All cases ordered off calendar or in which a mistrial has been granted, may in the discretion of the Real Property Court 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 Real Property Court Judge determines.

H. Court Reporters.

A Court Reporter will not be available in the Real Property Court. Parties may privately arrange to have a certified Official Pro Tempore Court Reporter present for motion hearings. Pursuant to GC 69955, the notes of the Official Pro Tempore Court Reporter are the official records of the Court, and shall be maintained or delivered to the Clerk of the Court in paper and/or electronic form after the hearing.

Adopted: July 1, 1998
Last Revised: January 1, 2019

9 Ex Parte Applications (CRC 3.1200-3.1207)

9.0 Ex Parte Applications.

A. Law and Motion and Discovery Hearing Times.

Ex parte hearings in Law and Motion and Discovery matters are held at 11:00 a.m. Monday through Friday.

A party presenting an ex parte application in the Law and Motion Department for a temporary restraining order, alternative writ, appointment of a receiver or similar matter must schedule the hearing with the Court clerk. For Law and Motion and Discovery Departments call: 415-551-3823 at least 24 hours in advance of the proposed hearing date. Endorsed-filed copies of all moving papers must be submitted to the clerk in the Law and Motion department no later than two (2) hours prior to hearing.

The following applications are heard in the Law and Motion Department 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.

B. Real Property Court.

Ex parte hearings in Real Property Court matters are held at9:00 a.m. Monday through Friday, except that applications for unlawful detainer stays of execution are only heard on Tuesdays.

Ex parte applications concerning discovery matters in real property and unlawful detainer matters are heard at 9:00 a.m. in the Real Property Court every day (EXCEPT Tuesday).

For Real Property Court see LRSF 8.10(C)(1)(c) and LRSF 8.10(C)(2).

C. 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.

D. Civil Case Management Department Ex Parte Applications.

See LRSF 3.4.

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

F. Probate Ex Parte Applications.
See LRSF 14.14.

Adopted: July 1, 1999
Last Revised: January 1, 2019

10 Discovery and Civil Miscellaneous

10.0 Discovery and Other Hearings in the Civil Discovery Department.

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

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 heard in the Discovery Department. 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 Department, and the Presiding Judge may order that matters otherwise assigned to the Discovery Department be assigned to a different department. If the Presiding Judge orders that the motions currently assigned to Discovery Department be heard in the Law and Motion department, 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 the 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. Discovery Department Motions May be Heard by Temporary Judges.

At the discretion of the Presiding Judge or his or her designee, some or all of the matters assigned to the Discovery Department may be heard by a member of the California State Bar who meets all the requirements set forth in CRC 2.812 to serve as a temporary judge. Prior to the hearing on any motion assigned to be heard by a Temporary Judge, all parties to the motion will be asked if they will sign a stipulation agreeing that the motion may be heard by the Temporary Judge. If all parties to the motion sign the stipulation, the hearing will proceed before the Temporary Judge who will decide the motion with the same authority as a Superior Court Judge. If a party appears by telephone, the stipulation may be signed via fax or consent to sign may be given by email. If a party does not appear at the hearing, the party will be deemed to have stipulated that the motion will be decided by the Temporary Judge with the same authority as a Superior Court Judge. If not all parties to the motion sign the stipulation, the Temporary Judge will hold a hearing and issue a report and recommended ruling to the Law and Motion Department and the judge presiding in the Law and Motion Department will, at a later date, hold a hearing on the motion and decide it.

C. Calendaring Noticed Motions.

Reservations are not required to calendar a discovery motion. A party filing a motion to be heard in the Discovery Department may select a hearing date after conferring with all opposing parties in an effort to choose a date that is mutually agreeable to all parties affected by the mot ion. Noticed motions are heard Monday through Friday at 9:00 am.

D. Court Reporters.

The Discovery Department does 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.

E. Identification of Papers.

The word “DISCOVERY’ must be typed in capital letters on the title page of all papers relating to motions heard in the Discovery Department. 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.

Adopted: July 1, 1999
Last Revised: July 1, 2017

11 Family Law

11.0 General Rules.

This rule supplements the California Rules of Court. The California Rules of Court may be found on-line at www.courts.ca.gov.

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. The Family Law calendar times, court reporter coverage information, as well as information about the Family Law Facilitator and self-help services, are posted online at www.sfsuperiorcourt.org/.

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.

11.4 Commissioners and Judges *Pro Tempore*.

Matters filed in the Family Law Division may be assigned to a temporary judge or court commissioner. 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 LRSF 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 ACCESS Self Help Center of the Superior Court, Room 509, 400 McAllister Street, San Francisco; the Office of the Court Clerk, Room 402, 400 McAllister Street, San Francisco; or, on-line at www.sfsuperiorcourt.org/. Judicial Council forms may also be found on-line at www.courts.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 REQUEST FOR ORDER.

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. A minor may give his or her input to the court, pursuant to CRC 5.250. Consistent with Family Code

§3042 and CRC 5.250, children may not be present in the courtroom during proceedings relating to them without prior approval of the Court.

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 visit http://www.sfsuperiorcourt.org/general-info/waiting-rooms or call (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 ACCESS Self-Help Center to obtain assistance with child custody and visitation matters. If an incarcerated parent receives assistance from the ACCESS 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.

I. Procedures for Reviewing and Resolving Complaints by Parties against Minor's Counsel.

Complaints by a party regarding representation by minor's counsel in the action will be addressed as follows:

1) The party may submit the complaint in writing to the Supervising Judge of UFC.
2) Within ten (10) calendar days of receipt of the complaint, the Court will notify the minor's counsel in writing, enclosing a copy of the complaint. The Court will also inform the complaining party that the complaint has been received.
3) Minor's counsel shall submit a response to the complaint in writing within five (5) calendar days.
4) Based on the complaint and response the Supervising Judge will determine whether or not minor's counsel acted contrary to the LRSF or acted incompetently.
5) If the Court finds that additional information is needed to make a determination, the Court will notify the parties in writing what additional information must be submitted. After receipt of the additional information, the Court will make a determination as set forth in 4 above.
6) Once the Court has made a determination, the Court may reprove minor's counsel either privately or on the record, and/or take any other action that the Court deems appropriate.

11.7 Law and Motion and Readiness Calendars.

Parties may file a REQUEST FOR ORDER 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.

Pleadings must comply with CRC 5.92.

1) **Requirements in Child Custody and Visitation Matters**.
    a. **Optional Declaration Form**. San Francisco Superior Court has created SFUFC 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. **Modification of a Judgment.** A post-judgment REQUEST FOR ORDER requesting a modification of the judgment or any modification to it must include a copy of the judgment as an exhibit.

c. **Disputed Paternity.** Any and all paternity disputes must be raised in initial moving and responsive pleadings.

d. **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. **Support Cases.** See CRC, Rules 5.260.

b. **Support Guidelines.** Departments 403, 404, 405, 406 and 425 utilize the DissoMaster™ program. Department 416 utilizes the Department of Child Support Services' Guidelines Calculator Program, and all calculations submitted in Department 416 must use that 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 and serve 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 at least 2 days prior to the hearing. Except in Department 416, parties are encouraged to use DissoMaster™ program.

c. **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	%
1 weekend per month	24	7
1 extended weekend per month	36	10
2 weekends per month	48	13
1 weekend per month + 1 evening per week	50	14
Alternate weekends	52	14
Alternative weekends + 2 weeks per summer	67	18
Alternative weekends and ½ holidays + 2 weeks per summer (If Custodial Parent has 2 weeks over summer too, then)	69 67	19 18
2 extended weekends per month	72	20
Alternate weekends + 1 evening per week	78	21
Alternate weekends + 1 overnight per week	104	28
Alternate extended weekends	78	21
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
Alternate weekends and ½ holidays + 4 weeks per summer (with no alternating weekends all summer)	75	21
Alternate weekends and ½ holidays + ½ summer (with or without alternate weekends in summer)	82	22
Alternate extended weekends +1 evening per week	104	28
Alternate extended weekends +1 overnight per week	130	36
Alternate weekends and ½ holidays, 1 evening per week, + 4 weeks summer (with alternating weekends continuing in summer, and makeup if weekends lost due to the 4 weeks)	103	28
Alternate weekends and 1 evening per week when school is in session, + ½ school vacations	104	28
Three days per week	156	43
First, third, and fifth weekends	56	15
First, third, fifth, extended weekends	84	23
First, third, and alternate fifth weekends	52	14
First, third, alternate fifth extended weekends	78	21

Definitions	
Weekend	6 pm Friday - 6 pm Sunday (2 days)
Extended Weekend	School closing Fri. – school opening Mon. (3 nights, 2 days)
1st & 2nd; or 2nd & 4th Weekends	Same as 2 weekends per month
1st & 3rd, & alternating 5th Weekends	Same as Alternate Weekends
Afternoon	After school until evening without dinner (1/4 day)
Evening	After school/after dinner (1/2 day; 1 evening per week = 26 days per year)
Overnight	School close mid-week/School opening next day (1day)(1day; 1 overnight per week = 52 days per year)
Holidays	New Year's, President's Day, Easter, Memorial Day, Mother's Day or Father's Day, July 4, Labor Day, Thanksgiving (2days)(Christmas, (1/2 holidays = 5 days per year)
Summer	10 weeks (70) days; some schools may vary, such as those using an all year calendar
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)

d. **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, no later than the dates by which the parties' moving or responsive pleadings are due 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.

e. **Required Supplemental Documentation**. In all proceedings where financial issues are disputed, each party must serve on the opposing party and lodge (in a confidential envelope) the following additional financial information and documentation (unless they have previously been submitted): copies of the party's two most recent state and federal income tax returns and all K-1's for those years; documentation of all

income of the filing party since the period covered by his/her most recent tax return (including W-2's, 1099's and K-1's); copies of the two most recent federal income tax returns filed by any entity in which the party has or has had a 25% or greater interest within the past two years, together with statements of current income and expenses and current assets and liabilities of each such entity. A wage-earning or salaried employee must provide his/her two most recent pay stubs. A self-employed party must provide his/her most recent annual business profit and loss or financial statement, together with current year to date profit and loss or financial statement for the business.

i. These materials must be served and lodged no later than the dates by which the parties' responsive and reply pleadings are due.
ii. All materials lodged pursuant to this Rule may be returned to the submitting party upon request at the conclusion of the hearing unless ordered to be retained by the Court. Such records are confidential and may not be used for purposes other than court proceedings. The Court may destroy such materials within a reasonable time after the hearing. Parties must comply with Family Code §§ 721 and 2102.

f. **Modifications of a Judgment**. A post-judgment REQUEST FOR ORDER requesting a modification of the judgment or any modification to it must include a copy of the judgment as an exhibit.
g. **Request for Attorney's Fees.** See CRC, Rule 5.427.
h. **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.
i. **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. With regard to deviations from guideline child support, see CRC, Rule 5.260(b).

3) **Proposed Orders.** All parties must lodge with the Court and serve on the other party a proposed order no later than 5 court days before the hearing. This Rule does not apply to Child Support matters heard in Department 416.
4) **Service of Pleadings.** A REQUEST FOR ORDER must be served on the opposing party pursuant to CCP § 1005 unless an order shortening time has been obtained. A post-judgment REQUEST FOR ORDER 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 pursuant to CCP § 1005. For review hearings relating to child custody and/or visitation, parties must file and serve any declarations no less than 10 days before the review hearing.
5) **Failure to Serve Pleadings.** See CRC, Rule 5.94(c) and Rule 5.14.
6) **Late Pleadings.** See CRC, Rule 5.94(c) and Rule 5.14

B. Child Custody and Visitation Matters: Readiness Calendar.

A REQUEST FOR ORDER 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 LRSF 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 REQUEST FOR ORDER, the Court may grant the requested relief.
3) **Non-Appearance by a 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 order a reissuance of the REQUEST FOR ORDER or continue the REQUEST FOR ORDER to a future Readiness Calendar.
4) **Appearance by Telephone.** The Court may grant a properly noticed request for a party to appear by telephone if the Court determines that a telephone

appearance is appropriate. Any party seeking to appear by telephone must follow the procedure set forth in LRSF 11.7(D)(4), below.

5) **Request for Judicial Settlement Conference.** See LRSF 11.12.

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

1) **Readiness Calendar Orientation Session.** Orientation sessions are conducted 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 REQUEST FOR ORDER, 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 LRSF 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 and participate in good faith in the mediation. Sanctions may include, but are not limited to, monetary fines, denial of relief sought, dismissal of the REQUEST FOR ORDER, 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 at the discretion of the mediator. 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.** A REQUEST FOR ORDER involving child custody or visitation will first appear on the Readiness Calendar in Department 403 or 404. At the Readiness Calendar, parties will be assigned dates for Mandatory Mediation and a subsequent Court hearing. At the Court's discretion, the hearing may also be set on the Self Represented Litigants Calendar.

b. **Financial and Other Matters.** A REQUEST FOR ORDER involving non-custody or non-visitation issues will be assigned a date for Court hearing upon filing.

c. **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.** Information regarding interpreter services for non-English speaking parties is posted at www.sfsuperiorcourt.org/.

3) **Hearing Procedures.**

a. **Tentative Rulings.** Pursuant to CRC 3.1308(a)(1) this Court has established a tentative ruling procedure for family law cases set on the Law-and-Motion/Child-Custody-and-Visitation ("short cause") calendars. In any matter appearing on a short cause calendar, the moving party must attach a copy of the Tentative Ruling Instructions to any Order to Show Cause or Request for Order. Copies of the Tentative Ruling Instructions are available in Department 402, at the ACCESS self-help center, or online at http://webapps.sftc.org/ufctr/ufctr.dll. The moving party's Proof of Service must indicate that the Tentative Ruling Instructions have been served or the hearing may be continued on the Court's own motion or on the request of the party who was not properly served.

b. **Obtaining Tentative Rulings.** Parties may obtain tentative rulings beginning at 2:00 p.m. on the court day preceding the scheduled hearing by visiting the court's website at http://webapps.sftc.org/ufctr/ufctr.dll or by calling (415) 551-3637. Family law cases that are designated as confidential by California law will not be posted online. Tentative rulings in those matters may be obtained by telephone from Court staff at (415) 551-3637. Confidential cases include matters involving unmarried parents.

c. **Oral Argument.** If a party wants to present oral argument, the party must notice all other parties and contact the courtroom clerk in which the matter is calendared (Dept 403 (415) 551-3741; Dept 404 (415) 551-3744) by 4:00 p.m. on the court day preceding the scheduled hearing with a notation that the opposing party has been notified. Notice to opposing parties may consist of a phone call or email explaining that argument is being requested. It is not necessary to speak with counsel or parties directly. If you are protected by a restraining order or if the other party is protected by a restraining order, do not contact the other party to tell him or her that you intend to appear at the hearing. You only need to contact the Court. However, you are permitted to contact an attorney representing the other party. Unless the Court and all parties have been notified of a request to present oral argument by 4:00 p.m. on the court day preceding the scheduled hearing, no oral argument will be permitted except by order of the Court. If oral argument is not requested, the tentative ruling shall become the order of the Court.

4) **Appearance by Telephone.**

a. **Departments 403, 404, and 405 Only.** Upon request or on the Court's own motion, the Court may permit a party to appear by telephone at a hearing, conference, or proceeding if the Court determines that a telephone appearance is appropriate. 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.

1. **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.

2. **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.
3. **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.
4. **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.
5. **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. (Pacific Time Zone) 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. **Court reporting services**. The Court will provide a certified short-hand reporter for any hearings involving contempt of court or the Domestic Violence Prevention Act. Other times and departments with assigned court reporters are listed at http://www.sfsuperiorcourt.org/divisions/reporters. For all other hearings, parties may arrange for the presence of a certified shorthand reporter to serve as an official pro tempore reporter.

c. **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.**

a. **When Tentative Ruling requires the appearances of the parties:** 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 REQUEST FOR ORDER was requested by the responding party in a filed RESPONSIVE DECLARATION TO REQUEST FOR ORDER. 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.

b. **When a substantive Tentative Ruling is issued:** If neither party appears, the Tentative Ruling may be adopted by the Court. If only one party appears, the Court will not allow that party to argue unless, no later than 4:00 p.m. on the court day before the hearing date, that party informed the Court Clerk and gave notice to the other party of the intention to appear and present oral argument.

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 and fax a confirming letter to the calendar clerk at (415) 551-3915 by 12:00 p.m. three (3) court days 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 may result in the adoption of any tentative ruling on the Law and Motion calendar or the Court dismissing the REQUEST FOR ORDER/OSC/MOTION. In order to place a REQUEST FOR ORDER/OSC/MOTION back on calendar, the moving party will be required to re-file and pay the applicable filing fee.

8) **Stipulated Orders.** See LRSF 11.8(C).
9) **Findings And Order After Hearing.** See CRC, Rule 5.125 and Rule 5.14. Counsel who is directed to prepare the Findings and Order After Hearing in the Tentative Ruling must serve the proposed order on the other party for approval. If Tentative Ruling requires parties' appearances and one party does not appear, counsel for the party present may submit the proposed order directly to the Court without other party's approval. The proposed order must repeat the Tentative Ruling verbatim.

11.8 Other Procedures.

A. Ex Parte Orders.

Ex parte orders may be obtained under certain circumstances. The Court will not grant an ex parte REQUEST FOR ORDER that seeks 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) **Requests For Emergency Orders (Ex Parte Orders)**
    a. **Requests for Emergency Orders; Application; Required Documents.** See CRC, Rule 5.151 To comply with CRC, Rule 5.151(c)(4) a party must include proof of timely notice to the other party on declaration regarding notice of ex parte application, FL-303.
    b. **Requirements for Notice.** See CRC, Rule 5.165.
    c. **Submission of Papers.** 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 REQUEST FOR ORDER must be submitted in the Office of the Court Clerk before 1:00 p.m. on the Court day prior to the ex parte hearing. The NOTICE OF DECLARATION (FL-303) must be filed on or before the ex parte hearing.

d. **Service of Pleadings.** The party seeking *ex parte* relief must provide copies of all documents in support of the *ex parte* REQUEST FOR ORDER 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. For ex parte applications filed in Departments 403, 404 and 405, any response to the Request for Order must be filed and served no later than 11:00 a.m. on the day of the *ex parte* hearing.

e. **Hearing Dates.** Departments 403, 404, 405, and 416 hear *ex parte* requests daily.

f. **Hearing Procedures.** The Court will decide the *ex parte* request 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.

3) **Other Orders Not Requiring Notice.** 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 (that is not being enforced by the Department of Child Support Services "DCSS");
d. Application for Modification of Wage Assignment (that is not being enforced by DCSS);
e. Wage Assignment based upon an existing spousal support order (that is not being enforced by DCSS);
f. Restoration of a former name;
g. Order for Service of Summons by Publication or Posting;
h. Stipulation by the parties;
i. An order or judgment after a default Court hearing (with services as required by CRC, Rule 5.125(b)(2));
j. An order or judgment that the other party or opposing counsel approved; and
k. Application for Fee Waiver.

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, at least one party must notify the courtroom clerk by noon (12:00 p.m.) at least one (1) court day prior to the scheduled 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.

D. 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). Where DCSS is involved, approval as to form of all stipulations regarding child support must be obtained from DCSS prior to submission of the stipulation to the Court.

E. Meet and Confer Requirements; Document Exchange.

See CRC, Rule 5.98.

F. 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.

G. Discovery Issues.

Contested discovery issues are heard in the Family Law Division. See CRC, Rule 5.12.

H. Substitutions 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 a REQUEST FOR ORDER 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 a REQUEST FOR ORDER 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 DOMESTIC VIOLENCE RESTRAINING ORDER
DV-101: DESCRIPTION OF ABUSE (optional form)
DV-105: Request for CHILD CUSTODY AND VISITATION ORDERS (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)
DV-109: Notice of Court Hearing
DV-110: Temporary Restraining Order (CLETS-TRO)
CLETS-001: Confidential CLETS Information Form

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 PERSONAL SERVICE 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-115: REQUEST TO CONTINUE COURT HEARING form in the Office of the Court Clerk. A reissuance must be requested before the expiration of the TEMPORARY RESTRAINING ORDER. If the reissuance request is not submitted by 10:00 a.m. one day 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 DV-116: ORDER ON REQUEST TO CONTINUE COURT HEARING 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.

Matters in which the parties have minor children in common are calendared one half hour before matters in which the parties do not have minor children in common.

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/divisions/ufc.

I. Criminal History Search.

Prior to a hearing on a REQUEST FOR DOMESTIC VIOLENCE RESTRAINING 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 (CLETS-OAH)(ORDER OF PROTECTION) 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 Status Conference Calendar and Trial Setting.

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, determining the next steps required to reach disposition, and setting dates for Mandatory Settlement Conference, Judicial Settlement Conference and/or trial.

B. Status Conference Dates.

The Court will schedule a Status Conference upon the filing of a FAMILY LAW AT-ISSUE MEMORANDUM and the required Declaration.

The Court may also set Status Conferences or family centered case resolution conferences as part of the family centered case resolution process under CRC 5.83.

The Court may set a family centered case resolution conference at the request of a party.

Parties may make only one change to the date of any Status Conference or family centered case resolution conference by stipulation in compliance with LRSF 11.10(F). The stipulated date must be a date on the regular Status Conference calendar and not

more than three (3) weeks from the date scheduled by the Court; or (if the Court cannot accommodate a date within three weeks) the Court's next available date.

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 appear at the Status Conference either personally or through counsel. Counsel appearing on behalf of a party who is not present must have full authority to resolve any issues that may arise at a Status Conference including the setting of dates for trial. 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. Trial Setting.

At any Status Conference where the Court sets the date for a Mandatory Settlement Conference, the Court will also set either a trial date or a date for Status Conference at which the trial date will be set. 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.

F. Continuances.

A Status Conference may be continued only with approval by the Judge in the department to which the case is assigned or the Supervising Judge of the Unified Family Court. Such approval may be requested by written stipulation of the parties without hearing, but the Status Conference shall not be continued unless and until the stipulation and order is signed by the Court. Any such request for continuance of Status Conference must be submitted no later than 5 calendar days prior to the date set for the Status Conference. If the request for continuance is granted, the party seeking the continuance must provide notice to all other parties 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.

11.11 Mandatory Settlement Conference.

A. Purpose of Mandatory Settlement Conference.

Settlement Conference Masters will encourage resolution of contested financial issues by compromise. A Mandatory Settlement Conference is not mediation under Evidence

Code §1115 (see Evidence Code §1117(c)). If all issues are not settled at the Mandatory Settlement Conference, it will serve to define and limit the issues for trial. Absent a showing of good cause, the Court will not set more than one Mandatory Settlement Conference in any case.

Mandatory Settlement Conferences are not intended to address custody, visitation, parenting time, or domestic violence issues. To address those issues before hearing, the parties may request an FCS mediation or a Judicial Settlement Conference.

B. Mandatory Settlement Conference Masters.

Settlement Conferences are supervised and directed by one or more experienced family law attorneys who are assigned only for the purpose of the Settlement Conference. As permitted under CRC 2.812(c)(3)(D), Settlement Conference Masters are neither temporary judges nor Special Masters. As a result, Settlement Conference Masters are not subject to the requirements of CRC 2.812 through 2.819. Settlement Conference Masters may not have ex parte communications with the Judge presiding over the matter. Parties must attend and participate in the Mandatory Settlement Conference in good faith. In open court, Settlement Conference Masters may inform the Court of either party's conduct during the settlement process. Settlement Conference Masters assigned by the Court may not accept any payment for serving as Settlement Conference Masters on the assigned case at any time.

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

D. 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 or set the case for a Judicial Settlement Conference. The following procedure applies to such requests

1) 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.
2) If an earlier date becomes available, the clerk will call the party on Friday, one week before the available date.

3) 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.
4) 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.

E. Mandatory Settlement Conference Statement.

Each party must submit and serve a separate MANDATORY SETTLEMENT CONFERENCE STATEMENT. If the Court provides a local form for the MANDATORY SETTLEMENT CONFERENCE STATEMENT, the parties must utilize that form.

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 PRELIMINARY DECLARATION OF DISCLOSURE and all materials 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 or PRELIMINARY DECLARATION OF DISCLOSURE and all material updates.
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.

F. Delivery of Mandatory Settlement Conference Statement to Settlement Conference Master.

The clerk will contact the parties with the name and address of the Mandatory Settlement Conference Master(s). Each party must mail or fax a copy of that party's SETTLEMENT CONFERENCE STATEMENT and PRELIMINARY DECLARATION OF DISCLOSURE and all material updates to the Settlement Conference Master by 2:00 p.m. on the Monday prior to the Mandatory Settlement Conference.

G. Statement of Last Demands and Proposal for Resolution of All Issues.

1) **Service.** On or before the Mandatory Settlement Conference, each party must provide a statement to the Settlement Conference Masters setting forth both: the latest demands and offers between the parties; and a written proposal for resolution of all issues. This statement must be served on the other party but

must not be filed with the Court. The proposal must set forth a proposed resolution for each disputed issue.

2) **Contents.** If child support is in dispute, the proposal must include a guideline support calculation. Parties are encouraged to include a spreadsheet generated by a property division software program such as CFLR Propertizer™.
3) **Separate Confidential Proposal.** In addition, each party may provide a separate, confidential written proposal for resolution of all issues to the Settlement Conference Masters without serving that separate proposal on the other party.

H. 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.

I. 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. Stipulated judgments resulting from a Mandatory Settlement Conference and put on the record at the time of the Mandatory Settlement Conference must be submitted to the Department in which the Mandatory Settlement Conference was calendared. Attorneys for each party must bring to the Mandatory Settlement Conference the means to memorialize a settlement agreement in a manner sufficient to support a motion under CCP § 664.6.

J. Trial Issues To Be Addressed Following Mandatory Settlement Conference.

At the conclusion of the Mandatory Settlement Conference, 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 preclude a party from raising any issue at trial that was not asserted at the Mandatory Settlement Conference.

K. Continuances.

A Mandatory Settlement Conference may be continued only with approval by the Court. Such approval may be requested by written stipulation of the parties without hearing, but the Mandatory Settlement Conference will not be continued unless and until the stipulation and order is signed by the Court. It is the responsibility of the party seeking the continuance to provide written notice to all parties of the new date within three

calendar days of obtaining that date. A continuance may require payment of a Court fee by the party seeking the continuance.

11.12 Judicial Settlement Conference.

Unless the Court orders otherwise, parties must comply with LRSF 11.11 sections E through K for a Judicial Settlement Conference.

11.13 Trial Rules.

A trial means any hearing set by the Court as a trial or a long-cause hearing. A hearing set in Department 416 or on a short-cause/law-and-motion calendar in Departments 403 or 404 is not a trial. Parties may request a trial at a Status Conference, a Readiness Hearing, a Law-and-Motion hearing or a Child Custody and Visitation hearing. The trial court, in its discretion, may modify the following requirements.

A. Expert Witness Disclosure.

If a party retains an expert after the Mandatory Settlement Conference or if the trial is set by Department 403 or 404 as a long-cause hearing, 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. All of the above dates are calculated from the initial trial date. In the event that the trial date is changed, the dates for exchange of expert information are not changed unless the court orders an earlier or later date of exchange.

B. Continuances.

There will be no continuances, including stipulated continuances, for trials in Departments 403, 404 and 405 except for good cause shown.

C. Filings.

The meet and confer requirements in this section do not apply if neither party is represented by an attorney and there is a restraining order in effect prohibiting such contact.

1) **Courtesy Copies.** Parties must provide courtesy copies of all filings related to the trial in compliance with LRSF 2.7. The Court recommends that parties provide the courtesy copies in a single tabbed, indexed binder. Parties should contact the clerk of the department in which the matter will be heard to determine

whether the Court will accept an electronic copy on media such as a thumb-drive in lieu of hard copies.

2) **Proposed Order After Hearing.** Five (5) days before hearing, each party must lodge with the Court and serve on all parties a proposed order after hearing. Any attorney submitting a proposed order to the court shall also submit an electronic version (Microsoft Word) of the proposed order by email to the clerk in Department 403, 404, and 405.
3) **Trial Briefs**. Parties must compy with CRC 5.394.
4) **In Limine Motions**. In limine motions must be served and filed 5 days before trial. Any opposition to in limine motions must be personally served and filed no later than the date of the hearing. Courtesy copies of any in limine motions and oppositions thereto must be provided to the Court in compliance with LRSF 2.7. Failure to comply with this rule may preclude the bringing of motions in limine at the time of trial, subject to the Court's discretion.
5) **Deposition Testimony.** Parties must meet and confer re any deposition testimony to be used at trial (other than for impeachment). Parties must lodge with the court any designations and counter-designations of deposition testimony no later than 5 days before trial.
6) **Proposed Exhibits and Witness Lists**. Parties must file and serve with the Court a list of proposed exhibits and a list of each witness expected to be called (except for rebuttal witnesses), along with a brief statement of the expected area of testimony and a time estimate for direct, no later than 5 days before trial. Upon request by any other party, a party must make available any proposed exhibits for inspection and copying no later than 10 days before trial.
7) **Testimony Submitted by Declaration**. Parties must meet and confer re any testimony to be submitted by declaration at trial. Parties must lodge with the Court both the declarations and the stipulations covering those declarations no later than 5 days before trial.
8) **Evidence Admitted by Stipulation**. Parties must meet and confer re any documents or things to be admitted into evidence at trial by stipulation no later than 10 days before trial. Parties must lodge with the court both the exhibits and the stipulations covering those exhibits no later than 5 days before trial. Unless subject to such a stipulation, all exhibits must be individually marked, identified, and offered into evidence at trial, and Parties must bring to trial copies for the Court, opposing counsel, and themselves in addition to the item to be marked and retained by the clerk. Pre-marking exhibits in advance of trial is discouraged.
9) **Requests for Judicial Notice**. Parties must lodge with the Court any documents of which they request the Court take judicial notice no later than five days before trial. The Court recommends that any such documents be submitted to the

Court in a single tabbed, indexed binder. Parties should contact the clerk of the department in which the matter will be heard to determine whether the Court will accept an electronic copy on media such as a thumb-drive in lieu of hard copies.

D. Document Retention.

Within the time for filing a notice of appeal, each party must retrieve any exhibits and deposition transcripts introduced at the hearing. The Court will return the exhibits and deposition transcripts to the party who introduced the exhibit or deposition transcript. Each party must maintain and preserve any exhibits or deposition transcripts until sixty days following final determination of the action, including any appeals, and must make such records available to the court reporter on request during that time. Any exhibits or deposition transcripts unclaimed within the time for filing a notice of appeal will be destroyed by the Court at its sole discretion.

11.14 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. The Court may act upon all requests without a Court hearing.

1) **Possible Actions.** The Court 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; 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; 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 JUDGMENT CHECKLIST may be completed and submitted with requests for JUDGMENT OF DISSOLUTION AND JUDGMENT OF LEGAL SEPARATION.
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. 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) All default and uncontested judgments will be processed in the order in which they are received. If there are extenuating circumstances necessitating that a judgment be processed sooner, a party may file a declaration specifically explaining the basis for the request to expedite processing, along with a proposed order. This rule is also applicable to judgments signed by a private judge.
2) **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.
3) **Proof of Service of Summons**. A PROOF OF SERVICE OF SUMMONS is required for all forms of service, including when service is by NOTICE AND ACKNOWLEDGMENT OF RECEIPT.
4) **Service by Publication or Posting.** An APPLICATION FOR ORDER FOR PUBLICATION OR POSTING OF SUMMONS must be filed at the Office of the Court Clerk. The application must include a proposed ORDER FOR PUBLICATION OR POSTING OF SUMMONS.

    The Court will not grant the APPLICATION FOR ORDER FOR PUBLICATION OR POSTING OF SUMMONS unless it appears from the supporting DECLARATION that petitioner has exercised reasonable diligence in attempting to locate respondent.
    a. **Service by Publication.** If the Court signs an ORDER FOR PUBLICATION OF SUMMONS, 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.

b. **Service by Posting.** A request for service by posting must include a copy of the ORDER GRANTING FEE WAIVER or a declaration explaining why petitioner cannot afford to publish.

The Court may require a hearing to determine petitioner's ability to pay. If the Court signs an ORDER FOR POSTING OF SUMMONS, 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 VERIFICATION OF SERVICE 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. All stipulations for child support, including stipulations to reserve jurisdiction over child support, 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.** If the parties have minor children in common, petitioner must submit a new DECLARATION UNDER UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT (UCCJEA) if there have been any changes since the one most recently filed.
    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 OR FINANCIAL STATEMENT (SIMPLIFIED) including petitioner's best estimate of respondent's income; and
        2. A NOTICE OF RIGHTS AND RESPONSIBILITIES and INFORMATION SHEET ON CHANGING A CHILD SUPPORT ORDER attached to the proposed judgment.
    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 SPOUSAL OR PARTNERSHIP SUPPORT DECLARATION ATTACHMENT. 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 a REQUEST FOR ATTORNEY FEES AND COSTS.

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. Any stipulations for child support 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 BIFURCATION OF STATUS OF MARRIAGE OR DOMESTIC PARTNERSHIP ATTACHMENT). 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 BIFURCATION OF STATUS OF MARRIAGE OR DOMESTIC PARTNERSHIP ATTACHMENT) 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 JUDGMENT CHECKLIST must be submitted.

11.15 Family Court Services ("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 LRSF 12.47. FCS provides both confidential mediation and non-confidential 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 LRSF 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 services upon Court order (also known as a "Tier II"). These Tier II services may include, but are not limited to: fact-finding; interviews of children; 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. A party may request a Tier II at any hearing, but the party must provide notice of the request in writing to all parties before the date of the hearing. At the hearing, parties requesting a Tier II interview must propose specific questions to be posed to the interviewee.

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) **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, 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 or FCS Manager. If the complainant's issue is not resolved through discussion with the Supervising Mediator or FCS Manager, the Supervising Mediator or FCS Manager may encourage the complainant to discuss the issue with the mediator in question. The Supervising Mediator or FCS Manager 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 and Brief Focused Assessments (BFAs).

Custody evaluations and BFAs must be authorized by Court.

1) **Format for Order Appointing a Custody Evaluator.** SFUFC Form 11.16F must be used for all custody evaluation orders and BFA 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 facsimile 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 endorsed-filed copies on all parties, and submit a copy to the FCS Manager or Supervising Mediator, and the appointed custody evaluator within five (5) Court days of its filing.
3) **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. The court does not purport to recommend the competence of any particular person on this list. The list is intended to provide

parties, and their attorneys, with assistance in choosing an appropriate child custody evaluator. Parties are free to choose a custody evaluator who is not on the court's list.

4) **Status Review**. The Court expects custody evaluations to be completed within six (6) months from the date an evaluator is selected. The Court may set periodic Status Review dates to ensure that the custody evaluation process is moving forward appropriately.
    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 by the court.
    c. 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.
    d. If all parties agree that the evaluation process is proceeding appropriately, the Status Review date may be vacated by written stipulation of the parties and the evaluator.
5) **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 <u>not</u> be confidential.
6) **Confidentiality of custody evaluations.** Custody evaluators must lodge the original custody evaluation, including Form FL-328, with the Court by sending copies to the attorneys and the original report to the Supervising Mediator or FCS Manager.
    a. The original custody evaluation will be kept in a confidential file to be maintained by FCS.
    b. Upon receipt of the evaluation, the Supervising Mediator or FCS Manager 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 Supervising Mediator or FCS Manager 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.

7) **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.
8) **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. The duty to meet and confer does not apply where neither party is represented and there is an active Domestic Violence Restraining Order in place.
9) **Other Post Custody Evaluation Procedures**. If, after having met and conferred, the parties are unable to resolve all of the outstanding issues, the parties will calendar a 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. The attorneys, parties, 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 may decide. The parties, or their attorneys, must notify the court 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.
10) **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.

11) **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 or FCS Manager, 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 or FCS Manager.
    e. If the Supervising Mediator or FCS Manager 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.
12) **Right of an evaluator to withdraw.** No evaluator may withdraw prior to the completion of a custody evaluation absent a Court order.
13) **Deposition of an evaluator.** Deposition of a custody evaluator appointed pursuant to Evidence Code § 730 may be obtained only by Court order.
14) **Custody evaluation as evidence.** Family Code §3111(c) governs admissibility of child custody evaluations.

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.

H. Coparent Counseling.

Coparent counseling is a service provided by a licensed mental health professional retained by the parties with the goal of improving collaboration between parents in caring for their children. The Court may order coparent counseling under Family Code Section 3190 for not more than one year, or the parties may stipulate to coparent counseling. Coparent counselors are not temporary judges. Coparent counseling is subject to Evidence Code §1014. Absent a waiver under Evidence Code §912, information from coparent counseling may not be provided to the Court.

11.16 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 supporting and promoting alternative dispute resolution procedures in family law cases.

B. 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.
    a. All parties must file and serve SFUFC Form 11.17 with any of the following pleadings:
        1. Petition under the Family Law Act or Uniform Parentage Act, or
        2. Response under the Family Law Act or Uniform Parentage Act
    b. If SFUFC Form 11.17 has been filed in the same proceeding within the last 180 days, all parties must file and serve SFUFC Form 11.17 with any of the following pleadings:
        1. Order to Show Cause or Response to Order to Show Cause,
        2. Notice of Motion or Response to Notice of Motion, and

3. 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. 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 does not apply in the following proceedings: Domestic violence cases filed under Family Code § 6200 et. seq.; actions wherein the Department of Child Support Services is involved; and matters pending before a private judge. SFUFC Form 11.17 may not be served on an employee pension benefit plan.

Adopted: July 1, 1998
Last Revised: July 1, 2018

12 Juvenile Dependency

12.0 Authority.

These LRSF 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) and 350 and CRC 5.534. These rules adopt the rules of construction and the severability of clauses in CRC 5.501.

These rules together with the protocols found at http://www.sfsuperiorcourt.org/divisions/ufc/juvenile-dependency constitute the working procedures of juvenile dependency proceedings (hereinafter referred to as "dependency") in the San Francisco County Unified Family 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 from SFCASA
CPS	=	Child Protective Services
CRC	=	California Rules of Court
DRP	=	Dependency Representation Program
DSR	=	Dependency Status Review
HSA	=	San Francisco Human Services Agency
IEP	=	Individualized Education Program
LRIS	=	Lawyer Referral Information Service
MDI	=	Multi-Disciplinary Interview
MDT	=	Multi-Disciplinary Team
PPH	=	Post Permanency Planning Hearing
PPX	=	Post Permanency—Non-Minor Dependents
SFUFC	=	SF Unified Family Court
UFC	=	Unified Family Court
W&I	=	California Welfare & Institutions Code

12.2 Judicial Departments, Assignment of Cases and Calendaring.

For information about courtroom assignment of dependency cases, scheduling of hearings and trial setting orders, see the Court's website at http://www.sfsuperiorcourt.org/divisions/ufc/juvenile-dependency.

12.3 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.

12.4 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 representation 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.

12.5 Standards of Representation and Practice.

All attorneys practicing in the Dependency Court of SFUFC are governed by the Practice Guidelines for Attorneys, available at http://www.sfsuperiorcourt.org/divisions/ufc/juvenile-dependency.

12.6 Dependency Representation Program.

A. Appointment of Counsel.

All children for whom a juvenile dependency petition is filed and all parents and legal guardians who appear and meet guidelines for indigent representation will be appointed counsel from the juvenile dependency panel of attorneys (panel) administered by BASF pursuant to W&I § 317. No appointment of counsel will be made to a parent/guardian who does not appear, unless the parent/guardian is incarcerated or hospitalized or the Court, in its discretion, deems it appropriate to appoint counsel. Parents/guardians not eligible for the appointment of counsel will be referred to BASF/LRIS (*see* www.sfbar.org/lawyerreferrals/requestalawyer-phone.aspx).

B. Requirements of Dependency Panel Attorneys.

Panel members must comply with the procedures for admission to each panel as set forth at www.sfbar.org/lawyerreferrals/requestalawyer-phone.aspx.

New panel members are subject to a minimum six-month probationary period on each panel. All panel members are subject to ongoing peer review as both parents' counsel and children's counsel.

All panel attorneys must complete a minimum of fifteen (15) hours of continuing education each year in areas relevant to dependency practice. Areas that qualify as "relevant to dependency practice" include, but are not limited to, the following:

1) Use of psychological experts, including direct and cross-examination;
2) Trial skills;
3) Rules of evidence;
4) Training programs that include information on child development, substance abuse, mental health issues, incarcerated parents, etc.;
5) The child witness;
6) Training specifically related to dependency practice such as reasonable efforts, W & I 366.26 hearings, etc.;
7) Programs that provide information on community resources;
8) Domestic violence training;
9) Custody, visitation, and child support issues; and
10) Indian Child Welfare Act issues.

In addition to the Practice Guidelines, Dependency Panel attorneys are further governed by the Dependency Representation Program (DRP) manual of the Bar Association of San Francisco available at www.sfbar.org/forms/lawyerreferrals/drp/procedures_manual.pdf**.** Failure to abide by these Local Rules for Juvenile Dependency, the Practice Guidelines for Attorneys Practicing in the Juvenile Dependency Court or the DRP manual can result in probation, suspension, or removal from the BASF Juvenile Dependency Panel and/or other sanctions or appropriate action by the supervising judge of the Unified Family Court.

12.7 Procedures for Reviewing and Resolving Complaints About the Performance of a Child's Court Appointed Counsel [CRC 5.240(e)].

In the event of a complaint concerning the performance of an attorney appointed to represent a child, the complaint must be submitted in writing to the assigned bench officer or the supervising judge of the UFC by the child or on the child's behalf by the social worker, a caretaker, a relative, a foster parent, or a child advocate. The Court may proceed as follows:

A. Request the attorney to move to withdraw from the case, and/or

B. Request the attorney to submit a written response to the client's complaint within five (5) days and thereafter determine:

1) whether the attorney acted contrary to the LRSF or practice guidelines. If the Court so determines, the Court may reprove the attorney either privately or on the record, and/or take any other action that the judge deems appropriate, and /or
2) whether that attorney acted incompetently. If the Court so determines, the Court may reprove the attorney either privately and/or on the record, and/or take any other action that the judge deems appropriate.

12.8 Pre-Jurisdiction/Disposition Timelines and Trial Setting.

At an initial petition hearing at which time is waived, the Court will set further hearings according to the protocol available at http://www.sfsuperiorcourt.org/divisions/ufc/juvenile-dependency.

12.9 Discovery.

Discovery will be provided to counsel for presumed parents/guardians and upon court order to counsel for non-presumed and/or de facto parents, if any, as follows:

A. Detention/Initial Hearing Discovery.

Detention/Initial Hearing Discovery to be provided in court at the first calling of the case or as soon thereafter as practicable includes:

1) Petition;
2) Detention/Initial Hearing Report and Declaration of Efforts; and
3) Documents relied upon in Detention and/or Jurisdiction/Initial Hearing Report to support HSA's request.
4) In the event of a contested detention hearing, additional documents in HSA's possession including, but not limited to, prior voluntary agreements, MDI interviews and recordings, police reports and most recent child abuse referral will be provided to counsel in advance of the contested detention hearing.

B. Further Discovery.

Further Discovery will be provided by the City Attorney's office in electronic format pursuant to the Juvenile Dependency Pre-Detention Timelines and Trial-Setting protocol available at http://www.sfsuperiorcourt.org/divisions/ufc/juvenile-dependency or by request.

1) All petitions, motions, and other filed pleadings;

2) Court Reports;
3) All medical/psychiatric/psychological reports, evaluations, and/or recommendations;
4) All school reports, recommendations, IEPs, and records;
5) Police Reports;
6) MDI interviews and recordings;
7) CPS referrals and/or records;
8) Witness statements;
9) MDT Service Assessments;
10) Multi Agency Screening Team (MAST) results/records;
11) Child welfare worker's dictation/notes;
12) Electronic communication between HSA, parents, providers, and others including, but not limited, to e-mail and text messages;
13) Drug test results;
14) Visitation notes;
15) Any other documents in the HSA's actual or constructive 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.

C. Subsequent Requests for Discovery.

Subsequent requests for discovery must be made on SFUFC Form 12.9. When a request is filed, it must be served on all attorneys of record. The City Attorney's office will make the documents produced available to counsel in an electronic format within fourteen (14) days.

D. Ongoing Duty to Produce.

The duty to provide discovery as described in this rule continues 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, entitled to discovery.

E. Court-Ordered Evaluations.

All attorneys entitled to discovery must receive copies of any court-ordered psychological, medical, substance abuse, or other evaluation conducted upon any party as soon as possible after completion.

Upon the approval of the subject of an evaluation, the evaluation may be shared with the subject's treating mental health professional or expert witness.

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 in preparing for the pending juvenile dependency litigation, counsel for the subject of the evaluation may permit the client who is the subject to read the evaluation or portions thereof. No other parties may review the evaluation.

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.

F. Protective Order.

If at any time during a dependency case, a protective order is desired (e.g., domestic violence and sexual abuse cases), counsel for the party wishing to protect confidential information may file a declaration and proposed order with the Court requesting a protective order and inform all counsel.

12.10 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. HSA must set the first visit to occur within five (5) days of the date the child was taken into temporary custody unless HSA can show good cause as to why such visitation should not be granted or should be decreased.

B. From the time of detention 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) hours of visitation with their parent(s) or guardian(s) per week.
3) Visitation should be as frequent and convenient as possible for all parties.

C. If the HSA believes that it cannot comply with a specific visitation order or these local rules, it must immediately notify all parties in writing. As soon as practicable, the parties will meet and confer in an effort to resolve the matter and take appropriate steps thereafter.

D. If a parent or guardian misses two (2) visits after confirming and without reasonable justification, visitation may be terminated by written notice to the parent(s) or guardian(s). Reinstatement of visitation suspended pursuant to this paragraph may only be accomplished by agreement with the child welfare worker or by a motion to reinstate visits after counsel have met and conferred. All moving and supporting papers must be served and filed a minimum of ten (10) court days prior to the hearing to be scheduled on the appropriate calendar based upon the phase of the case. All papers opposing the motion must be filed and served at least five (5) court days before the hearing and all reply papers at least two (2) court days before the hearing.

E. When 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 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 so inform the parent and his/her attorney 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.
2) 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 child.

12.11 Jurisdiction/Disposition Recommendation.

The Human Services Agency must electronically serve the jurisdiction/disposition report to all counsel at least four (4) days before a jurisdiction/disposition settlement conference.

If the report is not filed and served at least four (4) days before the scheduled settlement conference, the HSA Court Officer or City Attorney must explain the reason for the failure to do so. The failure to file and serve a timely report may result in the imposition of sanctions on the child welfare worker or Agency.

12.12 Dependency Review Hearings.

A. Immediately upon receipt of a report for a review hearing, including DSR, PPH, PPX and Adoption, all counsel must contact their clients. If the client intends to appear and contest the recommendation, the attorney must notify all counsel at least 24 hours before the scheduled hearing.

B. When any party opposes the recommendation set forth in the review report, the matter will be set for a contested evidentiary hearing unless the parties agree that further efforts to meet and confer may be successful and, in those cases, the matter will be continued for no more than two (2) weeks for further review or mediation except under extraordinary circumstances.

12.13 Requests for Continuance.

Any request for a continuance of any hearing shall be granted only upon a showing of good cause. A continuance must be requested in writing at least two (2) days prior to the date set for hearing unless the Court for good cause entertains an oral motion for continuance. Counsel seeking a request for continuance of any contested hearing must endeavor to calendar the written notice and affidavits/declarations in support thereof as soon as practicable.

12.14 Protocol for Telephone and Videoconference Appearances (CRC 5.531).

A child may appear by telephone or by videoconference, if available, with 24 hours notice by counsel for the child to all parties and the Court. This provision does not excuse HSA from its obligation to transport a child to court.

Non-minor dependents may appear by telephone or by videoconference, if available, with 24 hours notice by counsel for the non-minor dependent to all parties and the Court.

If a parent is unable to appear in court for a previously scheduled hearing, counsel may submit a request to the Court on the 12.14A form available at http://www.sfsuperiorcourt.org/divisions/ufc/juvenile-dependency for the parent to appear by telephone or videoconference, if available, with 48 hours notice to all counsel and the Court and the completion of form 12.14B. The Court will endeavor to approve or reject counsel's request in advance of the hearing. In the event of an emergency, counsel may request telephone or videoconference appearance in person at the court hearing.

Domestic telephone appearances will be initiated by the courtroom clerk on the courtroom's speaker phone. International telephone appearances and videoconferences must be arranged for and initiated by counsel.

12.15 Motions.

A. Meet and Confer.

All attorneys must meet and confer prior to filing any noticed motion. All motions must be supported by a declaration by counsel for the moving party concerning efforts to meet and confer.

B. Hearings.

Motions will be set for hearing in the case's assigned department. Motions will be set on the calendar appropriate to the phase of the case. See www.sfsuperiorcourt.org for calendaring schedule and courtroom information.

C. 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, § 1005 and CRC 3.1110, *et. seq.,* unless otherwise described by these local rules or an order shortening time has been granted. In addition, CRC 3.1112 and 3.1113 apply to the content and length of 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.

Example:

Date:	August 2, 2016
Time:	1:15 p.m.
Dept:	406
Calendar:	DSR

Copies of all motions must be provided to the San Francisco HSA court office. In addition, a courtesy copy of all motions must be lodged in compliance with LRSF 2.7.

D. 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.

E. Document Retention.

Within the time for filing a notice of appeal, each party must retrieve any exhibits and deposition transcripts introduced at the hearing. The Court will return the exhibits and deposition transcripts to the party who introduced the exhibit or deposition transcript. Each party must maintain and preserve any exhibits or deposition transcripts until sixty days following final determination of the action, including any appeals, and must make such records available to the court reporter on request during that time. Any exhibits or deposition transcripts unclaimed within the time for filing a notice of appeal will be destroyed by the Court at its sole discretion.

12.16 Procedure for Filing of Petitions 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 filed in room 402, the UFC court clerk's office. Counsel should propose hearing dates on the calendar appropriate for the phase of the case. Any person submitting such a petition on behalf of a currently represented party must meet and confer with other counsel concerning the request for the proposed change of order and 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. Pursuant to JV-183, Court Order on form JV-180, (Request to Change Court Order), the judicial officer will sign the order: (a) denying the request on its face, (b) granting the request without a hearing, (c) setting a hearing to determine whether the Court should grant or deny the evidentiary hearing, or (a) setting a hearing because the best interest of the child may be promoted by the request.

Once the JV-183 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 endorsed-filed copy of the order, the person seeking the request must provide notice of the date and time of the hearing, and serve the petition by e-mail, facsimile or U.S. mail, on all parties and the HSA court office.

If the person seeking the order is not a party to the case, the UFC court clerk will give notice to all parties and counsel.

12.17 Ex Parte Applications (See CRC 5.151 for appropriate use).

A. 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 room 402, the UFC court clerk's office on or before the next court day prior to the ex parte hearing.

B. Notice Requirements.

Notice of an ex parte hearing must be provided to counsel by telephone or email 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 immediate danger and/or irreparable harm is likely if notice is provided to the other party, the Court may waive this notice requirement.

C. 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.

D. No Notice Required.

Notwithstanding the noticing requirements set out above, ex parte applications for the following orders do not require notice: orders for the appearance of prisoners; orders for out of court interpreter services; orders concerning representation of a party; and requests for orders for the authorization of funds for expert witnesses or for any individual whose work will be considered to be the attorney's work product.

Orders for the appearance of prisoners must be presented to the courtroom bailiff for processing. Other procedures concerning the transportation of prisoners are available in the dependency courtrooms.

All other requests must be presented to the courtroom clerk where the matter is pending. Signed orders may be picked up from the courtroom clerk.

E. Pleading Requirements.

All ex parte applications must include:

1) A Declaration in support of an 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 all parties;
3) Request for order;
4) A proposed order.

F. 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 10:00 a.m. on the court day prior to the ex parte hearing.

G. Hearing Dates.

See the Court's website at http://www.sfsuperiorcourt.org/divisions/ufc/juvenile-dependency for time and location of ex parte hearings.

H. Hearing Procedures.

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.

12.18 Access to and Copying of Juvenile Court Records.

Access to and copying of juvenile court records are governed by W&I § 827 and CRC 5.552.

A. All Petitions for Disclosure of Juvenile Dependency Court Records must be filed in room 402, the UFC court clerk's office at the Civic Center Courthouse, 400 McAllister Street using Judicial Council form JV-570.

B. 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.

C. 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.

D. 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 may result in sanctions.

12.19 Dependency Mediation Program.

The San Francisco Superior Court has a dependency mediation program to provide a problem solving forum for all interested persons to develop a plan in the best interests of the child, emphasizing family preservation and strengthening. The protocol for the Court's dependency mediation program can be found at http://www.sfsuperiorcourt.org/divisions/ufc/juvenile-dependency.

12.20 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.

Judicial Council Caregiver Information Form (JV-290), Juvenile Dependency Petition (JV-100) and Modification Petition Attachment (JV-180) may be utilized.

12.21 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 hearing a dependency case may order the appointment of a CASA volunteer earlier in the proceedings if warranted by the special circumstances of a 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 may request that the Court make a referral to San Francisco CASA using form 12.21. CASA referral forms are available at http://www.sfsuperiorcourt.org/divisions/ufc/juvenile-dependency.

C. Assignment of CASA Volunteer.

San Francisco CASA must evaluate the referral on the basis of the criteria then in effect, CRC 5.655, and the availability of volunteers.

If SFCASA rejects the referral, it must send a letter explaining the rejection to the Court.

If SFCASA accepts a referral, it 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 attorneys, CASA volunteer, foster parent(s) or other placement, and CASA records.

If there are additional parties (e.g., de facto parents or guardians), SFCASA must serve those parties with a copy of the order.

D. CASA Reports.

Court reports prepared by CASA volunteers must be filed with the Court and served upon all counsel at least ten days prior to the hearing for which they are prepared.

E. CASA Volunteers Serve at the Pleasure of the Court.

A CASA volunteer serves at the pleasure of the Court. A CASA volunteer is an officer of the Court who is appointed to investigate the proceedings on behalf of the Court and serves until he or she resigns, is removed by the SFCASA Director, or by further order of this court. The appointment of the CASA volunteer terminates once the entire action has been dismissed or the jurisdiction of the Court has been terminated.

12.22 Notification of Change in Placement.

In order to ensure that proper notice is received by parents or legal guardians and attorneys for parents, legal guardians, de facto parents, and children of any change in a child's placement, HSA must, in addition to any notice required by statute (W&I § 361.2(h)), provide notice of the change in placement to the attorneys for the parents, de facto parents, and child as follows:

1) In non-emergency situations, notice of the change of placement must be given at least five (5) days prior to a move within San Francisco.
2) Prior to any change of placement outside of San Francisco, HSA must provide notice 14 days prior to a 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 days) following the child's removal from his/her placement.
4) For changes of placement within San Francisco, notice may be by telephone or in writing, and must include the anticipated:
    a) date of the move, and
    b) type of placement

5) For changes of placement within the United States but outside of San Francisco, notice must be in writing, and must include the anticipated:
   a) date of the move,
   b) type of placement, and
   c) city of new placement.

12.23 Authorization for Travel by Out of Home Placement Dependent Children Within the Unites States and United States Territories.

A. In cases where there is a request for a child who is in the custody of HSA to travel within the United States and its territories (for less than 30 days), HSA may authorize such travel without a court order. HSA must provide reasonable notice to parents and all attorneys of record.

B. In cases where the request for a child to travel is for over 30 days or for travel outside the United States and its territories, HSA must obtain authorization from the Court with a minimum of 15 days notice to parents and all attorneys of record.

12.24 Participating in Extracurricular, Enrichment, and Social Activities.

See W&I § 362.05.

12.25 Authorization to Administer Psychotropic Medication to Out of Home Dependent Children of the Court.

The policies and procedures that implement the requirements of W&I § 369.5 and CRC 5.640 and JV-220, *et. seq.* for the administration of psychotropic medications for out of home dependent children are set forth in the protocol available at http://www.sfsuperiorcourt.org/divisions/ufc/juvenile-dependency.

12.26 Authorization for Ordinary Medical, Dental, and Mental Health Treatment.

A. Definition of Ordinary, Medical, Dental, and Mental Health Treatment.
Ordinary 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 as well as all Child Health and Disability Program ("CHDP") medical assessments;
2) Any routine medical care required, based on the results of the comprehensive health assessment, including but not limited to: hearing aids, glasses, and physical therapy, or for the care of any illness or injury;
3) First aid care for conditions which require immediate assistance;

4) Administration of routine medication, including but not limited to: analgesics, insulin, cold medication, or antibiotics;
5) Medical care for minors with health care complaints, including but not limited to colds, flu, chicken pox, cuts, broken bones;
6) Clinical laboratory tests necessary for evaluation or diagnosis of the minor's health status, including but not limited to: blood tests, X-Rays, and CT Scans;
7) Immunizations recommended by the American Academy of Pediatrics;
8) Mental health assessment required for mental health services, including but not limited to Child and Adolescent Needs and Strengths ("CANS") Assessments;
9) Mental health services, based upon the results of the CANS assessment or any other mental health assessment; and
10) Dental assessment and any routine dental treatment required pursuant to the results of the dental assessment, or for the ordinary treatment of dental health, including but not limited to teeth cleanings and x-rays.

B. Procedure for Obtaining Order for Consent to Treatment.

1) **Generally.** W&I § 369 sets forth the responsibilities of the Court and the HSA for handling the consent to, and treatment of, minors in the dependency system with respect to their ordinary medical, dental, and mental health care. HSA is responsible for obtaining required authorization for ordinary medical, dental, and mental health care for minors who appear to come within the provisions of W&I § 300.
   Before requesting court authorization, HSA must first seek parental consent. When parental consent cannot be obtained, HSA may then seek court authorization.
2) **When Court Order is Required for Ordinary Medical, Dental, and Mental Health Care.** If the parent or guardian is unavailable (e.g. whereabouts unknown), unable (e.g. incarcerated or incompetent), or unwilling to consent to ordinary medical, dental, or mental health care, court authorization is required.
3) **Parent Unavailable, Unable, or Unwilling.**
   a. Where HSA seeks court authorization without parental consent, HSA must submit an application for a proposed order for court authorization that includes:
      1. Request by HSA for authority to consent to ordinary medical, dental, and mental health treatment and release of information, on behalf of the minor only as it is required to obtain such treatment.
      2. Request by HSA for authority to release information on behalf of the minor only as it is required to obtain such treatment.

3. Sunset provision indicating the order expires at such time as a parent presents him or herself to HSA and is able and willing to sign consents and releases of information, on behalf of the minor.

b. To support the proposed order, HSA must provide a declaration by a HSA City Attorney stating that all counsel have been provided 24 hours notice and do not object; as well as, when necessary, evidence from the HSA Child Welfare Worker describing efforts to locate and engage a parent. For all pre-jurisdictional proceedings, the evidence must include a statement that the health care provider is recommending that the treatment is necessary.

c. If there is an objection to the request for an order authorizing ordinary medical, dental, or mental health treatment, and consent **is not required on an emergency basis**, the Court will conduct a hearing on the objection before ruling on the request for court authorization.
Procedure
The Court will set the matter in Department 405 on the following JV-220 calendar if the objection cannot be addressed on another calendar. See http://www.sfsuperiorcourt.org/divisions/ufc/juvenile-dependency.

d. If HSA seeks consent for ordinary medical, dental, or mental health treatment that is needed on an **emergency** basis (e.g. consent to treat required for placement of a minor), and a minor's parent is unwilling to consent, HSA must submit an application for a proposed order for court authorization that includes:
   1. Request by HSA for authority to consent to ordinary medical, dental, and mental health treatment and release of information, on behalf of the minor only as it is required to obtain such treatment.
   2. Sunset provision indicating the order expires at a hearing set for the parent to object before the Court on the JV-220 calendar.
   3. To support the proposed order, HSA must provide a declaration by a HSA City Attorney stating all counsel have been noticed; as well as, evidence from the HSA Child Welfare Worker describing the emergency nature of the request and efforts to locate and engage a parent.

4) **Medical Screening.** To ensure the safety and physical well-being of minors after they are taken into protective custody and temporarily detained in out-of-home placement and prior to any juvenile court intervention, HSA may authorize a non-invasive medical screening for purposes, including but not limited to:

a. To determine whether the child has an urgent medical need that requires immediate attention.
b. To determine whether the child poses a health risk to other persons.
c. To determine an appropriate placement to meet the child's needs.

The HSA Child Welfare worker must make reasonable attempts to notify the parent(s) that the minor will be undergoing a non-invasive initial medical, dental, and mental health screening. If a parent objects, the screening may be conducted only upon an order of the Court.

Adopted: July 1, 1998
Last Revised: July 1, 2018

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. The party seeking such juvenile court records in order to inspect, obtain or copy the same must follow the procedures set forth in WIC § 827 and CRC 5.552.

B. All Petitions for Disclosure of Juvenile Delinquency Court Records must be filed in Room 101 at the Juvenile Justice 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 the circumstances of any sustained petitions and the minor's entire social history.

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 that implement the requirements of W&I § 369.5 and CRC 5.640 and JV220, et. seq. for the administration of psychotropic medications for children who are wards or dependents of the Court are set forth in the protocol available at http://www.sfsuperiorcourt.org/divisions/ufc/juvenile-deliquency.

B. All applications for Court authorization to administer psychotropic medications must be submitted on Judicial Council Form JV220 to the Supervising Judge of the Unified Family Court or his/her designee.

13.3 Competency.

A. Evaluation.

If the Court finds that there is substantial evidence that a child who is the subject of a petition under Welfare and Institutions Code § 601 or 602 is incompetent to proceed pursuant to Welfare and Institutions Code § 709, the Court shall appoint an expert to conduct an evaluation. Evaluations shall be conducted as set forth in the Policy for Competency Evaluations, which is available online at www.sfsuperiorcourt.org/. Evaluations shall be conducted within fifteen (15) court days of the order for the evaluation.

B. Remediation Plan.

At the evaluation, if the psychologist opines that the minor is incompetent, he/she shall prepare a Remediation Plan as set forth in the Policy for Competency Evaluations along with the opinion. Upon a finding of incompetency by the Court, the minor shall receive remediation/restoration services pursuant to the Plan. The Probation Department shall oversee the remediation/restoration process. The Court shall balance the interest of community safety and the need to remediate/restore competency in considering the proposed Remediation/Restoration Plan. WIC 202

C. Progress Reports.

While the minor is receiving remediation/restoration services, the Probation Department shall submit progress reports to the Court. For minors alleged to have committed a misdemeanor, the Probation Department shall submit progress reports every six (6) weeks or as often as the Court directs. For minors alleged to have committed a felony, the Probation Department shall submit progress reports every three (3) months, or as often as the Court directs.

D. Dismissal of Charges.

Remediation/restoration services for a minor charged with a misdemeanor shall continue for up to six (6) months. Remediation/restoration services for a minor charged with a felony shall continue for up to one (1) year. At the end of the remediation/restoration period, the Court may order a new competency evaluation to determine if competency has been restored. If the Court finds that the minor has not attained competency, the Court, in its discretion, may dismiss the underlying delinquency charges and terminate jurisdiction or order that remediation/restoration services be continued.

13.4 Service of Papers on Juvenile Probation Officer.

Parties must serve all moving and opposing papers on the minor's probation officer. The timing and method of service must be the same as used for serving opposing counsel.

13.5 CASA Referrals.

A. Time of Appointment of CASA.

The Court may order the appointment of a Court Appointed Special Advocate ("CASA") Volunteer at or after the Dispositional Order of the Juvenile Court.

B. Request for Referrals.

Any party, attorney representing a party or child, the child welfare worker, juvenile probation department, or other person having an interest in the welfare of the child may request the Court make a referral to San Francisco CASA. A REQUEST FOR CASA REFERRAL must be filed with the Court for each child referred. The person requesting such a referral must give two court days written notice to the child welfare worker, attorney of record for the child, and the juvenile probation department.

Unless any attorney of record, the child welfare worker or other person having an interest in the welfare of the child objects to the referral, the Court may 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 may review the case and make an independent decision as to whether a referral will be made.

C. Assignment of CASA Volunteer.

San Francisco CASA 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 must send a letter explaining the rejection to the Court.

If CASA accepts a referral, CASA must assign a volunteer, submit an Order to the Court appointing a specific volunteer, and notify the following of the appointment: the child's attorney, the juvenile probation department, the district attorney's office, any parents identified by juvenile probation department, the CASA volunteer, the child's 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.

The removal or substitution of a CASA volunteer requires a Court Order unless jurisdiction of the Court has been terminated.

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

Any Order removing or substituting a CASA volunteer must be served on CASA and the attorney for the child in the case, juvenile probation department, and district attorney's office by the party who sought the Order.

Adopted: July 1, 1998
Last Revised: July 1, 2017

14 Probate

14.0 Organization and Administration.

14.1 Probate Department Administration.

A. The Probate Department is presided over by the Supervising Probate Judge with the assistance of bench officers assigned to Probate and is administered by the Director and Assistant Director.

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

C. Updates to current policies and procedures are posted in the Probate Examiner's Office Monthly Updates under the Probate Department home page at the Court's website: https://www.sfsuperiorcourt.org/divisions/probate%20examiner's%20monthly%20updates.

14.2 Obtaining a Hearing Date.

Hearing dates are obtained at the time of the submission of a petition to the Clerk of the Court. Hearing dates are not given by telephone. See Rule 14.10 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, the 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 only for guardianships of the person or person and estate. An appearance by the proposed ward is not required if the petition seeks to establish only a guardianship of the estate.
2) Termination of guardianship or conservatorship (other than on death of minor or conservatee, or minor attaining majority). Conservatee must appear unless excused for good cause. Minor MUST appear if there is a waiver of final accounting.
3) Confirmation of sales of real property. Appearance by counsel is required even if a continuance is needed to correct procedural issues.

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) Special Needs Trust with bond and/or accountings to be waived. 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 must 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.

A. Conservatorship.
Petitions for appointment of a general conservator, special status hearings as ordered by the Court, and hearings on termination based on any circumstance other than by reason of the death of the conservatee, exhaustion of the estate, or authorized transfer of estate assets, are heard on Thursdays at 9:00 a.m.

B. Guardianship.
Petitions for appointment of a guardian are heard on Tuesdays at 1:30 p.m.

C. Hearings on requests for Elder or Dependent Adult Abuse Restraining Orders related to conservatorship matters are generally heard on Wednesdays at 1:30 p.m. All other Elder Abuse Restraining Orders are heard in Department 514.

D. Law and Motion matters are specially set by the Courtroom Clerk.

E. All other matters requiring an appearance are heard on Monday, Tuesday, and Wednesday calendars at 9:00 a.m. Sales are heard first. 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. 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 ("pre-granted") 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 email, 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 department 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 must be a hard copy and 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, unless otherwise directed by the Court, papers must be filed seven (7) court days before the hearing, and endorsed-filed copies of the papers must be delivered to the Examiners or Investigators, five (5) court days before the hearing with the scheduled hearing date noted on the face sheet.

C. Addressing Issues Raised in Examiner's Notes.

Supplements, amendments, or other papers addressing issues raised by an Examiner and other responsive papers must be filed seven (7) court days before the hearing, and endorsed-filed courtesy copies must be received by the Examiner no later than five (5) Court days before the hearing, unless otherwise directed by the Examiner, with the date of the scheduled hearing noted on the face sheet. Such endorsed-filed copies may not be faxed or emailed unless directed by the Examiner and must be one-sided. [CRC 2.102 and 2.117].

D. Pleadings Must be Filed.

Unless otherwise specified, Examiners and Investigators 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, via the reviewing Examiner, or via an assigned Investigator. A continuance will not be granted if there is opposing counsel unless a request is made in open Court or by a timely, informal stipulation of all counsel to a date to be arranged with the reviewing Examiner, or the assigned Investigator. If a case has not yet been assigned to an Examiner, a request for continuance may be made by email to: probcontinue204@sftc.org.

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 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 Appear may be issued.

C. Probate Examiners will only grant a request for continuance of a status hearing if it is made no later than three (3) Court days prior to the hearing date. If a continuance is not granted prior to the status hearing, an appearance is required.

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 Department, Room 202. Earlier hearing dates for appointment of a guardian or conservator may be obtained by contacting the Assistant Probate Director.

14.10 Law and Motion.

All Probate law and motion matters including discovery motions are heard in the Probate Department. Once a matter has been referred to the Department of the Presiding Judge, motions for priority setting or for change of trial date are heard by the Department of the Presiding Judge.

A. Procedures in Probate Department.

1) Before filing a motion, the moving party must present the motion to the Probate Department courtroom clerk in Room 204 for assignment of a hearing date and time. For e-filed matters, the moving party may phone the courtroom clerk for assignment.
2) Within 24 hours of receiving a hearing date, the moving party shall file the motion in Room 103. After filing, the moving party shall bring two (2) endorsed-filed courtesy copies to Room 202, attention Probate Law and Motion. If a motion challenges the sufficiency of a pleading already on file, the moving party must also supply an endorsed-filed courtesy copy of that pleading. Endorsed-filed copies of all subsequent filings relating to the motion shall be delivered to Room 202, attention Probate Law and Motion.

B. Tentative Rulings.

1) The Probate Department adopts CRC 3.1308(a) (1) as the tentative ruling procedure in probate law and motion and discovery matters.
2) Parties may obtain a tentative ruling issued by the Probate Department by telephoning (415) 551-4000. 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.

3) Unless an appearance is required, any party contesting the tentative ruling must notify opposing counsel and advise the Court by calling the Probate Department courtroom clerk at (415) 551-3702 no later than 4:00 p.m. the day before the hearing. A party may not argue at the hearing if the opposing party is not so notified and the opposing party does not appear.

14.11 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.

If the parties have previously appeared in court and discussed the use of pro bono mediation, an ex parte petition may be filed. The proposed order must include blanks for the following status dates: (a) completion of mediation; (b) deadline to notify the Examiner; and (c) subsequent hearing date.

If mediation has not previously been raised as a possibility in open court, parties must appear and request the order.

14.12 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.

14.13 Compromise of Claims.

Petitions for compromise of minor's claims are to be filed and a hearing date set in Department 514 for hearing on the uncontested calendar.

14.14 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. Petitioners must obtain a hearing date and time from the Probate clerk at the time of filing in Room 103 and leave a endorsed-filed copy of the petition and the proposed order with the file clerk in Room 103 unless the case is subject to E-Filing, in which case hearing dates are obtained when the petition is E-Filed.
2) **Ex Parte Petition to Establish Temporary Guardianships**. These are set on Tuesday mornings. All other ex parte petitions, including petitions to establish temporary conservatorships, may be set on any day of the week.

3) **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 3.1203 and CRC 3.1204. An endorsed-filed copy of a declaration regarding notice in compliance with CRC 3.1204 must be delivered to the Probate Department no later than 12:00 p.m. on the day before the scheduled hearing.
4) **Opposition Papers**. Any paper in opposition to an ex parte application or petition must be filed in the clerk's office and an endorsed-filed copy delivered to Room 202 before the ex parte hearing.
5) **Petitions for Letters of Special Administration**. See LRSF 14.25.

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 and the proposed order must be left with the file clerk in Room 103. Either three (3) days' telephonic notice or five (5) days' mailed notice must be given to all interested parties after the ex parte petition is filed. 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.

When there is demonstrable urgency, the petitioner may request that the ex parte petition be heard on an expedited basis by submitting the papers with the blue cover sheet available in Room 103. If an ex parte petition has been filed, but the petitioner then wishes to file the same petition on an expedited basis, the blue cover sheet must clearly indicate that an ex parte petition was already filed and not yet adjudicated.

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 must be shown for the petitioner's personal knowledge.

D. Citations.

Where a Court order is required for the issuance of a citation, an endorsed-filed copy of the petition setting forth the relief requested, with hearing date affixed, must be submitted together with an endorsed-filed copy of 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. If a second citation is required for a petition, such citation may be obtained by declaration and presentation of the new citation.

E. Temporary Restraining Orders/Orders to Show Cause/Orders Shortening Time in Related Conservatorships.

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 that are related to a pending conservatorship case 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. Order Prescribing Notice.

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

I. 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.

<u>If the person with the disability is an adult, the following must be filed unless excused by the Court:</u>

1) Proof of Personal Service showing that the Notice of Hearing and a copy of the Petition for Appointment of Guardian Ad Litem were personally served upon the

person with the disability. The order will not be signed until at least five days after notice has been given.

2) A capacity declaration executed by a physician who is familiar with the person with the disability – either using the Judicial Council form used in conservatorships or in a declaration.

J. Retention of Litigation Counsel.

Where a conservator or guardian of the estate, personal representative, special administrator, temporary conservator or guardian of the estate, trustee of a trust related to a conservatorship, or guardian ad litem seeks to retain 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.

14.15 Procedural Questions.

The Court does not answer procedural questions, give legal advice or render advisory opinions.

14.16 Forms Approved by Judicial Council.

See CRC 7.101. All two-sided forms must be properly tumbled or they will not be accepted for filing.

14.17 Captions of Pleadings; Identification of Attorney.

See CRC 7.102. All pleadings must also identify the attorney in the form set forth in CRC 2.111. In addition, the identification must show the name and representative capacity, if any, of the party for whom the attorney is appearing, e.g., John Jones, Executor. "Petitioner" or "Respondent" alone is not sufficient.

14.18 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 pleading 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.

14.19 Amendments, Corrections, and Alteration of Pleadings.

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

B. Descriptions 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. 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. [See Rule 14.14 B. regarding notice for ex parte petitions.]

14.20 Material to be Included in Proposed Orders.

A. A proposed 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 interested parties, and descriptions of property or amounts of money affected.

B. A proposed order must be drawn so that its general effect may be determined without reference to the petition on which it is based and must include only those findings requested in the petition.

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

14.21 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.

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.

B. Notice to Bond Companies on Petitions to Remove Trusts from Court Supervision.
For any petition for removal of a trust from court supervision, in which the trustee has posted bond, notice must be given to the bond company and/or its surety.

C. Requests for Special Notice.
When a Request for Special Notice has been filed on behalf of an heir, the filer must provide direct notice to the heir entitled to notice; unless there is a written directive in the file, signed by the heir, indicating that notice to the attorney or other party is sufficient.

14.22 Declaration.

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

14.23 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.

A request for funds to be deposited into a blocked account must specify the institution and location.

14.24 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. A copy of the current vesting deed must be filed for any real property.
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. If the document is a will that is not self-proving, the petitioner must file either a Proof of Subscribing Witness or Proof of Holographic Instrument, as the case may be.

14.25 Letters of Special Administration on Ex Parte Petition.

A. Presenting Petition.

1) Petitioners must obtain a hearing date and time from the Probate clerk in Room 103 and deliver an endorsed-filed copy of the Petition for Probate and the Petition for Letters of Special Administration to Room 202. (See LRSF 14.14A.)
2) 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 14.14A.)
3) 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 3.1203 and 3.1204.
4) The appearance of the Public Administrator is not required at the presentation of the ex parte petition for Special Letters of Administration.
5) If the petitioner is the named executor of the will, notice of the petition for letters of special administration to the heirs at law and all devisees under the will 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.
6) A declaration regarding notice in compliance with CRC 3.1204 must be delivered to the Probate Department no later than 12:00 p.m. on the day before the scheduled hearing.
7) The urgency and necessity of special letters of administration must be stated in the attachment to the petition.
8) 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).

C. Extending Special Administration.

Letters of Special Administration may be extended either by an ex parte petition or by an appearance.

14.26 Petitions for Probate and Petitions for Letters of Administration.

A. Holographic Will.

When a holographic instrument is offered for probate, it must always be accompanied by an exact typewritten copy. Where the petitioner is also the sole beneficiary, a Proof of Holographic Instrument is more persuasive if signed by a disinterested party.

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 Persons Mentioned in a Will and Heirs.

1) All persons named in the Petition for Probate (or Petition for Letters of Administration) and all persons mentioned in the will must be listed in item 8 of the petition. All heirs must be listed even if a decedent died testate. If the decedent had no known heirs, a declaration to that effect must be filed setting forth the basis for that conclusion and the efforts made to locate heirs.
2) If a will names a trust or trustee as a devisee, the trustee(s) must be clearly identified in item 8. Where the personal representative and the trustee are the same person, or if there is no trustee, the beneficiaries of the trust must be clearly identified.
3) When second generation or more distant heirs are listed, the deceased ancestor(s) through whom they take (or would have taken) must be named, the relationship(s) to the decedent stated, and the date(s) of death specified.

E. Deceased Devisees and Heirs.

1) If a devisee predeceased the decedent or did not survive for the designated survival period, that fact must also be stated.
2) If an heir or devisee died after the decedent, that fact must also be stated. The petitioner must allege whether or not a personal representative has been appointed for such deceased heir or devisee. If no personal representative has been appointed for the post-deceased heir or devisee, or such personal representative is the same person as the petitioner, all heirs and/or devisees of the post-deceased heir or devisee must be listed. All parties named in response to this rule must receive notice.

3) The date of death must be specified for all deceased devisees and heirs, and an explanation must be provided if no successors-in-interest are identified.

14.27 Notice Requirements for Petitions for Probate.

A. 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 and a new notice must be given by publication.

B. 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.

C. Declaration of Real Property.

All petitions for probate of will or letters of administration must be accompanied by a form Declaration of Real Property.

14.28 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.

14.29 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.

14.30 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.

14.31 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.

14.32 Duplicate Wills.

If duplicate wills were executed, both documents must be offered for probate despite language in the will to the contrary.

14.33 Renunciations, Declinations, and Consents to Act.

A written renunciation must 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 must 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.

14.34 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.

14.35 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.

14.36 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 must file a declaration to assist the Court. However, the Court in its discretion may require a bond in either of these circumstances.

14.37 Nonresident Personal Representatives.

A proposed nonresident personal representative will be required to post a bond to protect 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 $20,000.

14.38 Waiver of Trustee's Bond.

Waiver of bond by a trust beneficiary must include the same language as the Judicial Council form DE-111(A-3d), Waiver of Bond by Heir or Beneficiary.

14.39 Reducing Bond Through Use of Blocked Accounts.

When the Court allows a blocked account, 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.
A request for funds to be deposited into a blocked account must specify the institution and location.

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 must 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 for all Probate related cases only. The Petition for Withdrawal of Funds From Blocked Account (MC-357) must 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.

14.40 Bond Modification.

A. See CRC 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 must be presented with the petition.

14.41 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.

14.42 Bonds of Co-Fiduciaries.

See CRC 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.

14.43 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.

14.44 Filing Proof of Bond.

Bonds shall not be filed until after the order requiring bond is filed. The bond amount will be rounded up to the nearest thousand dollars.

14.45 Appointment of Referee.

At the time of appointment of a personal representative, trustee, conservator, or guardian, the Probate Referee will be appointed on the order appointing the fiduciary. If a Probate Referee appointment is necessary after the fiduciary's appointment or in a decedent's estate where the fiduciary was appointed prior to January 1, 2013, the San Francisco form Request for Appointment of Referee must be filed and a courtesy copy and the proposed order lodged in Room 202 or in the drop off box outside the Probate Department. Current contact information for probate referees may be found at the following website: http://www.sco.ca.gov/eo_probate_contact.html#sanfran.

14.46 Preparing Inventory and Appraisal.

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.

14.47 Waiver of Appraisal by Referee.

A petition filed pursuant to Probate Code § 8903 must state the source of the values included in the Inventory and Appraisal. Waivers of appraisal are not favored and are not routinely granted.

14.48 Nature and Form of Claims.

A. Claim Versus Expense of Administration.
The Court will not approve a claim that represents obligations of the estate arising after the death of the decedent (except reasonable funeral expenses). Such expenses are proper expenses of administration and should be included for approval in the account.

B. Form of Claims.
A creditor's claim must be submitted on the Judicial Council form; however, a creditor's claim will be liberally construed in favor of its sufficiency if the content and format are in substantial compliance with the Probate Code. Satisfactory vouchers or proof of claim must be attached.

C. Claims when personal representative has IAEA powers. See CRC 7.402.

14.49 Claims of Personal Representative and Attorneys.

A. Procedure.
A creditor's claim of the personal representative or the attorney must 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). A creditor's claim of the 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 must 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.

14.50 Time and Place of Hearing on Report of Sale.

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.

14.51 Exclusive Listing for Sale of Property.

See CRC 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. Unless a petition specifically requests waiver of publication of notice of intention to sell, notice of intention to sell must be published, as set forth below.

14.52 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.

14.53 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.

14.54 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.

14.55 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 must 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 must 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 must so state. If the property is to be sold subject to an encumbrance, the notice must 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 must 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.

14.56 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 must 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.
The winning bidder as confirmed by the Court at the completion of the sale will be the only person or entity to whom sale is confirmed in the order.

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 initial 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 must set forth the amount of the bond in force at the time of the sale and the amount of property in the estate to be covered by bond. If additional bond is required after confirmation of sale of real property, the petitioner must 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 must be alleged.

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, the petition must show the partial interest, the amount of the additional interest in the property being sold, and the amount of the overbid calculated on 100% of the property value.

14.57 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 must be obtained and filed or 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.

14.58 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.

14.59 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. A personal representative's account must begin with the date of death of the decedent.

Unless otherwise permitted for good cause, if an account exceeds two years, the first two years must be filed separately. After the first two-year account is adjudicated, subsequent account periods may not be for more than three (3) years and each three-year period must be filed separately. If all interested parties waive an account by the personal representative, the waiver applies to the entire estate administration, not just to a periodic report on the status of administration.

The Court has discretion to require an accounting for any reserve withheld. A fiduciary seeking final discharge must submit an informal accounting for a reserve of $10,000.00 or more.

14.60 Contents of Account.

Court accountings are cash, not accrual, basis. Transfers between accounts are not proper receipts or disbursements and should NOT be included.

14.61 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.

14.62 Verification of Cash Balances.

The ending balance of cash in interim and final accounts filed by fiduciaries, who are not financial institutions, 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, the date, and the amount of the balance. Photocopies or computer printouts are not acceptable. Ending balances shown in the account must be reconciled to the statements or letters, which must be filed.

In conservatorships, guardianships, and trust proceedings related to conservatorships or for trusts funded by Court order, as defined by CRC 7.903(a):

A. For the first account, all fiduciaries must also file original account statements to verify the amounts shown on the Inventory and Appraisal. Probate Code § 2620(c)(2).

B. For interim accounts, so long as Probate Code § 2620(f) is in effect, original financial institution statements for all periods covered by the accounting, and original statements from residential care facilities or long-term care facilities are required only when requested by the Court.

14.63 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).

14.64 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.

14.65 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 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.

14.66 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).

14.67 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 that 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 and must be disclosed in the petition for distribution.

E. Distribution to Agent under Durable Power of Attorney.
If distribution is to be made to an agent under a durable power of attorney, the durable power of attorney must be filed and must be disclosed in the petition for distribution.

F. Distribution to Persons under Conservatorship or Guardianship.
The order 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.

G. 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) For amounts exceeding the amount under Probate Code § 3401, distribution must be deposited into a California FDIC insured blocked account, pursuant to Probate Code § 3610, or made to a court-appointed guardian of the estate of the minor.
3) Where a blocked account is to be used, the receipt and agreement of the depository must be filed and the order of distribution shall so provide. The order 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.

H. 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 must be filed by or on behalf of the trustee who does not choose to act. The order must contain the terms of the testamentary trust. See CRC 7.650.

I. 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 order must 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. A certified copy of Letters certified within sixty (60) days, the original 13100 affidavit, a copy of the acceptance of trusteeship, or a certified copy of the Spousal Property Order must be filed before the hearing date.

J. Distribution to Intestate Heirs.

If not all heirs were known and disclosed at the outset of the proceedings, the administrator must file a petition to determine persons entitled to distribution prior to petitioning for final distribution. Probate Code §11700.

The relationship of heirs who take by intestacy must be sufficiently described in the petition 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.

K. 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.

L. Requirements re Petition for Final Distribution.

1) **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 must 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.

2) **Notice to Franchise Tax Board.** The petition for final distribution must state the date on which notice to the Franchise Tax Board was mailed pursuant to Probate Code §9202(c).
3) **Retention of a Reserve.** The petition and order 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 petition for final discharge must show the disposition of all amounts held in reserve and receipts must be filed for any distribution.
4) **California Inheritance Tax.** An 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.
5) **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.
6) **Distribution to Person Other Than Beneficiary.** A petition for preliminary or final distribution must allege whether distribution is to be made to an assignee of, or an agent for, an heir or devisee. If there is such an agreement or a durable power of attorney, the original assignment or durable power of attorney and the terms thereof must be on file.
7) **In General.**
    a. The Petition. Whether or not an accounting has been waived, the petition for final distribution must state specifically how 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 net amount of cash (as of a date certain) to be distributed to each beneficiary.
        i. 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.
        ii. 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.
        iii. The petition for final distribution must disclose if there are outstanding bills due to a third party for preparing an accounting.
    b. The Order. The caption of the order must begin with Order for Final Distribution. The order must state specifically within the body of the

order how 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 net amount of cash (as of a date certain) to be distributed to each beneficiary.

i. 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.
ii. Incorporation by reference to allegations in the petition or to schedules attached to the order is insufficient.
iii. 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.

c. Receipts for any preliminary distribution must be on file prior to the approval of final distribution.
d. If the assets distributed are not identical to the assets set forth in the Order for Final Distribution, the personal representative must file a fully noticed petition to seek approval of actions taken after the Order for Final Distribution was issued.

14.68 Terminating an Estate for Lack of Assets.

If a personal representative files a petition for the termination of further proceedings and for discharge pursuant to Probate Code § 12251, the petition must list creditors' claims and disclose any action taken on such claims and must address the notice required by Probate Code § 9202. Notice must be given to any creditor whose claim has not been satisfied.

14.69 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.)

14.70 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.

14.71 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.

14.72 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.

14.73 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 ex parte petition for final discharge must show the disposition of all funds, and receipts must be filed for any distribution of the reserve. The Court at its discretion may require a supplemental accounting of the reserve. If the accounting was not waived, an informal accounting is required for a reserve of $10,000.00 or more. The order portion must be completed in full except for the date and name of the Judge. If the order for final distribution or order terminating the proceeding is more than three (3) pages, a conformed copy of the order must be submitted with the petition for final discharge.

14.74 Escheated Funds.

Petitions to claim escheated funds from a decedent's estate, pursuant to CCP § 1355, must be filed in the Probate Department. All other claims for escheated funds are filed in the civil division.

14.75 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 personally, 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.

14.76 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.

Hearings on ex parte petitions for appointment of temporary conservators may be set Mondays through Fridays but must be set at least seven (7) court days from the date of filing. Hearings on ex parte petitions for appointment of temporary guardians must be set at least five (5) court days from the date of filing. Petitioners must obtain a hearing date and time from the Probate clerk in Room 103. All petitions for appointment of a temporary guardian are set on Tuesdays.

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 shall be left with the filing clerk for transmission to the Court Investigation Unit and separate endorsed-filed copies must be delivered to the Probate Department in Room 202 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 3.1204, must be filed and endorsed-filed copies delivered to 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 3.1204, to relatives within the second degree must be filed and delivered to 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 delivered to Room 202 at least three (3) court days before the temporary guardianship hearing.

D. Appearance at Hearing.

The petitioner, proposed temporary conservator or guardian, and counsel, if any, must appear at the hearing. The Public Guardian need not appear at the hearing of an uncontested ex parte petition for appointment of the Public Guardian as temporary conservator.

In all cases, the proposed temporary conservatee must appear at the hearing unless such appearance is excused pursuant to 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 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 proposed conservatee only with Court authorization and after the appointment of counsel for the proposed conservatee 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 must be presented with the petition in accordance with LRSF 14.78.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.

14.77 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) **Notice to Local Agency**. The local agency designated by the board of supervisors to investigate guardianships for the court, as referenced in Probate Code §1516, is the San Francisco Department of Human Services Agency (HSA).

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 only at the hearing to appoint a guardian of the person or person and estate. An appearance by the proposed ward is not required if the petition seeks to establish only a guardianship of the estate.

B. Required Local Form.

The Confidential Declaration of Proposed Guardian (PGF-1) must be completed by the proposed guardian and filed with the Petition for Appointment of Guardian.

C. 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.

D. Accounts and Reports.

1) **In General.** The report accompanying each accounting must contain a statement of the age, health, and whereabouts of the ward. In addition, the report must contain an allegation concerning the amount of bond currently in effect and must address the question of the adequacy thereof.
2) **Waivers of Accounts.** Waivers of accounts granted in guardianships waive only interim accounts, not final accounts. Waivers of final accounts 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 is on file, 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) **Annual Written Status Report (GC-251)**.
a. Guardians of the estate must file the Confidential Guardianship Status Report form and attach the most recent bank statement for each account. The

Confidential Guardianship Status Report form is not required in years when the guardian files an accounting.

b. Guardians of the person or of the person and estate must submit the child's most recent report card with the Confidential Guardianship Status Report form.

c. At the time of appointment of the guardian, the Court will set a status hearing date by when the Confidential Guardianship Status Report and/or First Accounting is to be filed, generally one year after appointment of the guardian.

5) **Investments.** In order to make or retain investments that do not meet the requirements of Prob. C. § 2574(a), the guardian must petition for Court authorization and must petition for renewed authority with each accounting. The petition must identify the proposed investment(s). The petition must also address all factors identified in Prob. C. § 2574(b).

Investments that require Court authorization include, but are not limited to, Exchange-Traded Funds, Closed End Funds, and Mutual Funds.

Court authorization of any proposed investment(s) will be based on the guardian's representations and is subject to the fiduciary's duty to monitor all investments and comply with prudent investment standards and statutory requirements.

E. 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.

F. Copies.

All filings regarding guardianships must be accompanied by a copy designated for the Court Investigation Unit, Probate Department.

G. 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.

H. 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.

I. 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.

J. 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 MC-357 and MC-358 and may present them to the Probate Department ex parte. The purpose and necessity of the withdrawals must 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.

K. 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. See LRSF 14.88 and 14.89 regarding attorney fees.

L. Termination or Conclusion of Guardianship.

The local form, Request to End Guardianship (PGF-4), must be filed with the petition by the party requesting to terminate the guardianship.

Where there is a guardianship of estate and the former minor waives the final account, the attorney, guardian, and former minor must appear at the hearing for consideration of the petition on waiver of final account.

M. Substitution of Attorney.

The Substitution of Attorney form may not be used for a guardian to substitute in as self-represented litigant for guardianship of the estate.

N. Special Immigrant Juvenile Status.

Declarations in support of a Petition for Special Immigrant Juvenile Findings (GC-220) must be marked "Confidential" and filed pursuant to CCP §155(c).

14.78 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) **Deficits In Mental Functions**. The proposed conservatee's deficits in mental functioning as set forth in Probate Code § 812 must be addressed within the Confidential Supplemental Information form. If the establishment of the conservatorship is contested, or if the petitioner requests determination that the proposed conservatee lacks capacity to give informed consent for medical treatment, or if the petitioner requests the power to authorize the administration of medications in the treatment of dementia and/or to authorize the placement of a conservatee diagnosed with dementia in a secured care

setting, the petitioner must file a capacity declaration (Judicial Council form GC-335).

5) **Petition for Appointment of Successor Conservator or Co-Conservator.** Petitions for appointment of successor conservators or co-conservators are heard on the Thursday morning calendar and must be filed in documents separate from accountings and other documents. Such petitions must be accompanied by a declaration explaining why appointment of a successor or co-conservator is necessary.
6) **Hiring Contractors.** Absent a showing of hardship, whenever a conservator (or a trustee of a trust related to a conservatorship) seeks authority to expend conservatorship (or trust) funds to repair real property, a minimum of two bids is required for any amount in excess of $20,000.00, and at least three bids are required for repairs in excess of $50,000.00. Contractors must be fully licensed and permits must be obtained where required.
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 must be noted in parentheses under any pleading caption in the related matter.
    d. A copy of the trust accounting must be provided to the Court Investigation Unit.
    e. During the lifetime of the conservatee, the successor trustee is subject to the same terms and conditions as a conservator of the estate, unless specifically waived by the Court upon a showing of good cause.
    f. Removal of the trust from Court supervision during the lifetime of the conservatee/settlor is generally not favored, whether or not a conservatorship is established or terminated.

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 review the Conservatorship Handbook from http://www.courts.ca.gov/documents/handbook.pdf.

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 a medical 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 must receive notice of the petition for conservatorship. This information must 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/Notice of Death.

1) 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.
2) The conservator or the attorney for the conservator must promptly notify the Court of the death of a conservatee by filing a Notice of Death.

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/.

   The General Plan is Confidential. The General Plan must be filed separately and will be placed in the Conservatorship Confidential File.

3) **Status Report.** All conservators of the person must file a current Status Report on the same schedule as the filing of 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.

   The Status Report is Confidential. The Status Report must be filed separately and will be placed in the Conservatorship Confidential File.

4) **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.
5) **Final accounts where the conservatorship has been terminated by the death of the conservatee**. Final accounts must be filed within 90 days of the death of a conservatee. Conservatorships where there has been a waiver of accounts 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 account or the possibility of payment of the assessment fee. When the Court learns that a conservatee has died and no final account or report has been filed, the Court will set a status date for filing of the final account 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, the trustee of any trust, wherein the conservatee was a beneficiary, as well as to all of the parties as set forth in Probate Code § 2621. If there is no personal representative or trustee, or if the personal representative or trustee and the conservator are the same person, then notice must be given to all devisees named in the conservatee's will, to the heirs of the conservatee, so far as is known to the conservator, or to the trust remainder beneficiaries.

    The petition for the approval of a final account must state the name of the personal representative of the deceased conservatee's estate if one has been appointed. If a probate proceeding has been filed in San Francisco, that probate

case number must be stated. 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. If distribution is to be made pursuant to Probate Code § 13100 under the terms of a conservatee's will, and the will is not self-proving, either a Proof of Subscribing Witness or Proof of Holographic Instrument must be filed. If the conservatee was the beneficiary of a trust, and the conservator is the trustee of that trust, the remainder beneficiaries of the trust must be identified.

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.

6) **Final account where conservatee is living**. 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 service must clearly indicate that a copy of the petition and the final account was served with the notice of hearing.
7) **Investments.** In order to make or retain investments that do not meet the requirements of Prob. C. § 2574(a), the guardian, conservator or trustee must petition for Court authorization and must petition for renewed authority with each accounting. The petition must identify the proposed investment(s). The petition must also address all factors identified in Prob. C. § 2574(b). Investments that require Court authorization include, but are not limited to, Exchange-Traded Funds, Closed End Funds, and Mutual Funds.

Court authorization of any proposed investment(s) is based on the guardian's, conservator's or trustee's representations and is subject to the fiduciary's duty to monitor all investments and comply with prudent investment standards and statutory requirements.

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. A copy of the agreement for the exclusive listing must be attached and shall otherwise comply with the requirements of CRC 7.453 for similar petitions in decedents' estates. All conservatorship sales are subject to Court confirmation notwithstanding Probate Code §2540, et. seq., including publication of the notice of intention to sell, absent a specific request to waive such publication in the noticed petition seeking authorization to sell.
3) The petition must disclose whether or not the real property was inherited from a predeceased spouse less than 15 years ago.

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 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 must 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 and incorporate by reference a copy of the proposed trust.

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 five (5) court days of the calendared hearing date, a copy of the Proof of Payment of Assessment Fee must 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 must 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. This petition may be made *ex parte* and does not require an appearance unless specifically set on calendar by an Examiner.
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. 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 GC-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 unless total fees for a Court-appointed attorney exceed $20,000.00 or the Court concludes that greater review is appropriate. Fee requests of $10,000.00 or more must be filed as a noticed petition and set on the regular probate calendar. [See Court-Appointed Attorney Billing Resources at https://www.sfsuperiorcourt.org/divisions/probate.]
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.

R. Electronic Transmission of Court Investigation Reports, Determinations, and Orders.

Pursuant to stipulation by the relevant parties, service of the Court Investigation Unit's reports in general conservatorship investigations, review investigations, successor investigations, special investigations, and for petitions for termination of a conservatorship, as required by Probate Code §§ 1826(l), 1851(b)(1), and 2684(g) or by local practice, must be transmitted electronically to the following:

1) The attorney of record for the Public Guardian and the Assistant Public Guardian of the City and County of San Francisco.
2) Licensed professional fiduciaries who have petitioned for electronic transmission and have waived service in said petition.

S. Substitution of Attorney.

The Substitution of Attorney form may be used for a conservator to substitute in as self-represented for cases of conservatorship of the person only.

14.79 Special Needs Trusts.

A. All petitions to establish a special needs trust brought by an attorney-in-fact must include the protections provided by CRC 7.903, unless the Court for good cause waives the inclusion of such provisions.

B. Prior to establishment of a special needs trust, the proposed trustee must submit a budget of anticipated expenditures to be paid out of the special needs trust.

C. If the beneficiary of a proposed special needs trust wishes to waive bond or accountings, he or she must appear at the hearing.

D. In order to make or retain investments that do not meet the requirements of Prob. Code § 2574(a), the proposed trustee/trustee must petition for Court authorization and must petition for renewed authority with each accounting. The petition must identify the proposed investment(s). The petition must also address all factors identified in Prob. C. § 2574(b).

Making or retaining investments in Exchange-Traded Funds and Closed End Funds requires Court authorization.

Court authorization of any proposed investment(s) will be based on the trustee's representations and is subject to the fiduciary's duty to monitor all investments and comply with prudent investment standards and statutory requirements.

14.80 Extraordinary Services in Decedent's Estates.

See CRC 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, must 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.

14.81 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.

B. The Court evaluates services as a whole rather than “ordinary” and “extraordinary.”

14.82 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 must be accompanied by declaration of the guardian or conservator itemizing time spent and services provided.

14.83 Compensation Guidelines for Management of the Estate.

Fees for guardians, conservators, or trustees will be awarded on the basis of the amount and quality of the services rendered, actual time expended, and hourly rate. All requests for fees based on an hourly rate must be accompanied by a declaration of the guardian, conservator, or trustee with supporting time records. If fees requested are based upon a percentage of the estate, such as one percent (1%) per annum of the fair market value of assets at the end of the accounting period or six percent (6%) of income, the Court has discretion to require supporting time records.

In addition, the request must address the standards and criteria set forth in CRC 7.756 or CRC 7.776 in sufficient detail for the Court to evaluate the reasonableness of the requested fees.

14.84 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.

14.85 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.

14.86 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. [See Procedures for Requests for Compensation below.] 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.

14.87 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.

14.88 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 ninety (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.

The Court prefers to determine the amount of fees at the time an accounting is considered. Absent good cause, requests for fees on account will be considered only in the petition for appointment or as part of a petition for approval of an account.

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, including any retainer paid to an attorney. 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.

14.89 Procedures for Requests for Compensation.

A. Form of Request for Compensation.

A request 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), or 17200. The request must state a specific amount and not merely "reasonable fees."

B. Contents of Petition.

All petitions for commissions and fees in trusts, guardianships, and conservatorships and for extraordinary services in decedents' estates must be supported by a description of the services forming the basis of the request, including the surrounding circumstances, the benefit to the entity, and the time spent. Each timesheet entry must identify the attorney/paralegal providing the service and include the hourly rate for the attorney/paralegal, the time spent on the services described in the entry, and the total fee charged for that entry.

Requests 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 creditors, whose claims have not been satisfied.

14.90 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.

14.91 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.
Mileage, parking and tolls.

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.

14.92 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 will be awarded.

14.93 E-Filing.

LRSF 2.11 regarding E-filing for San Francisco Superior Court applies to "Designated Cases." Designated Cases include Probate cases. E-Filing is in effect for Trust and Decedent's Estate cases and will be implemented for Conservatorship and Guardianship cases on effective dates to be announced.

The following are exceptions and additions to LRSF 2.11, specific to Probate:

A. Initiating Filings.

A new case shall originate with the filing of a hard copy of the initial pleading and a related ex parte petition, if applicable. All documents thereafter must be filed by E-Filing, except as noted below.

B. Exclusion from E-Filing and E-Service Requirements.

1. [See LRSF 2.11 C.] A self-represented person may, but is not required to, E-File. Once a party chooses either to E-File or conventionally file documents, such chosen filing method must be used exclusively in that case. A self-represented party who chooses to E-File thereby affirmatively consents to E-service.
2. A petition filed pursuant to Probate Code §3201 may be filed in person under exigent circumstances if approved by the Director or Assistant Director for conventional filing.

C. Signatures on E-Filed Documents.

[See LRSF 2.11 M.1.] This rule does not apply to any document signed by a judge.

D. Original Documents.

[See LRSF 2.11 M.4.] Original documents required pursuant to LRSF 14.62 and LRSF 14.67 D. shall be E-Filed, with the exception of the original documents listed below. If the attorney of record retains the original document as with retention of original documents under LRSF 2.11 M.4. the attorney must file a Declaration certifying the retention of the original. If a Court-appointed fiduciary assumes the responsibility of retaining the original documents, the fiduciary must file the Declaration certifying the retention of the original. Original bonds may be retained by the bonding company or the attorney of record. A Declaration certifying the retention of the original must be filed.

E. Original Document Filing.

The following documents must be submitted in original form for filing in the Clerk's Office:

1) Original will
2) Certified copy of death certificate with affidavit pursuant to Probate Code § 13101
3) Certified copy of birth certificate
4) Letters Testamentary or Letters of Administration
5) Certified copy of Spousal Property Order
6) Certified copy of Letters when required for final distribution
7) Inventory and Appraisal

F. Exclusion from E-Service.

[See LRSF 2.11 O.] E-Service in Probate filings is not mandatory. Attorneys may serve documents by conventional means or by E-Service.

G. Courtesy Copies to Court.

[See LRSF 2.7.]

1) Courtesy copies for the Probate Department must be endorsed-filed paper copies, must include the hearing date in the caption of the document and should be directed to the attention of specific staff members to the extent known, e.g., Director, Assistant Director, assigned Examiner, or assigned Investigator.
2) A courtesy copy of any petition filed conventionally to initiate a case must be lodged in Room 202.

H. Requests for Special Settings.

Attorneys requesting special settings for hearings must contact the Director regarding all matters that would be set on the Monday, Tuesday, or Wednesday morning calendars and the Assistant Director regarding conservatorship and guardianship matters. Attorneys must obtain approval of the special setting prior to filing the documents.

I. Ex Parte Petitions.

1) Petitions that require signature before filing (such as ex parte petitions for final discharge or the personal representative's creditor's claim) must be dropped off, unfiled, in Room 202.
2) Petitions that are filed and reviewed without an appearance ("drop offs") must be E-Filed, after which a courtesy copy and proposed order must be dropped off in Room 202.
3) Petitions that require an appearance must be E-Filed. The comment section must request the clerk set the matter on the ex parte appearance calendar.

J. Fee Waivers and Other Confidential Documents.

Applications for Fee Waivers and other confidential documents (such as bank statements filed in conservatorship proceedings) must be filed in person in Room 103.

K. Proposed Orders.

Hard copies of proposed orders must be delivered to the Probate Department for review at least two (2) weeks prior to the hearing date.

L. Court of Appeal and Supreme Court Documents.

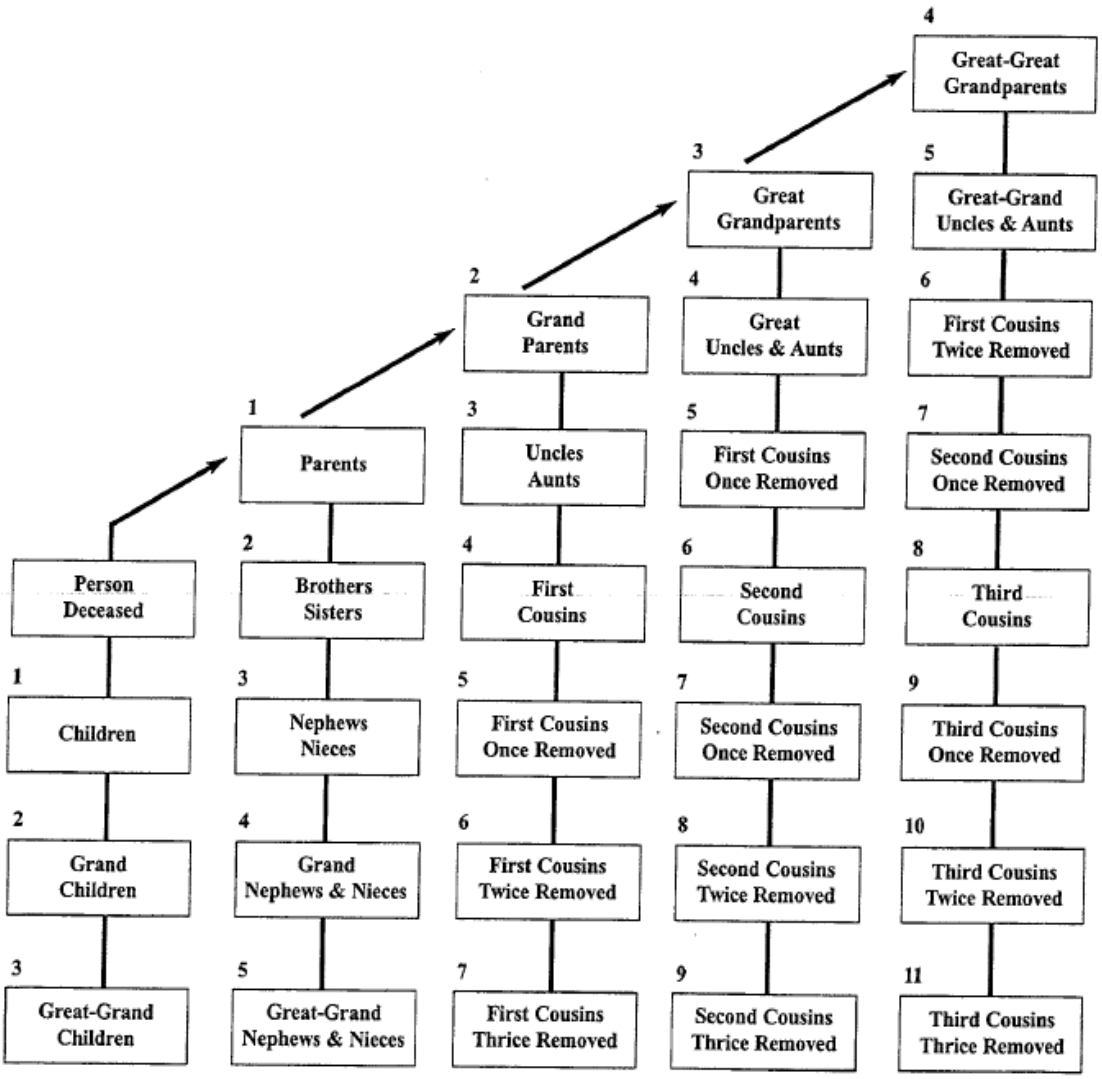
Documents from the Court of Appeal and from the Supreme Court will be filed, scanned, and discarded.

M. Proof of Service.

LRSF 2.11 O.3. does not apply to Probate filings. Attorneys must use the mandatory Judicial Council forms for notice and proof of service.

Adopted: July 1, 1998
Last Revised: January 1, 2020

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.

Agent A's Commission

(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 Common 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. mailing notice before the pleading requiring notice is filed;
    b. on probate distributions, beneficiaries not noticed;
    c. on trust accounts, remaindermen not noticed;
    d. on petitions under Probate Code § 17200, failure to mail copies of petition when required, or to refer to that mailing on the proof;
    e. when pleadings are amended - new notice required;
    f. on petitions to admit a will and codicils, failure to give notice to a beneficiary whose bequest has been revoked by a codicil; and
    g. failure to give notice to a contingent beneficiary, e.g., where a will prescribes 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; and
    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; and
        2. erroneously increasing estate accounted for by refunds received for amounts paid during estate administration, 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 order 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(ren) or siblings 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, conservators, and trustees of trusts related to guardianships or conservatorships, 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. E-Filing Issues:
    a. failure to provide courtesy file stamped copies;
    b. failure to file timely to allow for time to upload the pleading; and
    c. failure to file the declaration regarding retention of originals.
21. Ex Parte Matters:
    a. lack of personal appearance by attorney, proposed fiduciary, and/or minor or proposed conservatee on applications for special letters of administration or temporary letters of guardianship or conservatorship;
    b. failure to submit copies of receipts and copy of order of distribution exceeding three pages with petitions for discharge;
    c. failure to allege status as to requests for special notice;

d. failure to provide required notice to proposed conservatee and relatives within the second degree on applications for temporary letters of conservatorship;
e. 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;
f. failure to explain why temporary conservator must be appointed prior to hearing date for general conservator;
g. 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; and
h. on petitions or stipulations for correcting orders, failure to make allegations or recitals showing entitlement to relief under CCP § 473.

22. Inventories:

a. no indication as to whether property is separate or community;
b. property inadequately described;
c. non-cash assets not appraised by a Probate Referee;
d. properly inventoried assets omitted; and
e. 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
    - Petition to advance hearing date
    - 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 the blue cover sheet 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
    - Petitions for instructions
    - Requests for partial statutory fees or commission
    - Appointment of successor trustees
    - Petitions for modification or 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 under LRSF 14.93 I. An order advancing a hearing date and/or shortening time for notice may be requested by ex parte petition set on the appearance calendar.

Appendix E

FOR ALL PROBATE FEE SCHEDULES

Log onto website
http://www.sfsuperiorcourt.org/forms-filing/fees

15 Rules for Preparing Appeals

These rules apply to appeals from unlimited jurisdiction cases to the Court of Appeal. Rule 21 applies to appeals and writs to the Appellate Division of the Superior Court.

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 CRC 8.122 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. CRC 8.122(b)(1) 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.

G. Election to follow CRC 8.128 (see also Local Rule 8 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.

H. The Clerk's Office will provide an estimate of the cost of preparing the file and index.

I. 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.

J. Failure to deposit the required fees in a timely manner will result in the appeal being placed in default.

K. 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.

L. Trial exhibits are not copied into the record. Instead, they are transmitted directly to the Court of Appeal pursuant to CRC 8.224 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.

M. 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 at their cost.

N. 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 unless there is a signed declaration for waiver of deposit by the Court reporter filed with the court.

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.

~~G.~~ Courtesy Copies of Designation of Record on Appeal.

The party that designates the record on appeal must deliver two courtesy copies of the filed designation, if certified reporter's transcription(s) is attached, to the Appeals Division in the Clerk's Office, Room #103, not later than 2 court days after the date of filing/e-filing or the deadline date for the receipt of this record, whichever is earlier. If the designation is made pursuant to CRC8.124 one courtesy copy is to be delivered.

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.

For more information, contact the San Francisco Superior Court Appeals Division at (415) 551-3671. The Court of Appeal can be contacted at (415) 865-7200.

Adopted: July 1, 1998
Last Revised: January 1, 2020

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 § 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 § 1382 and shall lodge a courtesy copy of the notice with the clerk in the department where the matter is pending in compliance with LRSF 2.7. 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 Use of Electronic Recording.

Pursuant to Gov. Code § 69957, electronic recording may be used in infraction and misdemeanor proceedings when an official reporter is unavailable.

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.

Department 14 will set the date and time for hearing on all motions for discovery of peace officer personnel records pursuant to Evidence Code § 1043.

16.10 Motions.

A. Unless otherwise authorized by law,

1) All motions in limine must be filed and served no later than the day the case is assigned to a judge for trial or they may be deemed waived.
2) Motions relating to pending informations, 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 court days and all reply papers at least 2 court days before the time appointed for hearing.
3) When filing a motion under Penal Code §995, the moving party must obtain a hearing date that is prior to the first day of trial. The moving party must obtain a hearing date from the court prior to filing or serving the motion, and the moving party must file and serve the motion in compliance with the Required Notice Period indicated below. Failure to schedule the motion under Penal Code §995 for hearing before the first day of trial may be deemed a waiver of the motion.

B. Required Notice Period for certain motions. For the motions specified below, the moving party must file the motion and serve all other parties the indicated number of days before the hearing:

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	
Motion at preliminary hearing	5 court days
Opposition	2 court days
Reply	1 court day
Other than at preliminary hearing	15 calendar days
Opposition	10 calendar days
Reply	5 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 complaint, 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 in compliance with LRSF 2.7.

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). A courtesy copy of the bail motion must be accompanied by the police incident report.

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/lawyerreferrals/att-ida.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 Court Collections Unit 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 redacted 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.

Adopted: July 1, 1998
Last Revised: January 1, 2019

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 Failure to Appear or Pay; Civil Assessment; Driver's License Suspension.

A. Petition to Vacate Civil Assessment.

An application by a defendant to vacate a civil assessment imposed pursuant to Penal Code § 1214.1 must be submitted by filing the local form called "Petition to Vacate Civil Assessment."

The Petition shall be reviewed by a judicial officer and may be granted on a showing of good cause such as:

1) Hospitalization
2) Incarceration
3) Active military duty
4) Death of an immediate family member

B. Time for Filing of Petition.

A Petition to Vacate the Civil Assessment must be filed within twenty (20) days from the date on which the Notice of Civil Assessment was mailed. Penal Code § 1214.1.

C. Driver's License Suspension.

When any person fails to appear in Traffic Court or fails to pay all or part of a fine, the Court may notify the Department of Motor Vehicles to cause suspension of that person's driver's license.

D. Correctable Vehicle Code Violations.

If a defendant does not contest the imposition of the Civil Assessment, any correctable violation pursuant to Vehicle Code §§ 40610 and 40611 may be corrected for a period of twenty (20) days from the date on which the Notice of Civil Assessment was mailed by paying the civil assessment plus $25 compliance fee per correctible violation to Vehicle Code § 40611. If not corrected within said period of time, the violation will not thereafter be correctable.

E. Trial on Underlying Infraction.

If the case was adjudicated pursuant to Vehicle Code §§ 40902 or 40903, the defendant may obtain a trial de novo on the underlying infraction charges by posting the full bail

for the underlying charges within twenty (20) days of the mailing date on the Notice of Civil Assessment.

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, penalty amounts, and statutory fees.

B. Reconsideration of Bail Forfeiture, Time to Request Traffic School.

Notwithstanding Vehicle Code § 40512(a)(2) and Rule 17.10, within 30 calendar days of receipt, a defendant's request for Traffic School may be granted if the defendant is otherwise eligible and pays the additional administrative fee required pursuant to Vehicle Code § 42007.1(a).

C. Forfeit of Administrative Fee.

If a defendant elects traffic school and pays the assessments, surcharges, penalty amounts and fees, without confirming the eligibility of the charge and/or without confirming his or her eligibility, and is found not to be eligible or the charge is not eligible, the statutory fee required pursuant to Vehicle Code § 42007.1(a) shall be forfeited.

D. Proof of Completion.

If a defendant who elects or is permitted or is ordered 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 order that the fines and fees 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 Discovery.

A. Discovery Requests.

The defendant may request discovery by submitting an informal discovery request in writing to the legal department of the law enforcement agency that issued the citation. Upon receipt of any written informal discovery request, the receiving law

enforcement agency should respond within 15 days of service by providing the information requested, or by specifying in writing the items the agency refuses to disclose or is unable to disclose and the reasons for the refusal or inability to produce, or by seeking a protective order from the Court.

B. Motions to Compel Discovery.

If the law enforcement agency does not respond to the request within 15 days, the defendant may seek a court order to compel discovery. The motion to compel must be filed no later than 3 court days prior to the hearing. The motion should include: (1) a copy of the written request to obtain the discovery: and (2) an indication of which items have been disclosed and which items remain outstanding. The defendant must serve the motion on the law enforcement agency's legal department. The Court may in its discretion rule on the motion to compel on the date of the hearing or on the date set for trial.

C. Red Light Camera Cases.

Identification. When the defendant disputes being the driver of a vehicle cited for a red light camera violation, the defendant may submit an Affidavit of Non-Liability to the San Francisco Municipal Transportation Authority (SFMTA) as provided on the citation. Submitting the Affidavit of Non-Liability does not relieve the defendant of the obligation to contact the Clerk's Office in Room 145 by the Promise to Appear date on the citation in order to schedule an Arraignment Hearing. If SFMTA has not made a determination on the Affidavit of Non-Liability prior to the Promise to Appear date, the defendant may request a continuance of the Arraignment hearing. Where SFMTA determines that the defendant is the driver and returns the matter to the traffic division, the defendant may dispute being the driver at the trial by personally appearing.

Informal Discovery. Any informal discovery requests related to red light camera cases must be served on the Office of the City Attorney, attention of the Transportation Team. If the Office of the City Attorney does not comply with the informal discovery request, the defendant may file a motion to compel. A motion to compel discovery in a red light camera case must be served on the Transportation Team in the Office of the City Attorney.

Transfer of Liability. The Court may amend a Red Light Camera citation to name a driver who is not the registered owner of the vehicle upon receipt of a Declaration of the Driver admitting to driving the vehicle at the time of the citation.

D. Subpoenas and Subpoena Duces Tecums.
Defendants may use a subpoena to require a witness to appear at trial or a subpoena duces tecum to obtain documents or things related to their case. Asubpoena may be obtained from the Clerk of Court located in Room 145. The subpoena must be personally served on the witness by someone, other than the defendant, who is 18 years old or older and not involved in the case. The Court will secure the attendance at trial of the officer who issued the citation.

17.4 Format of Motions.

A. All motions must be accompanied by a memorandum of supporting points and authorities that include a brief description of the facts, a specification of the charged offenses and points and authorities relied upon. Any motions that rely upon facts beyond the citation must be accompanied by a declaration under penalty of perjury in substantial conformity in compliance with CCP § 2015.5. Failure to comply with these requirements may result in the denial of the motion.

B. All motions or written requests, except writs and petitions to vacate civil assessment, must be filed in the Clerk's Office for the Division of Traffic and Infractions. At the time of a court appearance the sitting judge may allow documents to be filed in open court.

C. Courtesy copies of all motions, oppositions and replies must be provided directly to the department where the motions are to be heard in compliance with LRSF 2.7.

17.5 Procedures for Informal Trial Pursuant to Vehicle Code § 40901.

A. Purpose.
This rule establishes procedures for conducting an informal trial under Vehicle Code § 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 on an infraction 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 pursuant to this code.
2) **Procedure**. An informal trial under Vehicle Code § 40901 may proceed as follows:

a. 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.
b. If an informal trial is requested by a defendant with a class A, class B, or commercial class C driver's license and the violation in a commercial vehicle as defined in Vehicle Code § 15210(b) or a defendant is charged with a violation of Vehicle Code § 22406.5 (tank vehicles), the Court must inform the defendant that the offense is not eligible for non-disclosure and confidentiality pursuant to Vehicle Code § 1808.7 in consideration of completion of traffic violator school.
c. 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.
d. The informal trial is to be held at the time of arraignment before the judicial officer conducting the arraignment.
e. Evidence at Trial. The trial court may admit testimony and other relevant evidence in the form of a notice to appear issued pursuant to § 40500 and, notwithstanding Division 10 (commencing with § 1200) of the Evidence Code, a business record or receipt, Vehicle Code § 40901(b).
f. Before the trial the defendant must have the opportunity to review any sworn declaration or other evidence submitted by law enforcement.

3) **Appeal**. An appeal of a finding of guilt in an informal trial under this rule must be filed within the normal time under CRC Rule 8.902(a).

17.6 Trials.

A. Trial in Absentia.

Any defendant who fails to appear as provided by law is deemed to have elected to have a trial by written declaration under Vehicle Code § 40903, unless bail was posted.

B. Bail Forfeiture.

If a defendant has posted bail and fails to appear for trial, the court may declare the bail forfeited and order that no further proceedings be had in the case pursuant to Vehicle Code § 40512.5(a). A forfeiture of bail shall be equivalent to a conviction and shall be reported to the Department of Motor Vehicles.

C. Trials by Written Declaration.

Defendants may elect to have a trial by written declaration upon any alleged infraction pursuant to Vehicle Code § 40902 and California Rules of Court, Rules 4-210. Where defendant has made a timely request for trial by declaration, such trials shall be conducted consistent with Vehicle Code § 40902. In a trial by written declaration, the trial court may admit any relevant evidence including evidence authorized by Vehicle Code § 40901(b).

D. Presence of Defendant at Trial.

In Traffic Court infraction cases, the defendant is ordered to be personally present at the trial for purposes of identification unless counsel stipulates to the issue of identity. Penal Code § 1043.

E. Official Electronic Recording at Trial.

Pursuant to Government Code § 69957, an official electronic recording of the proceedings is permitted in Traffic Court infraction cases.

F. Evidence at Trial.

The trial court may admit testimony and other relevant evidence in the form of a notice to appear issued pursuant to Vehicle Code § 40500 and, notwithstanding Division 10 (commencing with § 1200) of the Evidence Code, a business record or receipt. Vehicle Code §§ 40901(b), 40902(c) and 40903(b). The Court will not accept into evidence items contained on a cell phone, laptop or electronic tablet. These items must be printed out, downloaded to a CD, zip drive, or other electronic device that can be reviewed by the Court and retained for the record.

17.7 Continuances.

A. Trials.

When an infraction case has been set for a contested court trial, a request to continue the trial must be filed ten (10) calendar days before the date of the trial. The trial will occur on the date originally set unless the trial court grants the request for continuance and provides notice to the defendant that a new trial date has been set. No other requests for a continuance of the trial will be granted unless the interests of justice require a continuance.

B. Arraignments.

After an arraignment date is set, a defendant may request one continuance, and the request for continuance must be filed at least 5 court days prior to the arraignment date. No request to continue an arraignment date past 30 days will be considered unless

full bail is posted. Absent a showing of good cause determined by the Court, no continuance may exceed 90 days.

17.8 Traffic Appeals.

A. Notice of Appeal Form.

The Judicial Council CR-142 form may be used for the Notice of Appeal. A certified copy of the Judgment of Conviction or other Order must be obtained from the traffic division in the Hall of Justice. These documents and two copies of each form must be filed with the appeals clerk, criminal division in the Hall of Justice, within the time limits established under CRC Rule 8.902(a).

B. Proposed Statement on Appeal Form.

The Judicial Council CR-143 may be used for the proposed statement on Appeal. An original and two copies of the form must be filed with the appeals clerk in the criminal division of the Hall of Justice, within the time limits established by CRC Rule 8.915.

C. Stays.

An appeal does not stop the requirement to pay the Judgment (payment of fine, civil assessment, etc.).

17.9 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.

17.10 Motion to Reopen Case Adjudicated by Bail Forfeiture.

If the amount of the bond, money, or property deposited exceeds seven hundred dollars ($700), a motion to reopen a conviction reported to the Department of Motor Vehicles following a bail forfeiture under Vehicle Code § 40512(a)(2) must be filed with the Traffic Division no later than 180 days from the date of the bail forfeiture and may be heard within 30 days of the 180 expiration. The Court may extend the 30 day period on a showing of good cause, Penal Code § 1305(i).

17.11 Determination of Ability to Pay.

A defendant may request a determination of ability to pay by written petition pursuant to the CRC. The petition must be submitted on the form entitled Petition for Ability-to-Pay Determination. This form is available from the clerk's office at 850 Bryant Street, Room 101. Any documentation in support of the defendant's request must be filed with the form and will be destroyed after the court rules on the petition. If the court orders a hearing, the defendant must appear. In addition, the Court may make ability-to-pay determinations under the procedures authorized by Vehicle Code § 40283.

Adopted: July 1, 1998
Last Revised: January 1, 2020

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 may 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.

Adopted: July 1, 1998
Last Revised: July 1, 2011

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.

The San Francisco HSA will:

A. 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;

B. 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.

The San Francisco Juvenile Probation Department will:

A. 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.

B. 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.

Adopted: January 1, 2005

20 Asbestos Litigation

20.0 Case Management

A. Complex Designation.

All actions for personal injury, loss of consortium and/or wrongful death currently pending or hereafter filed in the Court alleged to be due to asbestos exposure are deemed complex litigation under Standard 3.10 of the Standards of Judicial Administration and CRC, Rule 3.403(b)

B. Asbestos Department.

The Asbestos Department hears all pre-trial matters and makes all trial assignments in asbestos cases and other matters as designated by the Supervising Asbestos Judge ("SAJ") unless assigned by the SAJ or the Presiding Judge to another department.

C. E-Filing.

Pursuant to CCP § 1010.6 all documents filed in an asbestos case must be electronically filed and served on all parties as set forth below. CRC, Rules 2.250 through 2.261 and LRSF 2.11 govern the E-filing and E-service of documents in all asbestos cases, except as herein provided. E-filing and service of asbestos litigation documents require the utilization of an E-filing services provider. Any such provider must be approved by the Court. See Exhibit A regarding the currently approved E-service vendor on the Court's website http://www.sfsuperiorcourt.org/forms-filing/forms.

1) **Operation of E- filing and service procedure.**
   a. All parties to the asbestos litigation pending in this Court, other than self-represented parties, must utilize the services of the approved Vendor. Users must enter into a standard service agreement with the Vendor during the registration process with the approved Vendor that will govern any and all transactions completed within and outside the scope of this Rule, in addition to additional features that users may but are not required to use in connection with the E-filing and/or serving of documents through the Vendor; and
   b. The fees charged by the vendor for use of the E-filing and service system must be established by the Vendor. The Vendor must maintain the fee structure in effect for E-File, E-Service, and/or both at the commencement of this Rule for a period of two years. No fees associated with E-File, E-Service, and/or both may be increased thereafter by the Vendor without giving at least 30 days prior notice to all Users.

2) E-filing of pleadings and other documents.

Pursuant to LRSF 2.11.I and except as expressly provide herein, all documents, papers or pleadings directly related to a previously filed document, paper or pleading must be linked to the previously filed document, paper or pleading by utilizing the Vendor's provided "Linked Documents" feature.

Plaintiff must file in paper form the complaint and summons. The proof of service (POS) must be electronically filed. E-Service of a complaint does not constitute service of process for any purpose and does not relieve the serving party from compliance with the applicable provisions of the CCP.

Each defendant must file its first pleading in each case with the Vendor in such manner as the Vendor establishes to enter its appearance and file its first pleading electronically in the newly filed case.

Plaintiffs will provide a case-specific service list to Vendor, distinguishing actual parties from entities designated for courtesy service. Defendant(s) are obligated to serve only those parties and entities required by the CCP. This Rule does not prohibit any party from transmitting documents to any entity not on the service list. Service list changes will remain the responsibility of the individual parties through their counsel, if any. Vendor will process the changes requested by the parties, but Vendor will not initiate them. Parties may only be removed by the party initiating the action or by order of the Court.

D. In re: Complex Asbestos Litigation File.

All orders that are applicable to all asbestos litigation must be filed under the caption "In Re: Complex Asbestos Litigation" and case number CGC-84-828684.

E. Trial Setting.

When an asbestos complaint is filed, the Asbestos Department clerk will designate on its face a Trial Setting Conference ("TSC") date. Two weeks prior to the TSC date, Plaintiff's counsel must provide to the Court and all parties a statement of compliance that said complaint (1) conforms to the CRC, Rule 3.110, (2) has been served on all named parties, and (3) identifies the appearance status of all named defendants. Failure to comply with the requirements set forth herein, including service, responsive pleading and default, may result in the cancellation of the TSC and the issuance of an order to show cause ("OSC"). If there is a failure to notice and/or complete plaintiff's deposition as to all defendants who have been served, no TSC date will be set and the case will be

continued to a later TSC date unless there is good cause shown as to why plaintiff's deposition cannot be completed prior to the TSC hearing date.

Any party with an issue related to the TSC and/or trial date that has not been resolved after meeting and conferring with opposing counsel may ask the Court to set a Case Management Conference ("CMC"). The requesting party must file and serve a CMC statement setting forth the specific issue(s) to be addressed by the Court with a meet and confer declaration as defined by **CCP** § 2016.040. Upon receipt of the CMC statement, the Court may set a CMC and provide notice of the CMC to the requesting party. Requesting party must serve the notice of the CMC on all parties within one (1) business day of the receipt of the notice of the CMC from the Court.

F. Designated Defense Counsel.

1) **Selection.** When an asbestos complaint is filed, the SAJ will provisionally appoint a Designated Defense Counsel ("DDC") to serve from a year commencing from the date the complaint was filed. Defendant(s), through a noticed motion for the specific case, may seek to replace the provisionally appointed DDC with another DDC each year on the date of the filing of the asbestos complaint. If defendants do not move for a different DDC on the anniversary date of the previous designation, then the previously appointed DDC will remain in place for another year. Until a further Order is issued by the Court, said DDC must coordinate the procurement and scheduling of certain pretrial discovery activities described herein and, if requested by the Court, must report progress of the coordinated discovery to the Court. The DDC is not deemed an attorney for any defendant solely as a result of said activities. The participating defendants do not waive the attorney-client privilege and/or disclosure of confidential attorney work product by DDC's performance of said activities.
2) **Scope.** Nothing herein precludes the DDC from providing or contracting with any defendant for services beyond those authorized by the SAJ's Order, such services include but are not limited to jointly retaining experts on behalf of defendants, noticing, taking and/or defending medical expert witnesses at deposition, or acting as medical trial counsel provided that an association of attorneys has been filed. Any such additional services must be charged only to defendants requesting or contracting with the DDC for said additional services. However, by appearing at a deposition of a joint defense medical expert, or by requesting the work product from the expert's examination or review, that defendant will be billed and obligated to pay for its per capita share of the costs and fees associated with that expert examination or review, plus the costs and fees associated with acquisition of the materials upon which the expert relies. The

amounts billed to such a defendant must be credited per capita to each defendant which had previously paid or been billed for such services. To the extent any defendant requests an Independent Medical Examination ("IME") of plaintiff, the DDC must schedule and coordinate the IME which may, at defendants' option, include: physical examination, chest radiographs/CT scans, pulmonary function test and an oral history. The DDC must comply with the standards set forth in *Asbestos Claims Facility v. Berry & Berry*, 219 Cal. App. 3d 9, 267 Cal. Rptr. 896 (1990) in executing its duties.

The DDC will have electronic access to **(**1) "In Re: Complex Asbestos Litigation" caption, case number CGC-84-828684, and (2) all asbestos cases in which the DDC has been appointed as the Designated Defense Counsel by the defendants through the E-service vendor.

No activity performed by the DDC in this section constitutes a general appearance by or on behalf of any defendant.

Nothing in this Rule precludes a defendant from filing a motion to compel or other motion seeking relief and any such motion may be filed by the DDC, at the request of a contracting defendant(s).

3) **DDC Compensation.** The DDC's costs and reasonable fees must be shared equally among all defendants appearing in the action and allocated on a per capita basis for the following functions provided by the DDC to all defendants:
    a. As requested by the Court, provide reports or updates, or respond to Court inquiries, and/or attend Case Management Conferences, Trial Setting Conferences and Motions for Trial Preference;
    b. Obtain authorizations and stipulations for the release of medical (including pathology and radiology), employment, union and military records;
    c. Notice, schedule and coordinate plaintiff's deposition with request for production of documents, including cost of the court reporter, original transcript, videotaping, videoconferencing and may include plaintiff's reasonable travel expenses if taken at a more distant location as provided in **CCP** § 2025.250; and
    d. For service of the plaintiff's Preliminary Fact Sheet (herein set forth below in Section 6(A)) and standard interrogatories served upon plaintiff.

A defendant who is no longer an active party to a case must provide written notice to DDC, and within one (1) business day of receipt of same, DDC must cease billing that defendant for any function pursuant to this Rule.

20.1 Discovery in Asbestos Cases

A. Disclosure of Information.

The discovery forms identified in the following sections are provided on the Court's website: http://www.sfsuperiorcourt.org/forms-filing/forms.

1) **Preliminary Fact Sheet.** Contemporaneous with the filing of a complaint for alleged bodily injury due to asbestos exposure, Plaintiff's counsel must file a Preliminary Fact Sheet ("PFS") prepared and signed by plaintiff's counsel. The PFS must exactly comply with the form provided by the Court as "Plaintiff's Preliminary Fact Sheet/New Filing/Asbestos Litigation". The PFS**,** with required exhibits**,** must accompany any service of summons and complaint thereafter made. The PFS is provided to defendants solely for informational and administrative purposes and must not be used by any party as evidence or for impeachment purposes. Plaintiffs must serve DDC**,** in those cases in which they serve as Designated Defense Counsel, with a copy of the complaint, the PFS and exhibits contemporaneously with service on the first defendant.
2) **Defendant's Standard Discovery to Plaintiff.** Within twenty-one (21) days after service of the complaint, plaintiff must serve on all defendants responses to Standard Asbestos Case Interrogatories, Set 1. Responses to Standard Loss of Consortium Interrogatories, Wrongful Death Interrogatories or Standard Friction Interrogatories, when appropriate, must be served within thirty (30) days after service of the complaint. Plaintiff must respond to the Standard Request for Production of Documents and Things and serve said responses on all defendants within thirty 30) days after service of the complaint or ten (10) days prior to the date initially noticed for plaintiff's deposition, whichever is earlier. If any defendant is subsequently served with the summons and complaint, plaintiff must serve responses to the applicable Standard Interrogatories if said responses were previously served, otherwise within twenty-one (21) days of the initial service of the summons and complaint on any party.
3) **Discovery on DDC or Defendants.** The original responses to Standard Interrogatories are to be served on the DDC in those cases in which a Designated Defense Counsel has been appointed. If there is no Designated Defense Counsel, then plaintiff must serve each defendant with the responses in compliance with the CCP. Any requests for extension of time for plaintiff to respond to Standard

Interrogatories must be directed to the DDC in those cases in which a Designated Defense Counsel has been appointed. If there is no DDC appointed, then plaintiff must request extension to all of the served defendants in compliance with the CCP.

4) **Plaintiff's Standard Discovery to Defendants.** The Court will allow plaintiff to propound Plaintiff's Case-Specific Standard Interrogatories to Defendants. Plaintiff may propound these interrogatories ten (10) days after the service of the summons and complaint on, or appearance by, the defendant on whom they are served, whichever comes first.
5) **Plaintiff's Case-Specific Standard Interrogatories.** Such interrogatories must be captioned and served in an individual case and must neither be captioned nor served in In Re: Complex Asbestos Litigation, case number CGC-84-828684.
6) **Authorizations.**
    a. Within ten (10) days after receipt of the standard discovery responses, DDC must forward authorization forms and stipulations (which are available from the Court) necessary for production of records, pathology and radiology to plaintiff and plaintiff must provide fully executed authorizations to DDC within thirty (30) days of the receipt of the forms and stipulations. Duration of the executed authorizations must be for one (1) year. DDC may submit to plaintiff updated authorizations and/or any additional forms required by a particular facility where plaintiff/decedent received treatment. Plaintiff must sign and return any such authorizations or forms within ten (10) days of receipt.
    b. Upon receipt of records obtained by stipulation or authorization, the document reproduction service must forward these records to plaintiff's counsel and no sooner than twenty-one (21) days later, the document reproduction service must provide copies to DDC, unless notified in writing of an objection. Any party may either make or oppose a motion to compel and/or a motion for protective order or without waiving the objection, make a motion in limine for disclosure of records at trial. In cases where the PFS indicates an intent to file a Motion for Preference pursuant to CCP § 36 or in cases where said motion has been filed, the document reproduction service will immediately electronically scan and send (or hand deliver) copies of said records to plaintiff's counsel. The records will be provided to DDC no sooner than seven (7) days after delivery of the records to plaintiff's counsel unless DDC and the document reproduction service are advised in writing of an objection to

said production. There must be no "first look" as to plaintiff's Social Security Earnings Records.

c. All records produced pursuant to this Section are presumed to be authenticated and to satisfy the business records exception of the hearsay rule under **CAL. EVID. CODE** §§ 1270 to 1272 unless the party objecting to the admission establishes the contrary by a preponderance of the evidence.

7) **Record Procurement.**

a. The DDC must initiate the procedures necessary to obtain plaintiff's medical and employment records and related medical evidence (radiographs, x-rays, photographs, pathology specimens, etc.), including issuance of subpoenas.

b. In those cases where a DDC is appointed, absent Court order, no other defendant may initiate procedures to obtain from the plaintiff his/her medical and employment records or medical evidence. A defendant, however, may seek said records as part of a deposition subpoena or notice of depositions of plaintiff's employers or treating doctors.

c. The DDC is appointed as primary custodian of pathology specimens and chest radiographs/CT scans which the DDC obtains via subpoena or plaintiff's authorization/stipulation until the date of trial, at which time the DDC must deliver all pathology materials, films and CT scans to plaintiff. Upon written request DDC must notify plaintiff of any pathology specimens and chest radiographs/CT scans obtained by the DDC and cooperate with plaintiff's review of same. The DDC must permit Plaintiff and those defendants participating in this function to have reasonable and timely access to said materials.

B. Depositions.

1) **Plaintiff's Deposition.** The plaintiff's deposition must be noticed by the DDC or by counsel for plaintiff pursuant to **CCP** § 2025.210. Prior to noticing plaintiff's deposition, the DDC and plaintiff's counsel must meet and confer regarding deposition dates and location. The party that notices the deposition may proceed first.

a. Duration of Deposition

1. **Non-Preference Cases.** Absent agreement of the parties or Court order, there is no presumptive time limit for the defense's examination of plaintiff. The Court may extend or shorten the length of the deposition upon a showing of good cause. The

parties may, at any time, agree among themselves to extend or shorten the length of any deposition.

2. **Preference Cases.** In any case in which plaintiff has notified defendants that preference under **CCP** § 36 will be or has been sought there is a presumptive twenty (20) hours for the defense's examination of plaintiff subject to adjustment by the Court for the number of active named defendants, number of alleged exposures, and number of job sites identified. The Court may extend or shorten the length of the deposition upon a showing of good cause. The parties may, at any time, agree among themselves to extend or shorten the length of any deposition.

2) **Videotaping of Deposition.** If any portion of the trial preservation testimony is videotaped then the entirety of the plaintiff's testimony must be videotaped. The costs of the videotaping of the plaintiff's testimony are the responsibility of the party noticing the videotaped testimony.

3) **Noticing Plaintiff's Deposition.**
   a) In any case in which the DDC has been appointed, the deposition of any plaintiff may be noticed only by plaintiff's counsel or the DDC, and may not be separately noticed by an individual defendant.
   b) In any case in which the Court has declined to appoint a DDC, or in which the Court has sustained a party's objection to the appointment of a DDC, either plaintiff's counsel or defense' counsel may notice the deposition of any plaintiff according to the CCP.

4) **Discovery Cut-Off.**
   a. In non-preference cases, all non-expert witness discovery must be completed no later than thirty (30) days prior to the initial trial date. Expert witness discovery must be completed no later than by 5:00 p.m. (P.S.T.) on the Friday prior to the case's initial trial date. If the Court is closed on the Friday prior to the initial trial date, the cutoff is extended to the next day on which the Court is open.
   b. In cases where the Court has granted preference under **CCP** § 36, all discovery must be completed prior to the assignment of the case out to trial, unless there has been a stipulation by the parties or an order by the Court.

5) **Expert Witnesses.** Expert witness disclosure and designation must comply with the CCP absent stipulation by the parties or an order by the Court granted at the TSC or at a motion hearing.

a. **Demands and Designations.** Demands for exchange of expert information are deemed served 70 days before the initial trial date. Any expert designations must be served in compliance with CCP § 2034.260, et seq.

b. **Depositions.** Any request for the deposition of another party's expert must be made in writing and served on all parties. Parties must provide dates and times for an expert's deposition within five (5) court days of receipt of a request for said expert's deposition. The offering party must make a good faith effort to provide notice of any expert deposition a minimum of six (6) court days prior to the date of the expert deposition. In no event may experts be produced for deposition on less than four (4) court days notice. The parties must have no less than two (2) court days to accept or decline any offered expert's deposition. The parties must meet and confer in good faith to resolve any conflicts in the times of depositions in the same case

A party offering the expert for deposition before any request is made must provide notice a minimum of ten (10) calendar days prior to the date on which the expert is produced for deposition. Any responding party must have no less than four (4) court days to accept the deposition. Depositions of experts must not occur more than 40 calendar days before trial, except for good cause.

Before the case is assigned to a trial department, the parties must advise the SAJ of any issues regarding the completion of expert depositions that impact the orderly progress of trial. No later than 48 hours prior to the expert's scheduled deposition, the party retaining the expert is required to produce the expert's file(s), note(s) and report(s) for the specific case. However, this does not preclude a request for additional materials.

6) **Telephonic Depositions of Expert Witnesses.**

a. Upon proper demand by a party (the deposing party) to depose a retained expert witness designated by another party (the defending party), the defending party may make the expert witness available for deposition by telephone upon the following conditions:

b. Telephonic Depositions of Expert Witnesses Procedures:

1. Counsel for the defending party must notify all counsel at the time of disclosure that the expert witness will be offered for deposition by telephone. Any party objecting to the taking of the

deposition by telephone must advise all counsel in writing by facsimile, E-service or hand delivery of the basis of their objection no later than five (5) court days after the date of disclosure or three (3) court days in cases where preference under CCP § 36 has been granted. The parties are encouraged to give telephonic notice of their objection to the defending party. The defending party must meet and confer in good faith with the opposing party to resolve any and all issues pertaining to the offered telephone deposition. If after meeting and conferring, an objection to the telephonic deposition persists, the offering/defending party seeking the telephonic deposition may make a motion to permit proceeding with a telephonic deposition. Said motion may be made upon one (1) court day notice and must be heard by the SAJ or other judge designated by the SAJ.

2. At least two (2) court days in advance of the deposition, the defending party must also provide a full and complete copy of the expert's file (including but not limited to deposition(s) or medical records reviewed by the expert in preparation for his or her testimony which the expert has highlighted, tabbed or otherwise altered) and Curriculum Vitae to any party who so requests it.
3. If there are additions to the expert's file within two (2) court days prior to the deposition, the defending party will provide all additional materials to any party who previously requested materials as soon as practicable, but at least one (1) hour prior to the scheduled deposition. The defending party will notify the deposing party in writing two (2) court days in advance of the deposition in the event the expert to be deposed does not have a file and/or Curriculum Vitae.
4. Counsel for the defending party must have a facsimile machine readily available or electronic mail access for use by the expert witness during the course of the deposition, and counsel for the deposing party must have a facsimile machine readily available or email access capable of transmitting attachments for use during the course of the deposition.
5. The attorney for any party may elect to be personally present with the deponent during the deposition, but in such case the deposition must be taken, at the option of the expert witness, at the office of the expert witness or at such location as counsel for

the electing party may designate within thirty-five (35) miles of the office of the expert witness. Any attorney so electing must give notice of such election to the defending party by facsimile, E-service or hand delivery within five (5) days, or three (3) days in cases in which preference has been granted, after notice has been provided of the date, time and place at which the expert is being offered by the defending party. Any party may attend by telephone from any other location. If counsel for the defending party elects to be personally present, notice must be provided to all parties at the time the expert is offered for deposition. The defending party must make arrangements to allow attorneys for any other party to attend the deposition by telephone.

6. The cost of the telephone connection must be paid by the defending party and may be a recoverable cost of suit. The deposing party must tender the expert's fee to the expert witness and/or counsel for the defending party no later than the scheduled time for the commencement of the deposition if the deposing party is present with the expert. If the deposing party is not present with the expert, the deposing party must tender the expert's fee to the defending party no later than the scheduled time for the commencement of the deposition.
7. Nothing herein precludes the parties from reaching different or additional agreements concerning retained expert witness depositions. This Rule does not apply to non-retained expert witness or percipient witness depositions. Nothing in this Rule limits a party's right to seek a protective order or other relief including a motion to exclude expert testimony and/or to compel the personal appearance of an expert for deposition and/or for sanctions.
8. Plaintiff and defendants must cooperate in good faith to minimize late or untimely cancellations of expert witness depositions. Except as otherwise agreed, the parties must provide a minimum of two (2) court days notification in the event of cancellation or change to a scheduled expert witness deposition. When a cancellation is not timely made, the canceling party must pay the expert witness his/ her fee for one-half hour of deposition time at the expert witness' standard deposition rate.

C. Informal Discovery Conferences.

All parties must participate in the Court's Informal Discovery Conference ("IDC") as set forth below. The IDC does not limit or expand the rights of any party as set forth in CCP, CRC and LRSF. Specifically, participation in the IDC does not negate the requirements of CCP § 2016.040 which requires parties to meet and confer before filing a Discovery Motion. The IDC must apply to all discovery disputes whether or not a discovery motion has been filed with the Court.

No Discovery Motion will be heard until the parties have participated in an IDC with the SAJ or a Court designee. The parties must make good-faith efforts to meet and confer in person or by telephone prior to the IDC.

The party intending to bring a discovery motion must confer with the opposing party regarding scheduling of the IDC and must provide mutually agreeable dates to the SAJ's clerk. After the Court sets the date for the IDC, the potential moving party must provide notice of the date of the IDC to any parties who are involved in the discovery dispute by electronic mail no less than two (2) court days before the IDC. Counsel with full authority to resolve the discovery dispute on behalf of the moving and opposing parties, including any parties who have either joined or opposed the motion, must appear and participate in good faith at the IDC. No court reporting is permitted at the IDC. If the discovery dispute cannot be resolved at the IDC, then counsel for the parties who have participated at the IDC must attend the Discovery Motion hearing on those issues, if any, unless excused by the Court.

Prior to the IDC, the potential moving party must lodge a letter with the SAJ identifying the discovery at issue and the dispute between the parties. This letter, which must not be longer than one-and-one-half pages and must not include exhibits or attachments, will be delivered to the SAJ by 2:00 p.m. (P.S.T.) no later than two (2) court days before the IDC. The potential moving party must also send the letter by electronic mail or E-service to all other parties involved in the discovery dispute no less than two (2) court days before the IDC. Only those parties actually involved in the specific discovery dispute may participate at the IDC. Parties actually involved in the discovery dispute are the following: the moving party(ies), joining party(ies) and opposing party(ies). The Court may limit the attendees to the IDC. The DDC must be advised prior to the IDC if prior Court order or the LRSF require the action of the DDC on any issue in dispute.

If the IDC becomes unnecessary after the Court schedules it because the issues have been resolved, the potential moving party must immediately advise the Court. If a discovery motion was filed, and it is no longer needed, the moving party must promptly take the motion off calendar.

If the parties reach a Stipulation concerning the subject discovery dispute at the IDC and before the Discovery Motion hearing, the parties are to memorialize the terms of the agreement and provide the same to the Court. Parties may set an additional IDC if assistance is requested regarding any discovery Stipulation.

The IDC does not bind the parties or the Judge, unless there is a stipulation or agreement by the parties resolving the discovery dispute at issue. Further, the parties cannot quote any statements made in the IDC in any subsequent formal Discovery Motion. The IDC is intended to resolve discovery disputes before a hearing or before a motion is filed, but the parties always have the right to a formal Discovery Motion hearing before the Court. This Rule applies to all discovery disputes whether or not a Discovery Motion has been filed with the Court.

20.2 Mandatory Settlement Conferences in Asbestos Cases.

When the Court sets a Mandatory Settlement Conference ("MSC") with the SAJ, Asbestos Settlement Officer ("ASO"), or any other Judge assigned by the SAJ, all Parties must submit a settlement conference statement ("Settlement Statement"), as required below, in compliance with CRC, Rule 3.1380 and LRSF 5.0, unless otherwise excused by the Court for good cause shown. MSC and all Settlement Statements are confidential pursuant to Cal. Evid. Code § 1119.

A. MSC with the Supervising Asbestos Judge.

1) No later than ten (10) days prior to the date set for the MSC, or as otherwise ordered by the SAJ, Plaintiff's counsel must provide to each remaining defendant a demand and identify all previously undisclosed, remaining defendants.
2) Within five (5) days prior to the date set for the MSC, or as otherwise ordered by the SAJ, each party must lodge with the SAJ a Settlement Statement that discloses the essential facts supporting claimed liability and defenses thereto. Each plaintiff's Settlement Statement must also state the following: the total amounts of settlements obtained or negotiated in the case, including bankruptcy trust payments; and all factors that bear upon plaintiff's likelihood to settle (excluding trial related factors, e.g., judge assignment, type of jury, etc.). Each defendant's Settlement Statement must also state the following: the name, position/title, phone number(s) and email address of each person who must approve an offer and has final settlement authority; and all factors that bear upon defendant's likelihood to settle (excluding trial related factors, e.g., judge assignment, type of jury, etc.).
3) Plaintiff must attend in person or, after the Court grants permission for good cause shown, be available by phone.

4) Each defendant's principal, possessing final decision-making authority must attend in person or, after the Court grants permission for good cause shown, be available by phone.
5) Request for relief from attendance at the Settlement Conference must be made through the Asbestos Settlement Officer or the SAJ's designee who must notify the requesting party no later than two (2) court days before the settlement conference whether the request has been granted by the Asbestos Judge.

B. MSC with the Asbestos Settlement Officer or the Asbestos Judge's Designee.

1) Unless requested by the ASO or the SAJ's Designee, a Settlement Statement is *not* required prior to the scheduled MSC.
2) Parties participating in the MSC must have full and final settlement authority, a thorough understanding of the factual and legal basis of the cases, and knowledge of all factors that bear on the parties' likelihood to settle.
3) Unless excused by the SAJ, two (2) court days prior to the MSC, parties must provide the ASO or the SAJ's Designee the name, position/title, phone number and electronic mail address of each person who is required to approve an offer/demand and who has final settlement authority.
4) Plaintiff must attend in person or, after the Court grants permission for good cause shown, be available by phone.
5) Each defendant's principal, possessing final decision-making authority must attend in person or, after the Court grants permission for good cause shown, be available by phone.
6) Request for relief from attendance at the Settlement Conference must be made through the Asbestos Settlement Officer or the SAJ's designee who must notify the requesting party no later than two (2) court days before the settlement conference whether the request has been granted by the SAJ.

C. MSC for Non-Preference Cases.

MSC is set no later than two (2) weeks prior to said case's trial date. Parties may request setting the MSC in advance of said time frame. For cases where preference is granted under CCP § 36, the MSC may be either set at the time of granting preference or at least one week prior to the trial date. If the parties agree that the date for a scheduled MSC is occurring before the case is ready for settlement, the parties must notify the ASO or the SAJ's Designee by electronic mail. The Court will then notify the parties of a new MSC date.

D. Confidential disclosures to Court prior to MSC.

1) No later than two (2) weeks prior to the trial date, plaintiff's counsel must provide a list of remaining defendants and the current demands and/or settlement status to the ASO or the SAJ's Designee.
2) Plaintiff's counsel will also confidentially provide current total amounts of settlements obtained or negotiated in the case, including bankruptcy trust payments. If requested by the ASO or the SAJ's Designee, plaintiff's counsel must specify the total amounts of settlements obtained for each of the following categories: personal injury, action, the loss of consortium action, and the prospective wrongful death claims.

20.3 Trial Management.

A. Motions in Limine.

Before any motions in limine (MIL) are filed with the Court, the parties must meet and confer on each MIL. Each side is initially limited to five (5) joint MILs not to exceed five (5) pages per motion. Each joint MIL must be restricted to one issue and may not have subparts addressing additional issues. Parties opposing the initial MIL are limited in submitting five (5) oppositions which cannot exceed five (5) pages per motion. Only one declaration is permitted per MIL absent leave of Court. Declarations may not exceed three (3) pages in length absent leave of Court. These limitations do not apply to motions under CAL. EVID. CODE. §§ 402 and 403. However, if more than one defendant seeks to address the same expert, the request must be submitted as a joint motion supported by no more than one declaration which must not exceed three (3) pages, absent leave of Court.

All joint defense MILs are deemed joined by all defendants unless a defendant specifically indicates otherwise.

All initial joint defense MILs and plaintiff's MILs must be served on all parties no later than two (2) court days after assignment of the case to a trial judge, or within two (2) court days of receiving notice from the SAJ of an impending trial assignment, whichever is earlier.

Defendants must provide the trial department with courtesy copies of the initial joint defense MILs in a single submission containing all of the initial joint defense MILs accompanied by the respective Oppositions in an indexed, tabbed binder.

Plaintiffs must provide the trial department with courtesy copies of plaintiffs' MILs in a single submission containing all of the plaintiffs' MILs accompanied by the respective Oppositions in an indexed, tabbed binder.

Before additional MILs are filed, a party must request leave to file additional MILs by submitting to the to the trial judge or the SAJ a declaration, which does not exceed three (3) pages demonstrating good cause and a brief description of the evidence sought to be addressed and an explanation as to why the additional MIL is required.

Any party whose request for additional MILs has been granted must provide the trial department with courtesy copies of the additional MILs in a single submission containing all of the additional MILs accompanied by the respective Oppositions in an indexed, tabbed binder. If the right to bring additional MILs is denied, any party may still make a trial objection in the trial.

B. Witness and Exhibit Lists.

No later than two (2) court days after the date on which the case was assigned to a trial department, all parties must submit witness lists and exhibit lists to the trial department.

C. Jury Instructions.

No later than two (2) court days after the date on which the case was assigned to a trial department, the parties must submit joint standard jury instructions (without prejudice to submitting further instructions at a later date) to the trial department.

D. Designation of Former Testimony.

No later than seven (7) calendar days before the actual trial date, the parties must serve on all parties a list of all former testimony that will be used at trial, except transcripts to be used for cross-examination. The list must include the name of the witness (first and last name), the caption of the case in which the testimony was taken, the date(s) of the deposition or trial testimony, and the court reporter's contact information, if known. If a party in good faith does not possess the transcript, the party may request the transcript from the designating party who must provide it within two (2) calendar days of the request.

No later than two (2) court days after the date of the assignment of a case to a trial judge, page: line designations of the former testimony must be served on all parties. Absent leave of court for good cause shown, designations for any witness must not be made from more than five (5) former cases.

Within three (3) court days of the receipt of said page: line designations, any counter designations or objections must be served on all parties. Within one (1) court day of the receipt of any counter designations or objections, counsel with full authority for each party must meet and confer in good faith to resolve any disputes regarding the page: line designations of the testimony. The parties must then promptly provide to the Court

in a single submission a marked transcript containing those portions of testimony that remain in dispute. The testimony will be marked in contrasting colors, with designated testimony in one color, counters in another color, and objections in the margin, identifying the party asserting them. No party may use former testimony at trial without a minimum of 48 hours advance notice to all parties.

If the proposed page: line designations are especially voluminous, the responding party may request relief from these deadlines upon a good cause showing to the trial judge.

E. Trial Briefs.

On the day of trial assignment or by the first trial appearance, which ever date is earlier, parties must submit a trial brief. The trial brief must include a succinct summary of the facts of case, Plaintiff(s)' claim(s) against the defendant, and Defendant(s) asserted defenses. Plaintiff's trial brief may not exceed ten (10) pages and no exhibits are permitted. Defendant's trial brief may not exceed five (5) pages, and no exhibits are permitted. The trial brief may not be another form of a MIL.

If a party has good cause to exceed the page limit, that party may request said leave by submitting a declaration to the trial judge or the SAJ with a brief description as to the good cause basis for relief.

The SAJ has discretion to revise any deadlines set forth above in cases in which expedited trial dates have been ordered pursuant to CCP § 36, or as required to expedite the trial.

F. Jury Questionnaires.

See the Court's website for a template for a jury trial questionnaire in an asbestos trial. Each trial judge has the discretion whether or not to allow a jury questionnaire in an asbestos trial. The trial judge also has discretion to modify said template for the specific case in trial as deemed appropriate.

20.4 Tentative Rulings.

The Asbestos Department adopts CRC 3.1308 as the tentative ruling procedure in law and motion and discovery matters.

A. Parties may obtain a tentative ruling issued by the Asbestos Department by telephoning (415) 551-4000 or visiting the Court's website at www.sfsuperiorcourt.org and clicking on the online services link. Changes in telephone numbers will appear in the official papers.

B. 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.

C. Parties who intend to appear at the hearing must give notice to opposing parties and the court promptly, but no later than 4:00 p.m. the court day before the hearing, unless the tentative ruling has specified that a hearing is required. Notice of contesting a tentative ruling must be provided by sending an email to the court to contestasbestostr@sftc.org stating, without argument, the intention to contest. A party may not argue at the hearing if the court is not so notified and/or if the opposing party is not so notified and the opposing party does not appear. If no party appears, if a party does not appear because the contesting party failed to give sufficient notice of intent to argue, or if the court is not timely notified, then the tentative ruling may be adopted.

D. Tentative Rulings are generally available by 3:00 p.m. the court 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.

E. If a tentative ruling is contested, the prevailing party is required to prepare a proposed order repeating verbatim the substantive portion of the tentative ruling and must bring the proposed order to the hearing. If the prevailing party is appearing at the hearing by telephone, the proposed order may be sent to the court by an email to contestasbestostr@sftc.org. If a tentative ruling is not contested, the prevailing party is required to prepare a proposed order repeating verbatim the substantive portion of the tentative ruling and must either bring the proposed order to the hearing or submit it after the hearing in compliance with CRC 3.1312. If a tentative ruling specifies that a hearing is required, both sides must bring proposed orders to the hearing.

Adopted: January 1, 2016
Last Revised: July 1, 2018

21 Appellate Division

21.1 Application of Rule.

The rules in this division apply to: (1) Appeals in the Appellate Division of the Superior Court; and (2) Writ proceedings, motions, applications, and petitions in the Appellate Division of the Superior Court.

These rules are intended to supplement the relevant statutes and California Rules of Court, including but not limited to Rules 8.880-8.936. All counsel and unrepresented parties must comply with these rules.

21.2 Forms and Courtesy Copies.

The Appellate Division strongly prefers filings which substantially comply with associated Judicial Council forms. Parties are not required to submit courtesy copies of filings.

21.3 Appointments of Counsel.

The Appellate Division shall appoint counsel to any defendant appealing a misdemeanor conviction who meets the applicable standards for appointment. (CRC 8.851.) Applications for appointment shall be made on Judicial Council Form CR-133. The Appellate Division, in its discretion, may appoint counsel to any misdemeanor defendant to respond to the People's appeal of a decision made in that defendant's criminal case.

Upon receipt of application for appointment of counsel, the Appellate Division shall submit the relevant materials to the Bar Association of San Francisco's Lawyer's Referral Service. The Lawyer's Referral Service shall recommend appellate counsel for appointment. Upon receipt of recommendation, the presiding judge of the Appellate Division may decide the request without a hearing, or may schedule a hearing before the panel at his or her discretion.

21.4 Applications and Motions.

The presiding judge may rule on applications or may schedule the matter for hearing before the panel at his or her discretion. (CRC 8.806.) All applications must: (1) state facts showing good cause to grant the application; and (2) identify any previous applications relating to the same subject filed by any party in the same appeal or writ proceeding.

Applications for extension of time to file records, briefs, or other documents must also provide: (1) the due date of the document to be filed; (2) the length of the extension requested; and (3) whether any earlier extensions have been granted and, if so, how long the extensions were. Applications to extend time must include a proposed order.

The court may rule on a motion at any time after an opposition or other response is filed or the time to oppose has expired. (CRC 8.808(b).) On a party's request or its own motion, the Appellate Division may place a motion on calendar for a hearing.

21.5 Relief from Default.

For good cause, the presiding judge of the Appellate Division, or his or her designee, may relieve a party from a default for any failure to comply with these rules.

21.6 Record on Appeal – Civil Cases.

The Appellate Division permits electronic recordings of the trial court proceedings to be the record of oral proceedings in civil appeals. (CRC 8.835; 8.830(a)(2)(B).)

21.7 Record on Appeal – Traffic and Infraction Cases.

The Appellate Division permits official electronic recordings of the trial court proceedings to be the record of the oral proceedings in traffic and infraction appeals. (CRC 8.910(a)(2)(C); 8.917(c).)

21.8 Failure to File Appellate Brief.

A. An appellant's failure to timely file an opening brief in a civil, traffic, or infraction case shall constitute grounds for the dismissal of the appeal. Appellate counsel's failure to timely file an opening brief in a criminal case shall constitute grounds for appointment of new counsel.

B. If the appellant fails to timely file an opening brief, the Appellate Division shall file and send a notice of failure to file an opening brief. If the appellant fails to file the opening brief within the additional time prescribed, the Appellate Division may dismiss the appeal without a hearing, or may issue an order to show cause why the appeal should not be dismissed.

C. If a respondent fails to timely file a respondent's brief, the Appellate Division will decide the appeal on the record from the trial court, the appellant's opening brief, and any oral argument.

21.9 Oral Argument.

A. Oral Argument.

Time for oral argument shall be set by the presiding judge, but is generally:

1) Substantive Civil and Criminal Matters – 10 minutes per side. Appellant may reserve time for rebuttal prior to argument.
2) Traffic, Infraction, and Other Matters – 5 minutes, unless otherwise noted.

B. Conduct of Oral Argument and Waiver.

Oral argument will be held on the date and time set out in the calendar notice. The Appellate Division will hear from the parties consistent with CRC 8.885(e). A party who fails to appear at oral argument as scheduled is deemed to have waived oral argument. (See CRC 8.885(d).) If less than all parties to the appeal waive argument, the Appellate Division may hear argument from any non-waiving party.

Adopted: January 1, 2020

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

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO

UNIFORM LOCAL RULES OF COURT

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