

INVITATION TO COMMENT

The Superior Court of California, County of Solano, invites comments on proposed revisions to the court's local rules **effective July 1, 2018**.

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- Proposed Changes to Local Rules:
 - Rules 3.13 and 3.14 (Civil)
 - Rules 5.5, 5.7, and 5.8 (Family Law)
 - Rules 7.11 through 7.102 (Probate)
 - Rule 11.1 (Jury Management)
 - Rule 15.101 (Guardianships and Conservatorships)
 - Rule 18 (Electronic Filing, Service, And Records—RESERVED)
- Proposed Changes to Local Forms:
 - 5113-FL (Family Law)
- Response Form to Proposed Revisions

ALL COMMENTS MUST BE RECEIVED BY

5:00 p.m. on Friday, May 11, 2018

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Rule 3 – Civil Cases

3.12 OFF CALENDAR

A law and motion matter that has gone off calendar may be restored thereto only upon notice, excepting in an extraordinary situation, to be determined by the court in its discretion.

(Rule 3.12 renumbered effective January 1, 2010; adopted as Rule 3.20 effective January 1, 1998; former Rule 3.12, which concerned the California Rules of Court, repealed effective January 1, 2010.)

3.13 EX PARTE MATTERS

Ex parte matters will be heard ~~daily only~~ upon appointment scheduled directly with the designated department. The date and time of the ex parte hearing must be confirmed with the designated department prior to the moving party giving notice of the hearing. For purposes of this rule, the designated department is the department already assigned to the case, or, if the case has not yet been assigned to a department or judicial officer, the designated department is the department assigned by the Supervising Judge.

Unless otherwise expressly authorized by law, a party requesting ex parte relief related to law and motion matters shall file the underlying motion prior to or contemporaneously with filing of the ex parte application. The ex parte application shall comply with California Rules of Court 3.1200-3.1207. ~~and shall be heard only upon presentation of a receipt demonstrating payment of the requisite filing fees.~~

A request to schedule an ex parte hearing may be summarily denied without hearing when the request fails to meet the criteria set forth in California Rules of Court, rules 3.1200-3.1207. Ex parte applications submitted to seek scheduling relief from court setting guides or caps, but which do not otherwise seek relief from the Code of Civil Procedure or California Rules of Court, may be summarily granted without a hearing.

An ex parte hearing shall be conducted only following the filing of the ex parte application and supporting paperwork, any underlying related motion, and proof of satisfaction of any filing fees. Prior to the commencement of the hearing, the moving party shall file a declaration under penalty of perjury confirming that notice was provided to the opposing side, including the date, time, manner and name of any party so informed and proof of service of any applicable papers. On the day of the ex parte appearance, the moving party shall file the original motion with the clerk and pay the applicable filing fees. The party shall provide the judicial officer with a copy of the receipt showing the payment of fees to the court at the time of the ex parte appearance; otherwise, the hearing shall not take place.

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(Rule 3.13 amended effective July 1, ~~2018~~2013; adopted as Rule 3.21 effective January 1, 1998; previously amended effective July 1, 2005; previously amended effective July 1, 2009; renumbered as Rule 3.13 effective January 1, 2010; amended effective July 1, 2010; amended effective July 1, 2011; amended effective July 1, 2013.)

3.14 ~~ORDERS REGARDING ORDERS TO SHOW CAUSE, TEMPORARY RESTRAINING ORDERS, AND INJUNCTIONS [Repealed]~~ INFORMAL DISCOVERY CONFERENCES (CCP § 2016.080)

Requests for informal discovery conferences made per Code of Civil Procedure section 2016.080 shall be filed with the clerk's office.

A request for an informal discovery conference shall include a declaration with facts showing the requesting party made a reasonable and good faith attempt at an informal resolution of each issue presented. A request for an informal discovery conference shall also include a statement enumerating the specific discovery requests at issue, identified by type, set, and number (e.g. Plaintiff's Special Interrogatories, Set Two, Numbers 7, 9, 13 and 14); a copy of the discovery propounded that is at issue (e.g. a copy of Plaintiff's Special Interrogatories, Set Two); a copy of any response received to the discovery at issue (e.g. a copy of Defendant's Response to Plaintiff's Special Interrogatories, Set Two); and a brief explanation as to the nature of the dispute for each discovery request at issue.

Each attorney appearing at the informal discovery conference shall have authority to enter into binding agreements concerning discovery on behalf of their client.

(Rule 3.14 adopted effective July 1, 2018; former Rule 3.14 repealed effective July 1, 2011.); adopted as Rule 3.25 effective January 1, 1998; renumbered effective January 1, 2010.)

3.15 MOTIONS TO CONSOLIDATE

Motions to consolidate cases shall be heard in the department to which the case with the lowest file number is assigned.

In the event that cases are consolidated and unless otherwise ordered by the judicial officer hearing the consolidation motion, the pleadings filed thereafter shall be filed in the case file with the lowest file number and the consolidated case shall be assigned for all purposes to the judge to which the case with the lowest file number is assigned.

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5.5 LAW AND MOTION HEARINGS (HEARINGS OTHER THAN CASE MANAGEMENT CONFERENCES, STATUS CONFERENCES, SETTLEMENT CONFERENCES, AND TRIALS)

a. SETTING AN INITIAL HEARING

When an initial hearing is set pursuant to a *Request for Order* or other paper seeking relief, the matter shall be set on the assigned judicial officer's law and motion calendar. The clerk shall provide the time and date for all initial hearings. All matters set on an initial hearing calendar are limited to 20 minutes of hearing time. (*Subd (a) adopted effective January 1, 2013.*)

b. VACATING A SCHEDULED HEARING

(1) By the Moving Party

If the moving party's *Request for Order* or other papers seeking relief have not been served on the responding party, the moving party may take the matter off calendar by giving notice to the court, which may be done by telephone to the appropriate department. Notice does not need to be given to the responding party.

If the pleadings have been served on the responding party but no responsive pleadings have been filed, the moving party may take the matter off calendar but must give notice to both the court and the responding party so as to avoid unnecessary review by the court and appearances by the party. Notice to the court may be given by telephone to the appropriate department. (*Subd (1) adopted effective January 1, 2013.*)

(2) By Stipulation

If responsive pleadings have been filed, the moving party may not take the matter off calendar without written stipulation or written or oral confirmation by the responding party. Confirmation may be by telephone to the appropriate department.

If both parties agree no hearing is needed, both parties shall so inform the department to which a matter has been assigned as soon as practicable.

A failure to appear without prior notification to the court may result in the imposition of sanctions against one or both parties and/or attorneys, in the

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court's discretion.
(*Subd (2) adopted effective January 1, 2013.*)

(Subd (b) adopted effective January 1, 2013.)

c. REISSUANCE OF A REQUEST FOR ORDER

If the moving party did not serve the responding party before the date set for the hearing, a new hearing date may be obtained from the calendar clerk and a *Request for Order* may be reissued. The request to reissue the *Request for Order* must be submitted to the court at least two court days before the scheduled hearing date; otherwise, the party must appear at the hearing and request the reissuance in open court.

If a moving party does not obtain a reissuance prior to the hearing and fails to appear at the scheduled hearing to request a reissuance, the court may take the matter off calendar.

If the moving party served the responding party but the service was untimely, the moving party must attend the scheduled hearing. The responding party shall be entitled to a continuance and the court may reissue the *Request for Order*. Any

temporary orders previously made may be extended upon a showing of good cause.
(*Subd (c) adopted effective January 1, 2013.*)

d. DAY OF HEARING PROCEDURES

(1) Duty to Appear and to Advise Court of Settled Issues and Remaining Contested Issues

All parties and their attorneys shall be punctual for all court appearances and shall check in with the courtroom clerk or bailiff upon arrival.

The parties or the attorneys for the parties shall be prepared to advise the court as to what issues have been settled by agreement and what issues remain contested.

(Subd (1) adopted effective January 1, 2013.)

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(2) Failure to Appear by Moving Party

If the moving party or attorney fails to appear when the matter is called, the court may continue or remove the matter from the calendar at its discretion. If the responding party appears, the court may award attorney fees and costs to the appearing party if as a result of the moving party's nonappearance unnecessary fees are incurred.

If the responding party appears and has filed and served a responsive pleading seeking appropriate affirmative relief, the court may continue the matter or rule on the affirmative relief requested, at its discretion.

(Subd (2) adopted effective January 1, 2013.)

(Subd (d) adopted effective January 1, 2013.)

e. TELEPHONIC APPEARANCES

A party, an attorney, or a representative of a local child support agency or government agency who wishes to appear by telephone at a hearing must file a request with the court clerk at least 2 court days prior to the date of the hearing. The request shall be made on a *Request for Telephone Appearance* (Judicial Council form FL-679). The request must be served on all other parties, their attorneys, and the local child support agency through a means calculated to ensure delivery by the close of business on the next court day.

If the court permits the appearance by telephone, and unless the court specifically directs otherwise, counsel or litigants wishing to appear by telephone shall refer to the Court's website at www.solano.courts.ca.gov and follow the procedures as set forth on the website. Counsel or litigants wishing to appear telephonically shall be responsible for all fees and costs charged by the service provider.

Absent prior court order, requests for telephonic appearances in trials, contempt hearings, orders of examination, and any other matters in which the person has been subpoenaed to appear will not be permitted. Rules for ex parte requests and orders shortening time shall apply.

(Subd (e) amended effective July 1, 2017; adopted effective January 1, 2013.)

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f. INFORMAL DISCOVERY CONFERENCES

The procedure set forth in Local Rule 3.14 shall apply to informal discovery conferences brought in proceedings governed by Rule 5.
(Subd (f) adopted effective July 1, 2018.)

(Rule 5.5 amended effective July 1, 2018; Rule 5.5 adopted effective January 1, 2013.)

5.6 PRESENCE OF CHILDREN IN COURTROOM

Unless a child whose custody or visitation is at issue has been given court permission to address the court or testify per Family Code section 3042, that child shall not be present in the assigned courtroom while the matter is being heard, unless the judicial officer has specifically given permission for the child to be present.

In the event a party or minor's counsel wants the child to be present, that party or minor's counsel may disclose to the court that the child is in the courthouse and request that the child be permitted into the courtroom.

(Rule 5.6 adopted effective January 1, 2013.)

5.7 FAMILY CENTERED CASE RESOLUTION PROCESS (CRC 5.83) **[REPEALED]**

~~a. — APPLICABILITY~~

~~The Family Centered Case Resolution process (“the FCCR process”) shall apply to dissolution, legal separation, nullity, and parentage cases filed on or after January 1, 2013. — A judicial officer may, in his or her sole discretion, elect to place an individual case other than a dissolution, legal separation, nullity, or parentage case in the FCCR process.~~

~~*(Subd (a) adopted effective January 1, 2013.)*~~

~~b. — CASE REVIEW CONFERENCES~~

~~At the time a dissolution, nullity, legal separation, or parentage case is filed, the case shall be automatically set for one case review conference to take place approximately six months following the initial petition's filing date.~~

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~~If a *Request for Order* or other application for relief is set for hearing at a point in time close to a scheduled case review conference, the judicial officer may elect to conduct the case review conference concurrently with the hearing on the *Request for Order* or other application.~~

~~Nothing in this rule prohibits a party from requesting a status conference earlier than the case review conference set per this rule, nor does this rule prohibit the setting of status conferences in addition to the case review conference.
(*Subd (b) amended effective January 1, 2018; adopted effective January 1, 2013.*)~~

~~**e. NOTICE OF CASE REVIEW CONFERENCE**~~

~~At the time the petition is filed, the court shall provide the petitioner with a Notice of Case Review Conference. This notice shall give the date, time, and place that each party, or the party's attorney if represented, shall appear for the required case review conference.~~

~~A copy of the Notice of Case Review Conference shall be served on the respondent at the same time as the petition and summons.
(*Subd (c) amended effective January 1, 2018; adopted effective January 1, 2013.*)~~

~~(*Rule 5.7 repealed effective July 1, 2018; amended effective January 1, 2018; adopted effective January 1, 2013; amended effective January 1, 2018.*)~~

5.8 STATUS CONFERENCES AND STATUS CONFERENCE REPORTS

~~**a. APPLICABILITY OF RULE**~~

~~Rule 5.8 applies to status conferences. It does not apply to case review conferences set per Rule 5.7.
(*Subd (a) amended effective January 1, 2018; adopted effective January 1, 2013.*)~~

a.b. PROCEDURE FOR SETTING A STATUS CONFERENCE

Status conferences may be used generally to assess the readiness of a case for meaningful settlement conference and/or trial. No party shall obtain a settlement conference or trial date except by court permission, which may be given at a status conference. Status conferences may be utilized at the court's discretion for any other purpose deemed appropriate, such as for setting trial management

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conferences.

In dissolution of marriage, nullity of marriage, or legal separation matters, a status conference shall not be set at a party's request unless that party has filed his or her *Declaration Regarding Service of Declaration of Disclosure and Income and Expense Declaration* (Judicial Council form FL-141) showing that the moving party has complied with the disclosure requirements set forth in Family Code section 2104. Status conferences may be requested by filing a local form designated for that purpose, obtaining a date from the calendar clerk, and giving notice to the opposing party or counsel. Notice shall be consistent with Code of

Civil Procedure section 1005 and proof of service of such notice shall be filed with the court.

Compliance with disclosure requirements is not required in Uniform Parentage Act cases or in proceedings to establish custody or support pursuant to Family Code section 3120. Thus, in cases brought per the Uniform Parentage Act or per Family Code section 3120, a party may request a status conference by filing a local form designated for that purpose, obtaining a date from the calendar clerk, and giving notice to the opposing party or counsel. Notice shall be consistent with Code of Civil Procedure section 1005 and proof of service of such notice shall be filed with the court.

The court may set a case on the status conference calendar at its discretion. No status conference may be continued or taken off calendar without court permission. *(Subd (a) relettered effective July 1, 2018; previously adopted as subd. (b). ~~adopted~~ effective January 1, 2013; former subd (a) repealed effective July 1, 2018.)*

~~b.e.~~ FILING AND SERVICE OF STATUS CONFERENCE REPORT

At least seven (7) calendar days before the scheduled status conference, each party (or their counsel) shall file with the court and serve on all other parties a completed status conference report on a local form designated for that purpose. The status conference report shall be printed on light blue paper. Proof of service of the status conference report shall be filed with the court at least seven (7) calendar days before the scheduled status conference.

(Subd. (b) relettered effective July 1, 2018; previously adopted as subd. (c) eff. ~~(Subd (c) adopted effective~~ January 1, 2013; former subd. (b) relettered as subd. (a) effective July 1, 2018.)

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~~c.d.~~ **SANCTIONS**

The court may impose sanctions if:

- (1) A status conference report is not timely filed and served;
- (2) A status conference report is not fully completed;
- (3) A party or his or her attorney fails to appear at the status conference. However, an attorney may appear on behalf of a party unless the court has ordered a party to personally appear; or,
- (4) An attorney or a party is not substantially aware of all procedural, factual, and legal aspects of the case, or an attorney does not have full authority to discuss and resolve any issues that arise at the conference, including, but not limited to, resolving discovery and the setting of subsequent court dates.

*(Subd. (c) relettered effective July 1, 2018; previously adopted as subd. (d) effective January 1, 2013; former subd. (c) relettered as subd. (b) effective July 1, 2018.)
(Subd (d) adopted effective January 1, 2013.)*

*(Rule 5.8 amended effective ~~July~~January 1, 2018; adopted effective January 1, 2013;
previously amended effective January 1, 2018.)*

5.9 COURT REPORTER FEES

The court will not provide court reporter services free of charge for hearings, evidentiary hearings, or trials. Unless the parties both waive a court reporter, each party shall be responsible for paying the applicable court reporter fees pursuant to Government Code section 68086 or the schedule approved by the Presiding Judge of the Superior Court of California, County of Solano. Fees are payable forthwith unless payment is specifically deferred until a later time by a judicial officer.

(Rule 5.9 adopted effective January 1, 2013.)

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c. EX PARTE PROCEDURE

- (1) Ex parte matters will be heard daily only upon appointment scheduled directly with the designated department. The date and time of the ex parte hearing must be confirmed with the designated department prior to the moving party giving notice of the hearing. For purposes of this rule, the designated department is the department already assigned to the case, or, if the case has not yet been assigned to a department or judicial officer, the designated department is the department assigned by the Supervising Judge.
- (2) As soon as practicable after setting the ex parte hearing with the department, the moving party shall file the original petition or motion seeking ex parte relief with the clerk and pay the applicable filing fees. The moving party shall also submit a proposed order concurrently with the moving papers. A courtesy copy of the moving papers and the proposed order shall be submitted to the department as directed by the judicial assistant.

(Subd (c) amended effective January 1, 2018; adopted effective July 1, 2009; previously amended effective July 1, 2013.)

(Rule 7.10 amended effective January 1, 2018; adopted effective July 1, 2009; previously amended effective July 1, 2013.)

7.11 DISCOVERY

a. INFORMAL DISCOVERY CONFERENCES

The procedure set forth in Local Rule 3.14 shall apply to informal discovery conferences brought in proceedings governed by Rule 7.

(Rule 7.11 adopted effective July 1, 2018; former Rule 7.11 renumbered as Rule 7.50 effective July 1, 2018.)

7.12 – 7.49 [RESERVED]

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7.50 7.11 APPOINTMENT OF SPECIAL ADMINISTRATOR

Except upon a showing of good cause for dispensing with notice, petitions for special letters of administration will not ordinarily be granted without the petitioning party giving notice in compliance with Probate Code section 8003 and 8110. Applications for special letters of administration may be requested ex parte, provided the application is prepared and submitted in compliance with Solano County Local Rules, rule 7.10, and California Rules of Court, rule 7.55.

(Rule 7.50 renumbered effective July 1, 2018; Rule 7.11 amended and renumbered effective July 1, 2009; adopted as Rule 7.14 effective July 1, 1988; previously amended effective July 1, 1989; amended and renumbered as Rule 7.11 effective July 1, 2009; former Rule 7.50 renumbered as Rule 7.100 effective July 1, 2018.)

7.51 7.12 INFORMATION TO BE CONTAINED IN PETITIONS FOR PROBATE OF WILL AND FOR LETTERS TESTAMENTARY, FOR LETTERS OF ADMINISTRATION, OR FOR LETTERS OF ADMINISTRATION WITH WILL ANNEXED (PROBATE CODE SECTION 8000 ET SEQ.)

a. INFORMATION TO BE INCLUDED WITH THE PETITION

Any petition for probate of a will and for letters testamentary, for letters of administration, or for letters of administration with will annexed shall contain the following information:

- (1) If the heir is a minor, the heir's date of birth.
- (2) The name of any and all nominated trustees of a trust created by the will.
- (3) The name of any and all trustees and beneficiaries of an inter vivos trust created by the decedent and that is in existence at the time of the decedent's death.
- (4) The name of any and all trustees of a special needs or other trust created to benefit the decedent and that is in existence at the time of the decedent's death.

(Subd (a) adopted effective July 1, 2009.)

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b. INFORMATION CONCERNING A DECEASED BENEFICIARY

In addition to the information required in Rule 7.12(a), information concerning a deceased beneficiary shall be included in the petition as follows:

- (1) If an heir or beneficiary dies before the decedent, that person should be listed with the notation that he or she is predeceased, and date of death. No notice need be given to the successors in interest of the predeceased person unless that person's interest has not lapsed by reason of death, in which case, notice should be given in the same manner as for the postdeceased heir or beneficiary.
- (2) If an heir or beneficiary dies after the decedent, that person's name should be listed with the notation "deceased", and date of death. If a personal representative has been appointed, the postdeceased heir or beneficiary should be listed in care of the name and address of the personal representative. If no personal representative has been appointed, that fact should be alleged, and notice given to the last known address of the postdeceased heir or beneficiary.
- (3) If a named beneficiary predeceased the decedent or did not survive the decedent for the designated survival period, that fact must be stated, together with the actual or approximate date of death.

(Subd (b) adopted effective July 1, 2009.)

c. COPY OF TRUST

Where notice is required to be given pursuant to Probate Code § 1208(b) such as where a trust is a beneficiary of a decedent's estate, the petitioner shall file separately from the petition as a confidential document a true and correct copy of the trust, including any amendments, disclaimers, and any directions or instructions to the trustee that affect the disposition of the trust. The confidential document shall not be released to any party except by court order.

(Subd (c) adopted effective January 1, 2018.)

(Rule ~~7.51~~ renumbered effective July 1, 2018; ~~7.12~~ amended effective January 1, 2018; adopted as Rule 7.15 effective July 1, 1988; amended and renumbered as Rule 7.12)

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effective July 1, 2009; amended effective January 1, 2018; former Rule 7.51 renumbered as Rule 7.101 effective July 1, 2018.)

7.52 7.13 PREPARATION OF ORDERS

a. PROPOSED ORDERS SUBMITTED PRIOR TO HEARING

All probate orders in uncontested matters shall be prepared by the petitioner's attorney of record or the petitioner, if unrepresented, and shall be submitted at least four court days prior to the hearing.

(Subd (a) adopted effective July 1, 2009.)

b. MATERIAL TO BE INCLUDED IN PROBATE ORDERS

All orders or decrees in probate matters must be complete in and of themselves, so that their effect may be understood without reference to the underlying petition. The order or decree shall set forth all matters actually passed on by the court, the relief granted, and the names of persons and descriptions of property or amounts of money affected with the same particularity required of judgments in civil matters. The court will not approve orders or decrees that merely recite that the petition as presented is granted or incorporate by reference the relief sought in the petition. However, in orders settling accounts, the court will ordinarily approve general language approving the account, the report, and the acts reflected therein. With the exception of attached schedules, no written matter shall appear after the judicial officer's signature line.

(Subd (b) adopted effective July 1, 2009; previously adopted as unlettered portion of Rule 7.19 effective July 1, 1988.)

(Rule 7.52 renumbered effective July 1, 2018; 7.13 amended and renumbered effective July 1, 2009; adopted as Rule 7.18 effective July 1, 1988; amended and renumbered as Rule 7.13 effective July 1, 2009; former Rule 7.52 renumbered as Rule 7.102 effective July 1, 2018.)

7.53 7.14 INTEREST ON FUNERAL AND INTERMENT CLAIMS

When accrued interest has been paid on delayed payment of claims for the reasonable costs of funeral expenses, a specific allegation must be made in the report accompanying the account in which credit has been taken for such payment, setting forth reasons for any delay

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in payment. The court will not allow credit for payment of interest when the delay in payment of the claims is not justified by the facts set forth. Interest for funeral and interment claims will be allowed only as provided by Health and Safety Code section 7101.

(Rule 7.53 renumbered effective July 1, 2018; ~~7.14 amended and renumbered effective July 1, 2009~~; adopted as Rule 7.21 effective July 1, 1988; ~~amended and renumbered as Rule 7.14 effective July 1, 2009~~; former Rule 7.53 renumbered as Rule 7.103 effective July 1, 2018.)

7.54 ~~7.15~~ REAL ESTATE IN INVENTORY AND APPRAISAL

If a decedent's estate contains real property, the inventory and appraisal shall identify that property by its address and shall include a legal description of the property. If the parcel is unimproved, the inventory must so state.

(Rule 7.54 renumbered effective July 1, 2018; ~~7.15 amended and renumbered effective July 1, 2009~~; adopted as Rule 7.23 effective July 1, 1988; amended effective July 1, 1989; ~~amended and renumbered as Rule 7.15 effective July 1, 2009~~; former Rule 7.54 renumbered as Rule 7.104 effective July 1, 2018.)

7.55 ~~7.16~~ CASH DEPOSIT

A minimum cash deposit of ten percent (10%) of the purchase price (unless the loan proceeds exceed 90% of the purchase price), shall be deposited in escrow ten days prior to the confirmation of sale hearing date, and written verification of said deposit shall be filed with the court five (5) days prior to the confirmation of sale hearing date.

(Rule 7.55 renumbered effective July 1, 2018; ~~Rule 7.16 renumbered effective July 1, 2009~~; adopted as Rule 7.24 effective July 1, 1988; previously amended effective July 1, 1989; ~~renumbered as Rule 7.16 effective July 1, 2009~~; former Rule 7.55 renumbered as Rule 7.105 effective July 1, 2018.)

7.56 ~~7.17~~ SECOND DEEDS OF TRUST

The court will approve the taking of a promissory note secured by a second deed of trust upon a showing that it serves the best interests of the estate.

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(Rule 7.56 renumbered effective July 1, 2018; ~~Rule 7.17 renumbered effective July 1, 2009; adopted as Rule 7.25 effective July 1, 1988 renumbered as Rule 7.17 effective July 1, 2009; former Rule 7.56 renumbered as Rule 7.106 effective July 1, 2018.~~)

7.57 ~~7.18~~ EARNEST MONEY DEPOSIT BY OVERBIDDER

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 bid.

(Rule ~~7.57~~ ~~7.18~~ renumbered effective July 1, ~~2018~~~~2009~~; adopted as Rule 7.26 effective July 1, 1988; renumbered as Rule 7.18 effective July 1, 2009.)

7.58 ~~7.19~~ APPEARANCES OF COUNSEL

In petitions for confirmation of sales of real estate and for sales of personal property where bidding is authorized, the court will ordinarily not proceed with the confirmation of the sale in the absence of the petitioner's attorney, if the petitioner is represented. Where the personal representative, guardian or conservator is present and requests that the sale proceed, the court may do so, in its discretion.

(Rule 7.58 renumbered effective July 1, 2018; ~~7.19 amended and renumbered effective July 1, 2009; adopted as Rule 7.27 effective July 1, 1988; previously amended effective July 1, 1989~~~~1988~~; amended and renumbered as Rule 7.19 effective July 1, 2009.)

7.59 ~~7.20~~ CONDITIONAL SALES OF REAL PROPERTY

The court will ordinarily not approve a sale of real property which is conditioned upon the occurrence of a subsequent event (such as change in zoning or obtaining approval from an environmental control board). However, if unusual and extraordinary circumstances exist and the necessity and advantage to the estate are set forth in detail, the court may approve such a sale.

(Rule 7.59 renumbered effective July 1, 2018; ~~7.20 amended and renumbered effective July 1, 2009; adopted as Rule 7.30 effective July 1, 1988; amended and renumbered as Rule 7.20 effective July 1, 2009.~~)

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~~7.60 7.21~~ BROKER'S COMMISSIONS

a. IMPROVED REAL PROPERTY

An agent or broker's commission on the sale of improved real property shall not exceed six percent (6%). A copy of an executed broker's agreement shall be attached to the petition for confirmation of sale.

(Subd (a) amended effective July 1, 2009; adopted effective July 1, 1988; previously amended effective July 1, 1989.)

b. UNIMPROVED REAL PROPERTY

An agent or broker's commission on the sale of unimproved or raw real property shall not exceed ten percent (10%). A copy of an executed broker's agreement shall be attached to the petition for confirmation of sale.

(Subd (b) amended effective July 1, 2009; adopted effective July 1, 1988; previously amended effective July 1, 1989.)

c. BROKER COMMISSIONS IN OVERBID SITUATIONS

Broker commissions in overbid situations are governed by Probate Code section 10160 et seq.

(Subd (c) amended effective July 1, 2009; adopted effective July 1, 1988; previously amended effective July 1, 1989.)

(Rule 7.60 renumbered effective July 1, 2018; ~~7.21 amended and renumbered effective July 1, 2009;~~ adopted as Rule 7.31 effective July 1, 1988; previously amended effective July 1, 1989; amended and renumbered as Rule 7.21 effective July 1, 2009.)

~~7.61 7.22~~ STATUTORY COMPENSATION FOR PERSONAL REPRESENTATIVE AND ATTORNEY FEES

a. INCLUSION OF COMPUTATION IN PETITION

The computation in Rule 7.22, subsection (b), must be made regardless of the estate's value and even though an accounting has been waived. For estates worth

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in excess of \$25,000,000.00 (twenty-five million dollars), the court shall determine the reasonable amount of compensation.

(Subd (a) adopted effective July 1, 2009.)

b. FORMAT OF REQUEST FOR STATUTORY COMPENSATION AND ATTORNEY FEES

The basis for statutory compensation and attorney fees requested shall be set out in the body of the petition for distribution or on a separate schedule as required per California Rules of Court, rule 7.705.

(Subd (b) adopted effective July 1, 2009; previously adopted as unlettered portion of Rule 7.36 effective July 1, 1988.)

(Rule ~~7.61~~ renumbered effective July 1, 2018; ~~7.22 amended and renumbered effective July 1, 2009;~~ adopted as Rule 7.36 effective July 1, 1988; amended and renumbered as Rule 7.22 effective July 1, 2009.)

7.62 7.23 PARTIAL ALLOWANCE OF STATUTORY COMPENSATION OR ATTORNEY FEES

a. COURT ORDER REQUIRED

A personal representative may not pay an advance on statutory compensation or attorney fees without prior court order. Petitions for an advance of statutory compensation or attorney fees may not be brought ex parte.

(Subd (a) adopted effective July 1, 2009.)

b. REQUIREMENT OF INVENTORY AND APPRAISAL; ACCOUNTS

Notwithstanding Probate Code section 10830, the court shall not consider a petition seeking an advance of statutory compensation or attorney fees unless the personal representative's Inventory and Appraisal is filed prior to or concurrently with the petition. The court prefers that attorney fees not be requested until the first account has been filed.

(Subd (b) adopted effective July 1, 2009.)

c. AMOUNT OF STATUTORY COMPENSATION OR ATTORNEY FEES PERMITTED AS AN ADVANCE

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Any allowance for statutory compensation or attorney fees will be made in accordance with the work actually performed. Where no accounting is filed, the allowance may not exceed 50% of the statutory compensation computed upon the total value appearing in the inventories filed to that time. Where an accounting is filed, the allowance may not exceed 75% of the statutory compensation so computed.

(Subd (c) amended and relettered effective July 1, 2009; adopted as unlettered portion of Rule 7.37 effective July 1, 1988.)

d. APPORTIONMENT OF FEES FOR SUCCESSIVE ATTORNEYS

Except in a case in which there is an agreement in writing on apportionment, where the personal representative has been represented by successive attorneys, fees will not ordinarily be apportioned to a prior attorney for the personal representative until the final accounting has been approved.

(Subd (d) amended and relettered effective July 1, 2009; adopted as unlettered portion of Rule 7.37 effective July 1, 1988.)

(Rule 7.62 renumbered effective July 1, 2018; ~~Rule 7.23 amended and renumbered effective July 1, 2009;~~ adopted as Rule 7.37 effective July 1, 1988; previously amended effective July 1, 1989; ~~amended and renumbered as Rule 7.23 effective July 1, 2009.~~)

7.63 7.24 APPORTIONMENT OF STATUTORY COMPENSATION BETWEEN TWO OR MORE PERSONAL REPRESENTATIVES

If the statutory compensation is to be divided among co-personal representatives, the petition shall set out facts upon which the court can base the apportionment.

(Rule 7.63 renumbered effective July 1, 2018; ~~7.24 amended and renumbered effective July 1, 2009;~~ adopted as Rule 7.38 effective July 1, 1988; ~~amended and renumbered as Rule 7.24 effective July 1, 2009.~~)

7.64 7.25 EXTRAORDINARY COMPENSATION FOR PERSONAL REPRESENTATIVE; EXTRAORDINARY ATTORNEY FEES

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**a. CONTENTS OF PETITIONS OR DECLARATIONS FOR EXTRAORDINARY
COMPENSATION OR FEES**

All applications for extraordinary compensation for the personal representative's services and for extraordinary attorney's fees must be supported in the petition or in the separate verified declaration requesting said fees. At a minimum, the declaration or petition shall state:

- (1) The nature, necessity, success, cost in time, detail of the services performed and value of the services believed to warrant additional fees;
- (2) The amount requested; and,
- (3) The number of hours spent on ordinary services.

Records of time spent, without substantiated information, are not adequate.
(Subd (a) amended and relettered effective July 1, 2009; adopted as unlettered portion of Rule 7.39 effective July 1, 1988.)

**b. FACTORS THAT WILL NOT SUPPORT A REQUEST FOR EXTRAORDINARY
COMPENSATION OR FEES**

The routine conduct of any proceeding relating to the collection of assets, processing of claims, conduct of estate administration or distribution will not, in the absence of special circumstances or problems, justify an extraordinary fee.
(Subd (b) amended and relettered effective July 1, 2009; adopted as unlettered portion of Rule 7.39 effective July 1, 1988.)

(Rule 7.64 renumbered effective July 1, 2018; ~~7.25 amended and renumbered effective July 1, 2009;~~ adopted as Rule 7.39 effective July 1, 1988; ~~amended and renumbered as Rule 7.25 effective July 1, 2009.~~)

7.65 7.26 DISTRIBUTIVE CONTINGENCIES

If the right of a beneficiary to distribution of part of the estate is dependent upon the occurrence of an event (e.g., death of a parent), the petition must allege the occurrence of that event and the order must contain a finding of the occurrence of that event.

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(Rule ~~7.65~~ renumbered effective July 1, 2018; ~~7.26~~ renumbered effective July 1, 2009; adopted as Rule 7.41 effective July 1, 1988; renumbered as Rule 7.26 effective July 1, 2009.)

7.66 ~~7.27~~ CONTENTS OF PETITION AND DECREE OF PARTIAL OR FINAL DISTRIBUTION

a. WHEN PROPOSED DECREE REQUIRED

The proposed form of Decree of Distribution shall be filed with any petition for partial or final distribution.

(Subd (a) amended and relettered effective July 1, 2009; adopted as unlettered portion of Rule 7.42 effective July 1, 1988.)

b. DESCRIPTION OF PROPERTY TO BE DISTRIBUTED

The distribution of property must be separately stated in detail in both the petition and the decree, listing a description of the property to be distributed under the name of each beneficiary. Real estate shall be legally described and street address, if any, shall be included. The decree must be complete in and of itself. Description by reference to the inventory is not acceptable. In both the petition and decree for final distribution, the distribution schedule shall include a summary showing the value of the estate distributed to each beneficiary and the total estate distributed which must agree with "Property on Hand" as shown on the final account's Schedule F and in the summary of account. If any beneficiaries previously received an early distribution, the petition and the decree shall so state.

(Subd (b) amended effective January 1, 2010; amended and relettered effective July 1, 2009; adopted as unlettered portion of Rule 7.42 effective July 1, 1988.)

c. TRACING REQUIRED FOR INTESTATE DECEDENT

If an intestate decedent who survived his spouse leaves no issue, the applicability of Probate Code Section 6402.5 must be alleged and the necessary tracing must be carried out as far as possible.

(Subd (c) amended and relettered effective July 1, 2009; adopted as unlettered portion of Rule 7.42 effective July 1, 1988.)

d. OTHER ITEMS TO BE INCLUDED IN THE PETITION AND DECREE

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- (1) A petition and any decree for distribution shall include the names and addresses of all persons who are present and future distributees of the estate, and shall indicate whether each person listed is an adult or a minor. In all cases where a minor is a distributee, the minor's age and birth date must be stated in the petition and the decree for distribution.
(Subd (1) adopted effective January 1, 2010.)

- (2) If distribution will not be made directly to the beneficiary, the name, address and fiduciary capacity of the recipient must be stated in the petition and the decree for distribution. If distribution is to be made to an assignee of an heir or devisee, a copy of the assignment and the terms thereof must be on file.
(Subd (2) amended effective January 1, 2013; adopted effective January 1, 2010.)

- (3) If a reserve is sought, the petition for final distribution must specifically set forth the proposed use for the retained funds (e.g., income taxes, closing costs, property tax assessments, etc.).
(Subd (3) adopted effective January 1, 2013.)
(Subd (d) amended effective January 1, 2013; adopted effective January 1, 2010.)

e. **ACCOUNTING FOR RESERVE**

If an order for final distribution of an estate of a decedent or trust includes a reserve of \$5,000 or more, an informal accounting of the reserve shall be attached to the Ex Parte Petition for Final Discharge (Judicial Council form DE-295). The court in its discretion may set the request for discharge for hearing and require notice. The court may also impose the informal accounting requirement on reserves below \$5,000.
(Subd (e) adopted effective January 1, 2018.)

(Rule ~~7.66~~ renumbered effective July 1, 2018; ~~7.27~~ amended effective January 1, 2018; adopted as Rule 7.42 effective July 1, 1988; previously amended effective July 1, 1989; amended and renumbered as Rule 7.27 effective July 1, 2009; amended effective January 1, 2010, ~~and~~ January 1, 2013, and January 1, 2018.)

7.67 ~~7.28~~ DISTRIBUTIONS TO TRUSTS

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a. DISTRIBUTIONS TO TESTAMENTARY TRUSTS

The provisions of a decree of distribution establishing a testamentary trust shall include all of the terms of the will relating to the trust. Per California Rules of Court, rule 7.650, the provisions of the trust shall be stated in the present tense and in the third person, and shall not quote the will verbatim. If a trust beneficiary will receive distribution upon reaching a specific age, the petition for distribution and decree thereon must state the age and birthdate of the beneficiary.

(Subd (a) amended effective January 1, 2010; amended and relettered effective July 1, 2009; adopted as unlettered portion of Rule 7.43 effective July 1, 1988.)

b. DISTRIBUTIONS TO INTER VIVOS TRUSTS

A decree of distribution which distributes assets to an inter vivos trust shall name the trust and specify the name of the trustee to receive the assets. The decree of distribution shall not be approved absent a declaration by the trustee that he or she has in fact accepted the trust. A decree of distribution for a decedent's estate shall not name as beneficiaries of the estate in the distribution plan any beneficiaries who are entitled to distributions from the trust.

(Subd (b) adopted effective July 1, 2009.)

(Rule 7.67 renumbered effective July 1, 2018; ~~7.28 amended effective January 1, 2010; amended and renumbered effective July 1, 2009; adopted as Rule 7.43 effective July 1, 1988; amended and renumbered as Rule 7.28 effective July 1, 2009; amended effective January 1, 2010.) former Rule 7.28, which concerned overbids, repealed effective July 1, 2009.~~)

~~7.68~~ ~~7.29~~ JOINT TENANCY ASSETS

In the absence of prior court determination or authorization, joint tenancy assets of the decedent and a person other than the decedent's spouse should not be inventoried as assets of the probate estate. However, an asset held in joint tenancy between the decedent and the decedent's spouse, or former spouse in appropriate cases, shall be inventoried if there is an unadjudicated allegation that the asset is in fact community property. A notation concerning the allegation shall be included in all inventory and appraisals until the asset's characterization is determined.

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(Rule 7.29 amended and renumbered effective July 1, 2009; adopted as Rule 7.49 effective July 1, 1988; former Rule 7.29, which concerned increased bid forms, repealed effective July 1, 2009.)

7.69 ~~7.30~~ PERSONAL REPRESENTATIVE COMPENSATION AND ATTORNEY FEES IN CONNECTION WITH TERMINATION OF A JOINT TENANCY OR HANDLING OF OTHER NONPROBATE ASSETS

Assets that pass outside of probate are outside the court’s jurisdiction. Therefore, a personal representative or his or her attorney shall not request payment from a probate estate for work done concerning joint tenancy assets or other nonprobate assets, and any request for such relief shall be denied. However, this rule does not prevent a request for extraordinary fees where the termination of joint tenancy with a previously deceased joint tenant is necessary to clear title to property in the decedent's estate.

(Rule 7.69 renumbered effective July 1, 2018; ~~7.30~~ amended and renumbered effective July 1, 2009; adopted as Rule 7.50 effective July 1, 1988; amended and renumbered as Rule 7.30 effective July 1, 2009.)

7.70 ~~7.31~~ COURT INVESTIGATOR FEES FOR INVESTIGATION OF PETITION FOR PARTICULAR TRANSACTION

Pursuant to Probate Code section 3140, the court may, in its discretion, appoint a court investigator to evaluate a petition for a proposed transaction involving an incapacitated spouse’s community property and report to the court regarding the transaction’s advisability. Appointment of a court investigator for such an investigation shall result in an assessment against the petitioning party for the costs of the investigation. The fee amount is determined by the court on an annual basis and is subject to change. The assessed fee is payable within 30 days after the Assessment and Order for Payment is mailed by the Court Investigators Office.

(Rule 7.70 renumbered effective July 1, 2018; ~~Rule 7.31~~ adopted as Rule 7.31 effective July 1, 2009.)

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**7.71 7.32 RECEIPT OR WAIVER OF ACCOUNT SIGNED BY ATTORNEY IN
FACT**

Any waiver of account or any receipt of a distribution filed with the court that has been signed by an “attorney in fact” on a beneficiary’s behalf shall include a copy of the power of attorney granting authority to the attorney in fact to waive the account or sign the receipt.

(Rule 7.71 renumbered effective July 1, 2018; adopted as Rule 7.32 ~~adopted~~ effective July 1, 2010.)

7.72 7.33 REIMBURSEMENT OF EXPENSES OF ESTATE ADMINISTRATION

a. EXPENSES THAT MAY BE REIMBURSED

The following may be reimbursed to a personal representative and/or a personal representative’s counsel as expenses of administration:

- (1) Court filing fees and other court costs;
- (2) Newspaper publication fees;
- (3) Surety bond premium;
- (4) Probate referee appraisal fees; and,
- (5) Other expenses specifically approved by the court.

b. EXPENSES THAT MAY NOT BE REIMBURSED

Unless the requesting party demonstrates extraordinary circumstances, the following will not ordinarily be reimbursed to a personal representative and/or a personal representative’s counsel as expenses of administration:

- (1) Secretarial and word processing time;
- (2) Computer time, including expenses incurred in performing computerized legal research;

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- (3) Local telephone calls;
- (4) Facsimile transmissions;
- (5) Local mileage and parking;
- (6) Postage, including fees for delivery by a parcel service;
- (7) Photocopies; and,
- (8) Travel and meals.

(Rule ~~7.72~~ renumbered effective July 1, 2018; ~~7.33~~ amended effective January 1, 2018; adopted as Rule 7.33 effective January 1, 2013; previously amended effective January 1, 2018.)

7.73 ~~7.34~~ SPOUSAL PROPERTY PETITIONS

a. APPLICABILITY

- (1) If a Spousal Property Petition seeks to confirm and/or transfer property alleged to be community property or quasi-community property in whole or in part, the petitioner shall comply with the requirements in this rule.
- (2) Notwithstanding (1), *supra*, the requirements of subdivision (b) shall not apply if:
 - (a) The entire estate of the decedent passes to the surviving spouse under a will or pursuant to interstate succession; and,
 - (b) One of the following is true:
 - 1. The petition only seeks determination of the passing of the property without a finding of the character (community or separate) of the property;
 - 2. The decedent and surviving spouse executed a written agreement transmuting or confirming all property owned at the

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date of the agreement and all after-acquired property into community property; or

3. The decedent and surviving spouse executed a written agreement which transmuted or confirmed the subject property to community property and the date of acquisition of the subject property is alleged.

(c) If (b)(2) or (b)(3) above applies, copies of all such agreements must be attached to the petition.

(Subd. (a) adopted effective January 1, 2018.)

b. CONTENTS OF PETITION

- (1) The petition shall state the date and place of marriage between the decedent and surviving spouse.
- (2) The petition shall give a description and approximate values of real and personal property owned by the decedent on the date of marriage and a statement concerning the property's disposition, if any.
- (3) If the decedent and a surviving spouse were not domiciled in California at the time of marriage or resided in another state at any point following marriage, the petition shall provide the approximate dates the decedent and a surviving spouse resided in California.
- (4) For each personal property asset at issue in the petition, the petition shall state:
 - (a) The approximate date of the asset's acquisition;
 - (b) The source of funds used to acquire the asset;
 - (c) The form of title at the time of the asset's acquisition, if any;
 - (d) A description of any changes to the form of title following acquisition, if any;
 - (e) The form of title on the decedent's date of death, if any;

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- (f) Facts upon which the claim of community or quasi-community property is based; and,
 - (g) If the asset at issue is an individual retirement account (“IRA”), life insurance policy, or other asset that has a beneficiary designation or “pay on death” designation, the status of that designation as of the decedent’s date of death including the names of beneficiaries or payees.
- (5) For each real property asset at issue in the petition, the petition shall state:
- (a) The approximate date of the asset’s acquisition;
 - (b) The source of funds used to acquire the asset;
 - (c) The form of title at the time of the asset’s acquisition;
 - (d) A description of any changes to the form of title following acquisition;
 - (e) The form of title on the decedent’s date of death;
 - (f) Written evidence of transmutations for all assets acquired or transmuted on or after January 1, 1985; and,
 - (g) Facts upon which the claim of community or quasi-community property is based.
- (6) The petition shall include the following additional attachments:
- (a) Where the petition affects title to real property, a copy of the deed(s) showing vesting at the decedent’s date of death shall be attached to the petition.
 - (b) If the petitioner claims one or more agreements exist that provide for a non pro-rata division of the aggregate value of the community

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property and/or quasi-community property, copies of the agreement(s) shall be attached to the petition.

(c) If the asset in question was acquired on or after January 1, 1985 or had the form of title changed on or after January 1, 1985, the petition shall provide written evidence of the acquisition documents and subsequent transmutations.

(d) Where the petitioner is the personal representative or the conservator of the spouse or domestic partner, a copy of letters evidencing the appointment must be attached to the petition.

(Subd. (b) adopted effective January 1, 2018.)

c. **PETITIONS WHERE THE DECEDENT DIED TESTATE**

(1) If a Spousal Property Petition is based upon the decedent's will or codicil, the will or codicil shall be filed with the court prior to or concurrent with the filing of the petition.

(2) An original will shall be deposited with the court pursuant to Probate Code section 8200.

(3) If the original will has been deposited with a foreign jurisdiction (e.g. another state or country), a duly authenticated copy of the will shall be filed as an attachment to the petition.

(4) If the original will is lost, a copy of the lost will or a document setting forth the terms of the lost will shall be filed as an attachment to the petition. The attachment must clearly indicate that the original will is lost, and shall be accompanied by a declaration addressing the presumption of revocation under Probate Code section 6124.

(5) If a spouse's right to take under a will is conditioned on survival for a specified period of time, no property will be set aside or confirmed to the spouse until the expiration of the survivorship period.

(Subd. (c) adopted effective January 1, 2018.)

d. **TERMINOLOGY**

The following definitions shall apply to this rule:

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- (1) The term “Spousal Property Petition” shall include “Domestic Partner Property Petition.”
- (2) The term “spouse” shall include registered domestic partner under California law and the equivalent in civil unions in other jurisdictions.
- (3) The term “marriage” shall include registered domestic partnerships under California law and equivalent civil unions in other jurisdictions.
- (4) The term “date of marriage” shall include the date a domestic partnership is registered under California law and the date an equivalent civil union is entered into in other jurisdictions.
(*Subd. (d) adopted effective January 1, 2018.*)

(Rule 7.73 renumbered effective July 1, 2018; adopted as Rule 7.34 ~~adopted~~ effective January 1, 2018.)

~~7.74 – 7.99 7.35 – 7.49~~ [RESERVED]

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**~~7.100~~ ~~7.50~~ BENEFICIARIES OF TESTAMENTARY TRUST TO BE LISTED IN
PETITION FOR LETTERS TESTAMENTARY**

All petitions involving a testamentary trust must set forth the names and last known addresses of all vested and contingent beneficiaries.

(Rule ~~7.100~~ ~~renumbered effective July 1, 2018~~; ~~7.50~~ ~~amended and renumbered effective July 1, 2009~~; adopted as Rule 7.45 effective July 1, 1988; ~~amended and renumbered as Rule 7.50 effective July 1, 2009.~~)

~~7.101~~ ~~7.51~~ TRUSTEE FEES

a. APPLICABILITY OF RULE

This rule applies to all trusts subject to the continuing jurisdiction of the court, to petitions for approval of trustee compensation, and to objections to petitions for trustee compensation.

(Subd (a) adopted effective July 1, 2009.)

b. PRESUMPTION OF REASONABLE COMPENSATION FOR TRUSTEES

Trustee compensation shall be presumed reasonable if it does not exceed 1% (one percent) of the asset value of the estate at the time the compensation is sought. However, nothing in this rule limits the court's discretion to find as unreasonable a fee totaling less than 1%, or to approve a trustee's fee that exceeds 1%.

(Subd (b) amended effective January 1, 2012; adopted effective July 1, 2009.)

c. REQUEST FOR ADDITIONAL COMPENSATION

A trustee may request fees in excess of 1% (one percent) of the asset value of the estate. A trustee requesting such relief shall do one of the following:

(1) File a declaration from the beneficiaries indicating awareness of the fees being requested and a statement waiving objection to those fees.

(2) File a declaration detailing the services rendered justifying the fee requested.

(Subd (c) amended and relettered effective July 1, 2009; adopted as unlettered portion of Rule 7.46 effective July 1, 1988.)

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(Rule 7.101 renumbered effective July 1, 2018; ~~7.51~~ amended effective January 1, 2012; adopted as Rule 7.46 effective July 1, 1988; previously amended effective July 1, 1988; amended and renumbered as Rule 7.51 effective July 1, 2009; amended effective January 1, 2012.)

7.102 ~~7.52~~ INFORMATION TO BE INCLUDED IN PETITIONS CONCERNING TRUSTS

All petitions concerning trusts shall indicate in the pleading title the Probate Code section(s) under which the petition is brought or which supports the relief requested. For example, a petition seeking orders concerning the internal affairs of a trust shall cite Probate Code section 17200 in the pleading title.

(Rule 7.102 renumbered effective July 1, 2018; ~~Rule 7.52~~ adopted as Rule 7.52 effective July 1, 2009.)

7.103 ~~7.53~~ GENERAL PROCEDURES FOR SPECIAL NEEDS TRUSTS

a. ESTABLISHMENT OF SPECIAL NEEDS TRUSTS IN SOLANO COUNTY

If a special needs trust is included as part of a minor's compromise or other judgment entered in Solano County, the following procedures shall be followed:

- (1) A petition to approve the terms of the special needs trust shall be filed in the civil action or petition to approve minor's compromise. The judge assigned to hear the civil action or petition to approve minor's compromise shall approve the terms of the special needs trust per Probate Code section 3604. The petition shall include the complete terms of the proposed trust.
- (2) Once so approved and signed, the original special needs trust instrument and a copy of the order approving the trust shall be filed in the county in which the trust is to be administered pursuant to that county's procedures. If the trust is to be administered in Solano County, the trust shall be filed in a separate file and assigned a probate case number. No filing fee shall be charged for said filing as the trust instrument is the result of a petition filed to approve a minor's compromise claim per Probate Code section 3600 et seq. Government Code §70655.

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- (3) The party filing the special needs trust instrument per subsection (2) shall file a notice in the civil action file or the minor’s compromise file indicating the county in which the trust is being administered and the case number assigned to the probate file containing the special needs trust.

(Subd (a) amended effective January 1, 2012; adopted effective July 1, 2009.)

b. TRANSFER OF SPECIAL NEEDS TRUSTS INTO SOLANO COUNTY

Whenever a special needs trust is transferred into Solano County and the court file being transferred does not contain the original special needs trust instrument, the trustee shall provide the court with the original trust document within 90 days after the court file is received by Solano County.

(Subd (b) adopted effective July 1, 2009.)

(Rule 7.103 renumbered effective July 1, 2018; ~~Rule 7.53 amended effective January 1, 2012~~; adopted as Rule 7.53 effective July 1, 2009; amended effective January 1, 2012.)

7.104 7.54 ACCOUNTINGS AND REPORTS OF SPECIAL NEEDS TRUSTS

a. EXPENDITURES ON BEHALF OF BENEFICIARY

In all accountings for special needs trusts, the trustee shall provide an explanation of any unusual or extraordinary expenses incurred by the trustee on behalf of the beneficiary. These include, but are not limited to, payment of all expenses associated with real property partially owned by the trust, payment of automobile insurance for a vehicle not owned by the trust, acquisition or maintenance of assets not ordinarily used by a beneficiary with the beneficiary’s type of disability, and so forth.

(Subd (a) adopted effective July 1, 2009.)

b. HIRING OF AGENTS

The court acknowledges that trustees of special needs trusts often hire agents to advise them concerning the administration of the special needs trusts and the provision of services to the beneficiary. A trustee hiring such an agent shall specify in any report or accounting seeking approval of payment to said agent the type of and need for the services provided by the agent. The trustee shall also include a

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declaration from the agent concerning the hours spent working with the trustee and the amount of compensation sought.

(Subd (b) adopted effective July 1, 2009.)

c. PARENTS AS CAREGIVERS TO CHILD AS BENEFICIARY

In an account or report indicating that a parent was hired to provide caregiver services to his or her child, the trustee shall provide the following information:

- (1) A description of the services rendered by the parent that are above and beyond the care normally provided by a parent to a child.
- (2) A description of the special skills possessed by the parent enabling him or her to perform these services.
- (3) The benefit to the beneficiary of having the parent perform the services instead of a professional caregiver.
- (4) The hours worked by the parent.
- (5) The hourly rate being paid to the parent and a justification of that rate. Justification may include a comparison to the rate charged by a professional for the same or similar services.
- (6) Whether caregiving services are being provided through IHSS and if so, the frequency and type of the services provided.
- (7) Whether insurance is in place to cover the caregiver parent in case of injury and if so, the amount of the periodic premium being paid by the parent or the trust.

(Subd (c) adopted effective July 1, 2009.)

(Rule 7.104 renumbered effective July 1, 2018; ~~Rule 7.54~~ adopted as Rule 7.54 effective July 1, 2009.)

7.105 7.55 COMPENSATION OF CONSERVATOR FROM TRUST

If a conservatee is also the beneficiary of a trust and the compensation of a conservator of the person or estate, or his or her attorney, is sought from the trust in part or in whole, the

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conservator shall first seek approval of the compensation in the conservatorship matter. The petition shall include a declaration by the trustee as to whether there are sufficient funds in the trust to allow for the compensation sought. If the conservatorship of the estate has sufficient funds to pay for the requested compensation, the conservator shall explain why compensation is sought from the trust and not the estate. A trustee shall not pay a conservator's compensation without a court order approving said compensation by the judge assigned to hear the conservatorship matter.

(Rule 7.105 renumbered effective July 1, 2018; ~~Rule 7.55 amended effective January 1, 2012;~~ adopted as Rule 7.55 effective July 1, 2009; ~~amended effective January 1, 2012.~~)

7.106 ~~7.56~~ TRUST ACCOUNTINGS FILED WITH THE COURT

Any time a petition seeking approval of a trust accounting is filed with the court, the filing party shall simultaneously submit to the court an additional courtesy copy of the petition and the accounting.

(Rule 7.106 renumbered effective July 1, 2018; adopted as Rule 7.56 ~~adopted~~ effective July 1, 2010.)

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Rule 11 – Jury Management

11.1 DISCRETION TO EXCUSE JURORS FOR UNDUE HARDSHIP

a. DELEGATION OF AUTHORITY

The jury commissioner or their designee shall have the authority and discretion to excuse prospective jurors for reasons of undue hardship pursuant to California Rules of Court, rule 2.1008, subdivision (d)(1), (5), (6), and (7).
(Subd. (a) adopted effective July 1, 2018.)

b. DISCRETION TO GRANT CERTAIN EXCUSES FOR UNDUE HARDSHIP

The person designated per subdivision (a) above may grant an excuse from jury service to a prospective juror on the ground of undue hardship as follows:

1. If the prospective juror has no reasonably available means of public or private transportation to the court, the excuse may be granted upon the prospective juror submitting sufficient written verification to the court in the manner directed by the court.
2. If the prospective juror has a physical or mental disability or impairment, not affecting that person's competence to act as a juror, that would expose the potential juror to undue risk of mental or physical harm, the excuse may be granted upon the prospective juror submitting sufficient written verification to the court in the manner directed by the court. If the prospective juror is under the age of 70, the person designated per subdivision (a) above may also require that the prospective juror furnish verification or a method of verification of the disability or impairment, its probable duration, and the particular reasons for the person's inability to serve as a juror.
3. If the prospective juror's services are immediately needed for the protection of the public health and safety, and it is not feasible to make alternative arrangements to relieve the person of those responsibilities during the period of service as a juror without substantially reducing essential public services, the excuse may be granted upon the prospective juror submitting sufficient written verification to the court in the manner directed by the court.
4. If the prospective juror has a personal obligation to provide actual and necessary care to another, including sick, aged, or infirm dependents, or a child who requires the prospective juror's personal care and attention, and

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County of Solano**

Rule 11 – Jury Management

no comparable substitute care is either available or practical without imposing an undue economic hardship on the prospective juror or person cared for, the excuse may be granted upon the prospective juror submitting sufficient written verification to the court in the manner directed by the court. If the request to be excused is based on care provided to a sick, disabled, or infirm person, the person designated per subdivision (a) above may require the prospective juror to furnish verification or a method of verification that the person being cared for is in need of regular and personal care.

(Subd. (b) adopted effective July 1, 2018.)

c. OTHER REQUESTS FOR EXCUSE DUE TO UNDUE HARDSHIP

If a prospective juror seeks an excuse from jury service on a ground of undue hardship set forth in California Rules of Court, rule 2.1008, subdivision (d)(2), (3), or (4), the prospective juror shall report per their jury summons and shall submit their request to the judicial officer hearing the case.

(Subd. (c) adopted effective July 1, 2018.)

(Rule 11.1 adopted effective July 1, 2018.)

11.2 – 11.99 [Reserved]

**Superior Court of California
County of Solano**

Rule 15 – Guardianships and Conservatorships

PART THREE: Miscellaneous

c. PEREMPTORY CHALLENGE AGAINST COURT INVESTIGATOR

Peremptory challenges against a court investigator shall not be allowed.
(Subd. (c) effective January 1, 2012.)

(Rule 15.100 adopted effective January 1, 2012.)

15.101 DISCOVERY

a. INFORMAL DISCOVERY CONFERENCES

The procedure set forth in Local Rule 3.14 shall apply to informal discovery conferences brought in proceedings governed by Rule 15.

(Rule 15.101 adopted effective July 1, 2018.)

**Superior Court of California
County of Solano**

Rule 18 – Electronic Filing, Service, And Records

18.1 – 18.99 [Reserved]



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SOLANO**

FAMILY LAW DIVISION

600 Union Avenue
Fairfield, CA 94533
(707) 207-7340

Petitioner:

Case No.

Respondent:

**A COPY OF THIS NOTICE MUST BE SERVED ON THE RESPONDENT
AT THE SAME TIME HE OR SHE IS SERVED WITH THE PETITION AND SUMMONS.**

- If your case is for divorce, YOUR MARRIAGE OR DOMESTIC PARTNERSHIP **WILL NOT END AUTOMATICALLY** SIX MONTHS AFTER THE PETITION IS FILED.
- If you want help on how to finish your family law case, talk to a private attorney or the court's family law facilitator. There are also websites that can give you information:

Divorce, legal separation, and annulments: <http://www.courts.ca.gov/selfhelp-divorce.htm>

Parentage (paternity): <http://www.courts.ca.gov/selfhelp-parentage.htm>

Talking to children about separation and divorce: <https://www.familieschange.ca.gov>

**SE LE DEBERÁ DE ENTREGAR UNA COPIA DE ESTA NOTIFICACIÓN AL DEMANDADO
AL MISMO TIEMPO QUE SE LE ENTREGUE LA PETICIÓN Y EL CITATORIO.**

- Si su caso es por divorcio, SU MATRIMONIO O ASOCIACIÓN DOMESTICA **NO TERMINARÁ AUTOMÁTICAMENTE** SEIS MESES DESPUÉS DE HABERSE PRESENTADO LA PETICIÓN.
- Si desea ayuda para terminar su caso de derecho familiar, hable con un abogado privado o con el facilitador de derecho familiar de la corte. También hay sitios web que pueden brindarle información:

Divorcio, separación legal y anulaciones: <http://www.courts.ca.gov/selfhelp-divorce.htm>

Paternidad: <http://www.courts.ca.gov/selfhelp-parentage.htm>

Cómo hablar con los niños sobre la separación y el divorcio: <https://www.familieschange.ca.gov>

**NOTICE
(Family Law)**

Response Form

I am commenting on the proposed revisions to the local rules or forms as follows:

- Agree with proposed changes
- Agree with proposed changes with modifications (*please explain below*)
- Do not agree with proposed changes (*please explain below*)

Comments: _____

Name: _____

Address: _____

City, State, ZIP code: _____

To SUBMIT COMMENTS:

Comments may be written on this form, prepared in a letter format, or e-mailed. If you are not commenting directly on this form, please include the information requested above. Questions may be directed to the Executive Office at (707) 207-7475.

E-mail: CourtOutreach@solano.courts.ca.gov

Mail: Superior Court of California, County of Solano
Executive Office
600 Union Avenue
Fairfield, CA 94533

FAX: (707) 426-1631

ALL COMMENTS MUST BE RECEIVED BY

5:00 p.m. on Friday, May 11, 2018