



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO  
Hall of Justice and Records  
400 County Center  
Redwood City, California 94063-0965

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COURT EXECUTIVE OFFICER  
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April 14, 2005

Dear Sir/Madam:

California Rules of Court, Rule 981 requires that all proposed changes to a court's Local Rules be distributed for public comment. We are making these proposals available here for you to review and comment.

Any comments that you may have regarding the proposed changes to our Local Rules should be submitted in writing to the attention of the chairperson of our Court's Local Rules Committee:

The Honorable Rosemary Pfeiffer  
Chairperson, Local Court Rules Committee  
Superior Court of California, County of San Mateo  
400 County Center, 2<sup>nd</sup> Floor  
Redwood City, CA 94063  
FAX (650) 363-4698

Please refer to the proposed rule that you are commenting on by the Proposal number that starts with "LR05-xx." Comments should be received in our office no later than 5 P.M., Thursday, May 26, 2005. Thank you for your attention to this matter.

Sincerely,

*Rodina Catalano*

Rodina Catalano  
Acting Court Executive Officer

<b>Title</b>	<b>RULE 2.30 DETERMINATION OF COMPLEX CASE DESIGNATION</b>
<b>Summary</b>	Amendment to the Rule to include reference to filing a Counter Civil Case Cover Sheet under CRC 1811(b)
<b>Current Local Rule</b>	(See text below)
<b>Discussion</b>	Inclusion of filing a Counter Civil Case Coversheet is included to be consistent with the <del>California</del> <u>California</u> Rules of Court that allows filing of the Counter Coversheet to initiate the case as a complex case.
<b>Proposed Changes</b>	<p><u>Rule 2.30 Determination of Complex Case Designation.</u></p> <p>A. Decision of Complex Case to be Made by Presiding Judge  The Presiding Judge shall decide whether an action is a complex case under California Rules of Court, Rules 1800, et seq.. All motions seeking to have an action designated as complex shall be filed and set for hearing on the Presiding Judge’s Law and Motion Calendar.</p> <p>B. Motions to Designate an Action as a Complex Case</p> <p>The party who files either a Civil Case Cover Sheet, <del>(pursuant to California Rules of Court, Rule 1811(a), or a Counter Civil Case Coversheet, pursuant to California Rules of Court, Rule 1811 (b))</del> designating an action as a complex case must file a noticed motion seeking the Presiding Judge’s decision thereon. The motion shall be served and filed pursuant to the Code of Civil Procedure section 1005(b). The hearing on the motion shall be set within 30 days after the filing of the counter Civil Case Cover Sheet, as required by California Rules of Court, Rule 1811.</p> <p>(Adopted, effective July 1, 2004) <u>(Amended, effective July 1, 2005)</u></p>

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**Proposal Number 05-02**

<b>Title</b>	<b>RULE 2.4(a)(5) SETTLEMENT CONFERENCE</b>
<b>Summary</b>	Change proposed to clarify the filing deadline as five court days to eliminate any ambiguity.
<b>Current Local Rule</b>	(See text below)
<b>Discussion</b>	The Amendment is made to eliminate any ambiguity on counting the number of days required for filing the Settlement Statement.
<b>Proposed Changes</b>	<p><u>Rule 2.4 Settlement Conference</u></p> <p>Reference: California Rule of Court, rule 222.</p> <p>(a) At all settlement conferences, notwithstanding any other Rule:</p> <p>(1) The attorney who will try the case or an informed associate with full authority to negotiate a settlement of the case shall personally attend.</p> <p>(2) Any persons whose consent is required to authorize settlement shall personally attend; those <del>parties which are corporations</del><u>parties that are corporations</u> shall have in attendance an officer or other employee with authority to bind the corporation. Powers of attorney, oral or written, granting counsel settlement authority are unacceptable as a substitute for personal attendance at this conference. Defendant and cross-defendant shall personally attend if there is no insurance coverage, if there is an unsatisfied deductible, or if the insurance carrier is demanding that the insured contribute to settlement.</p> <p>(3) With respect to any insured party, a representative of the insurance carrier with authority to settle which is meaningful considering the exposure to loss presented shall personally attend. If the claims representative in personal attendance has any limitation on his or her settlement authority, a representative of the carrier who has no such limitations shall be available to the court by telephone and shall remain available until released by the judge conducting the conference, regardless of the time of day at the location of that representative.</p> <p>(4) Upon arrival at the department to which the conference has been assigned, counsel shall check in with the clerk and shall verify the attendance of those persons whose presence is required.</p> <p>(5) Notwithstanding the provisions of CRC 222(c), no later than five <u>(5) court</u> days before the date set for the settlement conference each party shall lodge with the office of the court administrator and serve on all other parties a written statement setting forth the following:</p> <p>(A) A statement of facts.</p>

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(B) The contentions of each party to the action regarding liability and damages.

(C) An itemized list of special damages.

(D) In any case in which personal injury is claimed:

(i) A description of the nature and extent of any injury claimed, including residuals.

(ii) A description of the basis for and method of calculation of any claimed wage loss.

(E) The most recent demand and offer or a description of any other proposed settlement between or among the parties.

(6) All parties shall be prepared to make a bona fide offer of settlement.

(b) The personal attendance of any person who is required by these rules to be present may be excused only by the presiding judge upon application made prior to the day on which the conference is scheduled. Any such person whose attendance is excused must remain available by telephone until he or she has been excused by the judge conducting the conference regardless of the time of day at the location of that person.

(c) No conference may be continued without the consent of the presiding judge or, if known, the judge to whom the case has been assigned for conference.

(d) At all such conferences, the judge of the department to which the conference has been assigned shall first attempt to settle the case. If settlement discussions are inconclusive, the judge may adjourn the conference to a later date for further settlement discussions.

(e) Sanctions pursuant to CRC 227 shall be imposed for any violation of this rule. The minimum sanction imposed shall be \$150.00 payable to the court; sanctions payable to the court may be larger where appropriate and will be in addition to appropriate attorney fees and calendar changes.

Sanctions mandated hereby may be waived by the judge conducting the conference only upon an application showing good cause why sanctions should not be imposed.

(Adopted, effective July 1, 1996) (Amended, effective January 1, 2003)(Amended, effective July 1, 2005)

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<b>Title</b>	<b>RULE 4.10 JUDICIAL COUNCIL FORMS</b>
<b>Summary</b>	An amendment to the Rule to delete two forms off of the list of Local Court forms that are required to be used and filed with the court.
<b>Current Local Rule</b>	(See text below)
<b>Discussion</b>	<ol style="list-style-type: none"> <li>1. Guardianship Affidavit (form PR3) is no longer necessary since the Local Rules no longer require it to be filed.</li> <li>2. Local Form “Confidential Worksheet for Dementia (Conservatorship) is no longer needed since all of the information is contained in the Judicial Council form “ Dementia Attachment to Capacity Declaration (GC335A).</li> </ol>
<b>Proposed Changes</b>	<p><u>Rule 4.10 Judicial Council Forms</u></p> <p>All Judicial Council adopted Probate forms must be used where applicable. Probate Code § 1001, California Rules of Court, Rule 7.101. In addition, the Superior Court in San Mateo County requires the use of the following <u>local</u> court forms:</p> <ol style="list-style-type: none"> <li>1. Notification to Court of Addresses [Conservatorship]</li> <li><del>1.2.</del> <u>Notification to Court of Addresses [Guardianship]</u></li> <li><del>2.</del> <u>Guardianship Affidavit</u></li> <li><del>3.</del> <u>Confidential Worksheet for Dementia [Conservatorship]</u></li> <li><del>4.3.</del> <u>Declaration for Final Discharge [Probate Estates]</u></li> <li><del>5.4.</del> <u>Request for Appointment of Probate Referee [Probate Estates]</u></li> <li><del>6.5.</del> <u>Uncontested Calendar Request [All Probate]</u></li> <li><del>7.6.</del> <u>Declaration for Northern Branch Assignment</u></li> </ol> <p>(Adopted, effective July 1, 1996) (Amended, effective July 1, 2004)  <u>(Amended, effective July 1, 2005)</u></p>

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**Proposal Number 05- 04**

<b>Title</b>	<b>RULE 4.77.14 TEMPORARY GUARDIANSHIP – EMERGENCY SITUATIONS ONLY</b>
<b>Summary</b>	An amendment to clarify the Rule as to what documents need to be filed when seeking an Order for Temporary Guardianship.
<b>Current Local Rule</b>	(See text below)
<b>Discussion</b>	Paragraphs D and E should be switched so that the flow of information would be clearer and more logical. And the naming of specific forms that need to be filed would clarify needs to filed and when.
<b>Proposed Changes</b>	<p><b>Rule 4.77.14 Temporary Guardianship - Emergency Situations Only</b></p> <p>Paragraphs A – C are unchanged.</p> <p><del>D.E</del> All documents should be taken to the Clerk’s Office, Room A, to the Probate counter at 400 County Center, Redwood City. All petitions for temporary guardian shall be reviewed by the Court Investigator for a recommendation. The Counter Clerk will call a Court Investigator. If possible, petitioners should call ahead to make sure an Investigator is available. The Court Investigator’s Office telephone is 650-363-4351</p> <p><del>E.D</del> The <del>action</del> <u>Petition for General Guardianship and supporting documents</u> <del>must shall</del> be filed and the fee paid before a <del>petition</del> <u>Petition</u> for <del>temporary</del> <u>Temporary guardianship</u> <del>Guardianship</del> is <del>submitted to</del> <u>filed with</u> the Court for consideration.</p> <p>Paragraphs F to H are unchanged.</p> <p style="text-align: center;">(Adopted, effective July 1, 2004 ) <u>(Amended, effective July 1, 2005)</u></p>

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**Proposal Number 05-05**

<b>Title</b>	<b>RULE 4.81.1 PETITION FOR APPOINTMENT OF A CONSERVATOR</b>
<b>Summary</b>	Rule 4.81.1 was revised in 2004 and again in January 2005 to require a filing party to include 3 additional copies of the document to accompany the original being filed so that there would be sufficient copies for the Court Investigator’s office. The original language stated that 3 copies were required for all filings, which was not the original intent when the amendments were made. This proposal clarifies when the 3 copies must be produced.
<b>Current Local Rule</b>	(See text below).
<b>Discussion</b>	Amendments proposed to clarify when an original and 3 copies of documents are needed to be presented to the clerk’s office when filing petitions or subsequent documents. Standing Order 05-75 was issued to correct the error in the original language. This Rule change will take the place of the Standing Order.
<b>Recommendation</b>	Add language to clarify when 3 copies of documents must accompany the original document being filed.
<b>Proposed Changes</b>	<p><u>Rule 4.81.1 Petition for Appointment of a Conservator.</u></p> <p>A petition for establishment of a conservatorship requires the following forms:</p> <ul style="list-style-type: none"><li>(1) Petition for Appointment of Probate Conservator (GC-310);</li><li>(2) Confidential Supplemental Information (GC-312);</li><li>(3) Notice of Hearing (GC-020);</li><li>(4) Order Appointing Court Investigator (GC-330);</li><li>(5) Capacity Declaration-Conservatorship (GC-335 );</li><li><u>(6) Dementia Attachment to Capacity Declaration (GC-335A)</u></li><li><del>(67)</del> Citation (GC-320);</li><li><del>(78)</del> Confidential Conservator Screening (GC-314);</li><li><del>(89)</del> Duties of Conservator and Acknowledgment of Receipt of Handbook (GC-348);</li><li><del>(910)</del> Notification to Court of Addresses (local form); and</li><li><del>(1011)</del> Appointment of Probate Referee (Estate) local form.</li></ul> <p>All filings regarding <u>initial conservatorships petitions</u> [initial petitions <u>and supporting documentation, amended petitions or other amended supporting documents</u>] <del>and all subsequent petitions or other documents</del> <u>or Petition for Independent Powers</u> <b>must</b> consist of an original and three copies <u>of each document stated herein</u>. Signatures should be made with blue ink. The Clerk will retain the original and two copies of all documents filed. (The Clerk will deliver the copies to Court Investigators.) The third copy will be returned to the party for his or her records, stamped “endorsed-file”. The information contained in the Confidential Supplemental Information and Confidential Conservator Screening are not part of</p>

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the public record.

Subsequent filings regarding conservatorships [accountings, confidential status reports, other petitions or documents] must consist of an original and two copies. Signatures should be made with blue ink. The clerk will retain the original and one copy of all documents filed. (The clerk will deliver the copy to the Office of the Court Investigator.) The second copy will be returned to the party for his or her records, stamped “endorsed-file”.

~~For~~ Petitions requesting Dementia Authority Powers, filings **must** consist of an original and three copies of all required documents. (The clerk will deliver two copies to the Office of the Court’s ~~Probate~~ Investigators). Reference: Local Rule 4.81.10; Probate Code section 1821; California Rules Of Court, Rule 7.1050.

(Adopted, effective July 1, 2004 [former Rule 4.81(a)]) (Amended 1/1/05)  
(Amended, effective July 1, 2005)

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**Proposal Number 05-06**

<b>Title</b>	<b>RULE 5.8(c)(1)</b>
<b>Summary</b>	Proposal changes the responsibility of serving the Notice of Assignment and Status Conference from the Respondent to the Court Clerks' Office
<b>Current Local Rule</b>	Current local rule requires the Respondent to serve the Notice of Assignment and Status Conference. This procedural requirement was a carry over from the old Local Rule where the issuance date for the Status Conference Statement was calculated from the filing of the Petition. The Rule was recently changed to calculate issuing the Notice from the date of filing of the Response.
<b>Discussion</b>	<p>Making this change addresses two concerns:</p> <ol style="list-style-type: none"><li>1. Pro per respondents are generally unfamiliar with the Local Rules. While they would be advised of them by the Facilitator's office, the Facilitator may not see all respondents in dissolution cases. Similarly, not all attorneys are as familiar as they should be with the local rules. While both practitioners as well as pro pers should be held to the same standard, that of knowing any applicable local rules, the reality of that is not always practical. If these cases are being set for hearing via the notice of status conference and the respondent does not serve the petitioner, it turns out to be waste of the court's precious time. If we were to have the court serve notice, we would have an accurate record of service and the matter could be heard without questions of service.</li><li>2) The second reason is more procedural. The status conference is a court issued hearing, not one requested by either of the parties. This is why a "notice of status conference is issued." Typically when the court sets a hearing, it notices the parties for this hearing and it is not the responsibility of a non-moving party to serve notice on the opposing party.</li></ol>
<b>Proposed Changes</b>	<p><u>Rule 5.8 Trial Setting, Status Conference, and Mandatory Settlement Conference Rules</u></p> <p>[Sections "A" and "B" unchanged.]</p> <p>C. Status Conference:</p> <p><del>1.</del><u>Date set upon filing:</u> Every case for dissolution of marriage, nullity, or legal separation filed after the effective date of this rule will be assigned a Status Conference with the assigned judicial department on a date and time to be provided by the court upon filing of a Response. The Conference will be set in the assigned department approximately 120 days from the filing of the Response unless both counsel or self represented parties request that the status conference be held earlier, a judgment has been entered, or a dismissal has been filed. <del>It is the responsibility of the Respondent to</del>The court will serve a copy of the Notice of Assignment and Status Conference on the <del>Petitioner-parties</del> when the Conference is set. <del>A Proof of service of the Response shall include proof that the Status Conference Notice was</del></p>

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[Sections C. 2. through Section F are unchanged.]

<b>Proposal Number 05- 07</b>	
<b>Title</b>	<b>RULE 10.2 (NEW) CONFIDENTIALITY OF POLICE REPORTS CONTAINING VICTIM OR WITNESS INFORMATION (Penal Code §964)</b>
<b>Summary</b>	Rule establishes procedure for processing law enforcement reports that are submitted in support of search or arrest warrants, petitions that contain victim or witness confidential information.
<b>Current Local Rule</b>	NONE
<b>Discussion</b>	Standing Order was issued to establish this procedure and this Local Rule will codify the procedures. This is in response to a recent amendment to Penal Code 964.
<b>Recommendation</b>	To make the procedures in Standing Order 05-73 permanent in the Local Rules.
<b>Proposed Changes</b>	<p><b><u>RULE 10.2 CONFIDENTIALITY OF VICTIM OR WITNESS INFORMATION IN LAW ENFORCEMENT, ARREST OR INVESTIGATIVE REPORTS [Penal Code §964(c)]</u></b></p> <p><b><u>A. Law Enforcement Reports Impacted</u></b></p> <p><b><u>1. Law Enforcement, arrest or investigative reports that contain confidential personal information regarding a witness or victim are to be sealed pursuant to Penal Code section 964(a). These reports will be sealed once they are filed or lodged with the Court if they are submitted for the following purposes:</u></b></p> <p><b><u>a) If the report is being submitted by a prosecutor in support of a criminal complaint, indictment, or information, or</u></b></p> <p><b><u>b) If the report is submitted by the prosecutor or law enforcement officer in support of a search or arrest warrant.</u></b></p> <p><b><u>2. This Rule is an exception to the California Rule of Court 243.1, as provided by paragraph (a)(2) of Rule 243.1.</u></b></p> <p><b><u>3. Pursuant to Penal Code §964(c), this procedure will not be construed to impair or affect any of the following:</u></b></p> <p><b><u>a) Provisions of Chapter 10 of Title 6 of Part 2 (commencing with Penal Code §1054);</u></b></p> <p><b><u>b) Procedures regarding informant disclosure provided by Evidence Code §§ 1040 to 1042 inclusive, or as altering procedures regarding sealed search warrant affidavits as provided by People vs. Hobbs (1994) 7 Cal4th 948; or</u></b></p> <p><b><u>c) A criminal defense counsel’s access to unredacted reports otherwise authorized by law, or the submission of</u></b></p>

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documents in support of a civil complaint.

B. Access to Sealed Reports

Any individual or agency, who does not have access to the report as allowable by law, may obtain access to a redacted version of the sealed report by following these procedures:

1. File with the Court an Ex Parte Application for an Order to view the report. This Ex Parte application must state the case number, title of the case, and the reasons and basis for your request to gain access to the sealed report.
2. Please see Local Rule 3.19 for filing, scheduling and hearing procedures. All Ex Parte Applications for an Order to view a sealed law enforcement report containing victim/witness information under this Rule must be scheduled for the Presiding Judge's Ex Parte hearing calendar that is heard daily between 2:00 PM to 3:30 PM.
3. Individuals who obtain an order granting access to a sealed report pursuant to this Rule shall present the order at the Criminal Court Clerk's Office to request the report. The Clerk's office will arrange to obtain a copy of the redacted report and will notify the applicant when the report is available for pick up.

(Adopted, effective July 1, 2005)

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**Proposal Number 04B-02**

<b>Title</b>	CIVIL JURY INSTRUCTIONS – INCLUSION OF REFERENCES TO CACI
<b>Summary</b>	The Judicial Council adopted California Rules of Court, Rule 855, where the Judicial Council approved a set of civil jury instructions for use in California. These civil instructions are the official instructions for use in California. The proposed changes to our Local Rules updates our Rules to include reference to these official jury instructions.
<b>Current Local Rule</b>	See Below.
<b>Discussion</b>	While the “official” set of jury instructions that were approved by the Judicial Council are not required, but only strongly encouraged for use, our Local Rules should refer to them as one of the acceptable versions of jury instructions that the parties or counsel may use before this court. Adding reference to them only acknowledges their official status as an acceptable format to be used by counsel or parties.
<b>Recommendation</b>	
<b>Proposed Changes</b>	<p><b><u>Rule 2.7.1 Proposed Jury Instructions</u></b></p> <p>(a) In all jury trials, insofar as practicable, the instructions in BAJI, <u>CACI</u> and CALJIC shall be used. Specially prepared instructions may be refused if the subject matter is satisfactorily covered by BAJI, <u>CACI</u> or CALJIC instructions. This rule does not limit the right of counsel to submit additional instructions properly numbered in consecutive order that are not covered by BAJI, <u>CACI</u> and CALJIC; nor does it relieve counsel of the responsibility of making any necessary substantial modifications to the BAJI, <u>CACI</u> or CALJIC instructions.</p> <p>(b) The office of the court administrator will supply a numbered master list of all BAJI, <u>CACI</u> and CALJIC instructions maintained by the court. It is the responsibility of counsel in each case to submit a numbered list of proposed BAJI, <u>CACI</u> or CALJIC instructions as are needed at the commencement of trial. The office of the court administrator will then supply print-out copies of all BAJI, <u>CACI</u> or CALJIC instructions approved by the trial court.</p> <p>(c) The Trial Department shall determine in its discretion the timing of submission of proposed jury instructions.</p> <p style="text-align: center;">(Amended, effective January 1, 2002)</p> <p><b><u>Rule 2.7.2 Duty Of Counsel with Respect to Jury Instructions</u></b></p> <p>Before delivery of proposed BAJI, <u>CACI</u> or other instructions to the trial judge and opposing counsel, counsel shall fill in all blanks, make all strike-outs, insertions and modifications therein which are appropriate to the case. Counsel must give particular attention to the completion of all blank portions of BAJI 2.60 before submission to the trial judge. Submission of a form, which requires additions or modifications to constitute a complete and intelligible instruction, shall not be</p>

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deemed a request for such instruction.

In addition to a hard copy of the proposed jury instructions, counsel shall provide the modified instructions on a computer diskette, and a clean copy of the instructions to be given to the jury.

(Adopted, effective January 1, 2000)

Rule 2.7.3 Form of Proposed Jury Instructions (CCP §§ 607a, 609, CRC 517)

All proposed jury instructions, excepting BAJI or CACI instructions, shall conform to the requirements of CRC, rule 229, and § 5 of the Standards of Judicial Administration, including placing thereon the citations of authorities, indication of the party requesting the instructions and respects in which related BAJI or CACI instructions have been modified. Any jury instructions requested after the conclusion of taking evidence shall be in writing. The court, in its discretion, may permit instructions to be sent into the jury room in "Booklet Form". In "Booklet Format" the text of the instruction is printed continuously on the page and may result in several instructions to the page. Such instructions may be accompanied by a table of contents.

(Adopted, effective January 1, 2000) (Amended, effective January 1, 2004)

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**Proposal Number 04B-03**

<b>Title</b>	RULE 8.10 – COPIES OF ORDERS AND REFEREE REPORTS
<b>Summary</b>	Repeal Rule 8.10 since the basis for adopting it in the first place has been eliminated.
<b>Current Local Rule</b>	See language below.
<b>Discussion</b>	The Judicial Council has been conducting an on-going survey of court orders regarding appointment of Special Masters, the fees charged by the Masters and collection of fees for the Master’s services. The survey was required in order to prepare a report to the State Legislature regarding these fees. As part of the survey process, each court was required to report monthly on cases where masters were appointed and any orders issued by the Masters. Rule 8.10 was adopted in January 2002 to comply with the Judicial Council’s mandate. Early in 2004 we were notified that the courts were no longer required to submit the monthly reports. Rule 8.10 has become obsolete and serves no purpose now that the courts no longer need to submit the report and copies of the Special Master’s orders.
<b>Recommendation</b>	
<b>Proposed Changes</b>	<p><b><u>Rule 8.10 Copies of Orders and Referee Reports</u></b></p> <p><del>All parties or referees who file an order or report with the court, pursuant to California Rules of Court, Rules 244.1 and 244.2, must provide an additional conformed copy of the document along with the original for filing with the clerk of the court. The additional copy requirement applies to any order appointing referees pursuant to the Code of Civil Procedure sections 638 and 639, the referee’s report under Code of Civil Procedure section 643, and any order of the court concerning the compensation of the referee.</del></p> <p>(adopted, effective January 1, 2002) <del>(Repealed, effective January 1, 2004)</del></p>

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<b>Title</b>	<b>RULE 5.13 FAMILY COURT SERVICES B. Mediation At Family Court Services</b>
<b>Summary</b>	Limitation of Review Mediation
<b>Current Local Rule</b>	Paragraph 8 set forth below with additions and delineations.
<b>Discussion</b>	This rule implements changes in scheduling review mediations to prevent overuse of mediation process when no change in circumstances.
<b>Recommendation</b>	
<b>Proposed Changes</b>	<p><b><u>RULE 5.13 FAMILY COURT SERVICES</u></b></p> <p>A. Mediation Required (UNCHANGED)</p> <p>B. Mediation at Family Court Services Paragraphs 1-7 (UNCHANGED)</p> <p>8. Subsequent Mediation Appointments: Unless <u>a</u> review mediation is requested by <u>the</u> Court or the mediator, parties <del>will only be given an appointment for additional mediation with</del><u>may not set an appointment with Family Court Services within six months of their last mediation unless authorized by the Court</u> <del>an upcoming Court date</del>. In general, <u>it is the policy of Family Court Services</u> <del>policy is</del> to assign the parties the same mediator in order to provide for continuity of services and to prevent minor children from needing to be interviewed again.</p> <p><u>9. Request for Change of Counselor (Pursuant to F.C. 3163):</u></p> <p>A. <u>A peremptory challenge of a counselor is not allowed.</u></p> <p>B. <u>A party may request a change of counselor as follows:</u></p> <ol style="list-style-type: none"> <li>1. <u>Requesting a Client Comment Form or sending a written request to the Manager of Family Court Services outlining the reasons for the request.</u></li> <li>2. <u>No change of counselor requests will be granted unless there is substantial showing that the counselor is biased or prejudiced against one of the parties or is unable to render a fair and impartial recommendation.</u></li> <li>3. <u>The Manager shall review the request and shall advise the parties of the decision in writing. The Manager's decision is final.</u></li> </ol> <p>Sections 9 through 14 renumbered 10 through 15.</p> <p><u>C. Court Ordered Private Child Custody Evaluations:</u></p>

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1. Court appointed evaluators shall abide by the requirements of Rule 1257.3 Uniform Standards of Practice for the Court Ordered Child custody evaluation in the California Rules of Court.
2. No peremptory challenge to a Court appointed evaluator is allowed.
3. Evaluators may petition to withdraw from a case by submitting a request in writing to the court and mailing copies to the counsel for the parties. The request shall include the reason for the request and a status report on any action taken by the evaluator appointed to the case.
4. Grievance Procedure: Complaints regarding the evaluator's performance shall be submitted to the Court for review. All submitted written complaints will receive a response from the Court.
5. The evaluator may initiate an ex parte communication with the court to define the scope, process and methods of the evaluation when authorized by the order appointing the evaluator.
6. All child custody and visitation evaluations shall be ordered by the court and evaluators will be appointed under Evidence Code Section 730. The court may elect not to consider evaluations which have not been approved and ordered by the court.
7. A copy of the appointment of the evaluator under Evidence Code Section 730 will be made available to the court assigned evaluator. A court ordered evaluation may be limited in scope to the issues identified by the court.
8. Information from Children: The court relies on the judgment of its experts in making decision about when, how often, and under what circumstances children are interviewed. The expert shall be able to justify the strategy used in any particular case. Except in extraordinary circumstances, including the potential for danger to the child, children shall be informed that the information provided by the child will not be confidential.
9. Any evaluation based on interviews with only one parent shall not include a recommendation regarding custody.
10. Payment of the Evaluation: The court will order payment of the evaluation at the time of the appointment.
11. Any court ordered child custody evaluation shall be submitted to the court and counselor for the parties not less than ten (10) days before the hearing or trial.
12. A list of names of local child custody evaluators in can be obtained by contacting Family Court Services at 650 363-4561.

NOTE: Deleted wording is stricken "~~conservator~~"  
New wording is underlined "conservator"



**Proposal Number 04B- 05**

<b>Title</b>	<b>Rule 5.8 Trial Setting, Status Conference, and Mandatory Settlement Conference Rules</b>
<b>Summary</b>	Proposed Rule change will change when the Status Conference Date is set.
<b>Current Local Rule</b>	See Proposed Changes Below.
<b>Discussion</b>	The proposed change to Rule 5.8(C) concerns changing when the Status Conference date is given. Currently, for all new matters commenced after 1-1-04, upon filing a Petition, the Clerk's office provides the date for a status conference (approx 6 months) along with the Notice of Assignment. The change is to make the setting of the status conference dependent on the filing of a RESPONSE.
<b>Recommendation</b>	
<b>Proposed Changes</b>	<p><b><u>Rule 5.8 Trial Setting, Status Conference, and Mandatory Settlement Conference Rules</u></b></p> <p>Sections A-B are unchanged</p> <p>C. Status Conference:</p> <p>1. Date set upon filing: Every <del>Petition</del> case for dissolution of marriage, nullity, or legal separation filed after the effective date of this rule will be assigned a Status Conference with the assigned judicial department on a date and time to be provided by the court upon filing of <del>the Petition unless both counsel or self represented parties request that the status conference be held earlier, a judgment has been entered on all matters, or a dismissal has been filed</del>a Response. The Conference will be set in the assigned department approximately <del>150</del>120 days from the filing of the Response unless both counsel or self represented parties request that the status conference be held earlier, a judgment has been entered, or a dismissal has been filed <del>Petition</del>. It is the responsibility of the <del>Petitioner</del> Respondent to serve a copy of the Notice of Assignment and Status Conference on the <del>Respondent</del> <u>Petitioner</u> <del>along with the Summons and Petition</del>. A Proof of service of the Response shall include proof that the Status Conference Notice was <del>Summons and Petition should include proof that the Status Conference Notice was also served</del>.</p> <p>Paragraphs 2 to 9 are unchanged.</p> <p>Sections D to F are unchanged.</p>

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**Proposal Number 04B- 06**

<b>Title</b>	<b>Rule 5.4 Case Flow Management</b>
<b>Summary</b>	Section E (2) is amended to change the start date used for calculating 30 day period to file objection to having matter heard by a commissioner.
<b>Current Local Rule</b>	See Proposed Change Below.
<b>Discussion</b>	
<b>Recommendation</b>	
<b>Proposed Changes</b>	<p><b><u>Rule 5.4 Case Flow Management</u></b></p> <p>Sections A to D unchanged.</p> <p>E. <b>Cases Assigned to Commissioners:</b></p> <ol style="list-style-type: none"><li>1. Unchanged</li><li>2. A party will be deemed to stipulate that all matters heard in the Family Law Department may be heard and disposed of by a Commissioner, including the power to punish for contempt, until final determination of the case, by failing to file an objection in writing within thirty (30) days after <del>the service on the party of the Notice of Assignment</del><u>first pleading is filed in the action by that party</u>, or at the first hearing on a motion heard in the Family Law Department, if heard before the expiration of the thirty (30) days.</li><li>3. Unchanged</li></ol> <p>Section F unchanged</p>

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**Proposal Number 04B- 07**

<b>Title</b>	<b>Rule 5.7 <u>Order to Show Cause and Notice of Motion Rules</u></b>
<b>Summary</b>	New section “T” added to Rule.
<b>Current Local Rule</b>	See Proposed Changes Below.
<b>Discussion</b>	
<b>Recommendation</b>	
<b>Proposed Changes</b>	<b>Rule 5.7 <u>Order to Show Cause and Notice of Motion Rules</u></b>  Sections A to H unchanged  <u>I. TEMPORARY SPOUSAL SUPPORT FORMULA. Temporary spousal support is generally computed by taking 40% of the net income of the payor, minus 50% of the net income of the payee, adjusted for tax consequences. In the event there is child support, temporary spousal support is calculated on the net income not allocated to child support and/or child-related expenses.</u>

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<b>Title</b>	<b>RULE 10.1 JUDICIAL ARBITRATION FOR CIVIL CASES</b>
<b>Summary</b>	<p><u>Changes to Section (d) involve a party’s change of their arbitration date and the form they are to complete to request a change in their arbitration date.</u></p> <p><u>Section (e) adds new language regarding parties requesting changes in their selection of ADR procedures.</u></p>
<b>Current Local Rule</b>	See below in “Proposed Changes” section.
<b>Discussion</b>	<u>These changes are being proposed to more accurately reflect the new procedures implemented by the case management department in 2002.</u>
<b>Recommendation</b>	
<b>Proposed Changes</b>	<p><b><u>Rule 10.1 Judicial Arbitration for Civil Cases</u></b></p> <p><u>A.<del>(a)</del> Use of Arbitrator's Panel [UNCHANGED]</u></p> <p><u>B. <del>(b)</del> Pleadings Submitted to Arbitrator</u></p> <p>Each party in a case referred to arbitration may lodge with the arbitrator a copy of the latest complaint, answer, cross-complaint, or answer to cross-complaint filed by that party and arbitration brief, if any. Documents shall be lodged with the arbitrator at least five (5) court days prior to the scheduled hearing <u>or whenever the assigned arbitrator requires.</u></p> <p><u>C. <del>(c)</del> Length of Arbitration Hearings [UNCHANGED]</u></p> <p><u>D. <del>(d)</del> Requests for Continuances</u></p> <p><u>(H)1. Hearing Date <u>and Jurisdiction of the Arbitrator.</u></u></p> <p><u>Any request to continue a judicial arbitration hearing will automatically vacate the current arbitration hearing date.</u> Any application to the court pursuant to Rule 1607 of the California Rules of Court for a continuance of the arbitration hearing shall be <u>submitted on a Court provided form entitled “Ex Parte Motion and Stipulation for Continuance of Judicial Arbitration Hearing.”</u> Parties can obtain a copy of the form by contacting the court’s judicial arbitration administrator supported by a declaration showing:</p> <ul style="list-style-type: none"> <li><del>— (A) — The date the arbitrator was assigned;</del></li> <li><del>— (B) — The date on which the arbitration hearing is currently set;</del></li> <li><del>— (C) — The reason for and period of any previous continuance of the arbitration hearing;</del></li> <li><del>— (D) — The proposed new hearing date for the arbitration;</del></li> <li><del>— (E) — Good cause under the standards recommended in Section Nine of the Standards of Judicial Administration for the continuance;</del></li> </ul>

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and

~~(F) Whether all parties and the arbitrator have stipulated to the proposed continuance.~~

~~(2) Ex Parte~~

~~A request by stipulation of all parties for a continuance to a date beyond 90 days (but within 120 days) of the arbitrator's appointment may, with the arbitrator's consent, be made to the court by ex parte motion.~~

~~(3) Noticed Motion~~

~~A party requesting a continuance must proceed by noticed motion under the following circumstances:~~

~~(A) The continuance requested is to a date beyond 120 days of the arbitrator's appointment;~~

~~(B) Either party declines to stipulate to a continuance to a date within the 90-day period;~~

~~(C) (C) The arbitrator declines to consent to a continuance to a date within the 90-day period.~~

#### E. Requests to Change ADR Processes

1. It is the policy of this court that all judicial arbitration hearings shall be conducted in accordance with California Rules of Court, sections 1600-1618. At the time of the case management hearing, the court expects parties to be prepared to select the appropriate ADR process for their case. [CRC, section 212(e)(6)].

2. Parties may not switch from court ordered judicial arbitration to another form of ADR on the day of the judicial arbitration hearing. However, if the parties believe that another ADR process might be more beneficial to their case, they may request permission from the court to switch ADR processes. Parties must submit their request to the court using the Court provided "Stipulation and [Proposed] Order to {Mediation, Neutral Evaluation, etc.} in Lieu of Court Ordered Judicial Arbitration" form. [See Local Rule 2.3(h)(3)].

(Adopted, effective July 1, 1996) (Amended, effective January 1, 2005)

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<b>Title</b>	<b><u>Rule 2.3 New Case Management</u></b>
<b>Summary</b>	<p><u>This change is being made to require parties, who have requested a change in date of their CMC, to provide the court with the most current information on their case before it goes to the Case Management Conference.</u></p> <p><u>The Rule is also changed to reflect the new form that parties are to complete when requesting a continuance of their arbitration hearing.</u></p>
<b>Current Local Rule</b>	
<b>Discussion</b>	<u>These changes are being proposed to more accurately reflect the new procedures implemented by the case management department in 2002 and to be consistent with the changes being made in Local Rule 10.1</u>
<b>Recommendation</b>	
<b>Proposed Changes</b>	<p><b><u>Rule 2.3 New Case Management</u></b></p> <p>(a) – (e) Unchanged</p> <p>(f) Case Management Statement</p> <p>At least 15 calendar days before the scheduled case management conference, each party shall file with the court and serve on all other parties a completed Judicial Council Case Management Statement. <u>If the case is set for further case management conference hearing(s), all parties must file updated Case Management Statements 15 calendar days prior to the scheduled hearings(s).</u></p> <p>(g) Unchanged</p> <p>(h) Stipulations to Arbitration</p> <p><u>    (1) Unchanged.</u></p> <p><u>    (2) It is the policy of this court to make every effort to process cases in a timely manner. Parties who elect or are ordered by the court to judicial arbitration must complete the arbitration hearing within the time frame specified by the court.</u></p> <p><u>Parties who wish to continue the arbitration hearing after the jurisdictional time frame must submit a court-<del>“Continuance Request Form” to the court judicial arbitration administrator stating the dates of any prior continuances the length of continuance requested and the reason for the request-provided form entitled “Ex Parte Motion and Stipulation for continuance of Judicial arbitration Hearing.” Parties can obtain a copy of the form by contacting the court’s judicial arbitration administrator [See Local Rule 10.1(d)(1).</del></u></p> <p><u>Continuances without adequate grounds will not be considered. A case management judge will either grant or deny the request for continuance. If the request is denied, the case may be assigned a trial date. If the request is granted, the judge will impose a new deadline by which the arbitration must be completed.</u></p> <p><u>    (3) Unchanged</u></p>

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