



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

RODINA CATALANO
COURT EXECUTIVE OFFICER
CLERK & JURY COMMISSIONER

(650) 261-5016

September 30, 2016

To All Interested Persons,

The Court is making changes to its Local Court Rules. These changes are proposed to become effective January 1, 2017. The court invites you to review and provide your comment on these proposals as afforded pursuant to the State of California Rules of Court, Rules 10.613 and 10.815.

Comments must be submitted by email to smscomment@sanmateocourt.org. Please indicate "Comments on Proposed Rule Changes" in the subject line, and provide in the email the proposal number(s), section(s), and paragraph number(s) on which you are commenting.

Comments must be received no later than 2:30 p.m., Wednesday, November 16, 2016.

Sincerely,
Rodina Catalano, Court Executive Officer

A handwritten signature in black ink, appearing to read "MTreanor".

By: Mary Treanor
Court Rules Committee Staff

INVITATION FOR PUBLIC REVIEW AND COMMENT
[Proposed Effective Date of January 1, 2017]

Pursuant to California Government Code § 70631 and California Rules of Court, Rule 10.613(g) and 10.815(b), the following proposed amendments to the Local Rules are hereby distributed for public comment and notice. The affected items are:

Proposed Revisions to Local Court Rules

(Click on proposal number for link to page)

[2016-Fall01](#) **DIVISION II – COURT MANAGEMENT – SUPERIOR COURT**
CHAPTER 1 – FORM AND SERVICE OF PAPERS
Rule 2.1.3 – California Environmental Quality Act (CEQA)

[2016-Fall02](#) **DIVISION II – COURT MANAGEMENT – SUPERIOR COURT**
CHAPTER 1 – FORM AND SERVICE OF PAPERS
Rule 2.1.5 (A)– Permissive Electronic Filing of Documents

[2016-Fall03](#) **DIVISION II – COURT MANAGEMENT – SUPERIOR COURT**
CHAPTER 2. CIVIL TRIAL COURT MANAGEMENT RULES
PART 2. CASE FLOW MANAGEMENT
Rule 2.3 New Case Management

[2016-Fall04](#) **DIVISION V – FAMILY LAW DEPARTMENT AND FAMILY COURT**
SERVICES
Rule 5.4 (E) Case Flow Management

[2016-Fall05](#) **DIVISION VII – PRETRIAL PROCEEDINGS IN CLASS ACTIONS**
Rules 7.1 through 7.11

Submitting Comments

- Comments must be submitted via email to smsccomment@sanmateocourt.org with the subject line indicating “Comments on Proposed Rule Changes.”
- Please indicate the proposal number(s), section(s), and paragraph number(s) on which you are commenting.
- Comments must be received **no later than 2:30 p.m. on Wednesday, November 16, 2016.**

**PROPOSED AMENDMENTS TO LOCAL COURT RULES
EFFECTIVE JANUARY 1, 2017**

| | Proposal Number 2016-Fall01 |
|-------------------------|---|
| Title | DIVISION II – COURT MANAGEMENT – SUPERIOR COURT CHAPTER 1 – FORM AND SERVICE OF PAPERS Rule 2.1.3 – California Environmental Quality Act (CEQA) |
| Summary | Rule 2.1.3 is amended to clarify that it applies to complaints in addition to petitions for writ of mandate that include claims under the California Environmental Quality Act (CEQA). |
| Discussion | Previously, Rule 2.1.3 specified that if a petition for writ of mandate included claims under CEQA, the case will be assigned to the judge designated to hear CEQA actions, pursuant to Public Resources Code section 21167.1(b). This amendment clarifies that the rule applies to both a petition and a complaint that includes claims under CEQA. |
| Proposed Changes | <p><u>Rule 2.1.3 California Environmental Quality Act (CEQA)</u></p> <p style="text-align: center;">If a petition for writ of mandate <i>or complaint</i> includes claims under CEQA (Public Resources Code section 21000 et. Seq.), the case will be assigned to a judge designated to hear CEQA actions pursuant to Public Resources Code section 21167.1. Plaintiff shall identify the petition <i>or complaint</i> as being filed pursuant to “CEQA” on the face of the petition <i>or complaint</i>.</p> <p>(Adopted, effective January 1, 1999) (renumbered from 2.1.4 effective January 1, 2000) (<i>Amended, effective January 1, 2017</i>)</p> |

**PROPOSED AMENDMENTS TO LOCAL COURT RULES
EFFECTIVE JANUARY 1, 2017**

| | Proposal Number 2016-Fall02 |
|-------------------------|--|
| Title | DIVISION II – COURT MANAGEMENT – SUPERIOR COURT CHAPTER 1 – FORM AND SERVICE OF PAPERS Rule 2.1.5 (A)– Permissive Electronic Filing of Documents |
| Summary | Rule 2.1.5 allows, and sets the guidelines for, permissive electronic filing of documents in certain case types. Currently, Rule 2.1.5 applies only to Civil Complex Cases. This amendment would expand application of the rule. |
| Discussion | This amendment to Rule 2.1.5 will expand permissive electronic filing of documents to include actions or proceedings under the Family Code and the Probate Code. |
| Proposed Changes | <p><u>Rule 2.1.5 Permissive Electronic Filing of Documents</u></p> <p>A. The Court permits parties to electronically file documents in any civil class action, civil coordinated action, civil action that is provisionally complex under Rule 3.400(c) of the California Rules of Court, or civil action that is deemed complex pursuant to CRC Rule 3.403. <i>The Court permits parties to electronically file documents in any action or proceeding brought under the Family Code. The Court permits parties to electronically file documents in any action or proceeding to which the Probate Code applies.</i> The Court does not presently permit electronic filing in other types of cases.</p> <p>B. Unchanged</p> <p>C. Unchanged</p> <p>D. Unchanged</p> <p>(Adopted, effective January 1, 2014) (<i>Amended, effective January 1, 2017</i>)</p> |

**PROPOSED AMENDMENTS TO LOCAL COURT RULES
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| Proposal Number 2016-Fall03 | |
|------------------------------------|--|
| Title | DIVISION II – COURT MANAGEMENT – SUPERIOR COURT CHAPTER 2. CIVIL TRIAL COURT MANAGEMENT RULES PART 2. CASE FLOW MANAGEMENT Rule 2.3 New Case Management |
| Summary | Rule 2.3 lays out the guidelines for new case management of civil cases except for juvenile court matters, probate matters, family law matters, and civil cases that have been assigned to a judge or more than one judge for all purposes based on subject matter. This amendment makes changes so that the Rule accurately reflects practice. All subsections starting with (C) are renumbered to reflect the deletion of subsection (C) as detailed below. |
| Discussion | The amendments to Rule 2.3 include changes and deletions so that the Rule accurately reflects current practice. Rule 2.3(B) is amended to reflect the change from the use of a team concept to the use of a case management judge. Rule 2.3(C) is deleted so the distinction between cases filed before and after July 1, 1992 is eliminated. Rule 2.4(D) (now C.) is amended to clarify that it refers to proof of service of process. Rule 2.4(E)(7) (now (D)(7)) is amended to correct “program judge” to “Case Management Judge” pursuant to the proposed amended to Rule 2.3(B) Rule 2.4(E)(8) (now (D)(8)) is amended to update the reference to CourtCall’s confirmation of request for appearance to “send” so that method of confirmation is not limited to just fax. |
| Proposed Changes | <p><u>Rule 2.3 New Case Management</u></p> <p>A. Purposes and Goals</p> <p style="padding-left: 40px;">Unchanged</p> <p>B. <i>Case Management Judges</i></p> <p style="padding-left: 40px;">The clerk will assign the case to a <i>Case Management Judge</i> at the time the complaint is filed. The case shall be managed by the assigned <i>Case Management Judge</i> until disposition or until the case is assigned to a trial department.</p> <p>C. Filing and service of pleadings; exceptions.</p> <p style="padding-left: 40px;">(1) Unchanged</p> <p style="padding-left: 40px;">(2) Unchanged</p> |

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- (3) Unchanged
- (4) Proofs of service *of process*: Proofs of service *of process* must be filed at least 10 calendar days before the case management conference.

(5) Unchanged

D. Case management conference

(1) Unchanged

(2) Unchanged

(3) Unchanged

(4) Unchanged

(5) Unchanged

(6) Unchanged

(7) Conference orders: At the initial conference, the ***Case Management Judge*** will make appropriate pre-trial orders that may include the following:

(A) An order referring the case to arbitration, mediation or other dispute resolution process;

(B) An order transferring the case to the limited jurisdiction of the superior court;

(C) An order assigning a trial date;

(D) An order identifying the case as one which may be protracted and determining what special administrative and judicial attention may be appropriate, including special assignment;

(E) An order identifying the case as one which may be amenable to early settlement or other alternative disposition technique;

(F) An order of discovery; including but not limited to establishing a discovery schedule, assignment to a discovery referee, and/or establishing a discovery cutoff date;

(G) An order scheduling the exchange of expert witness information;

(H) An order assigning a mandatory settlement conference date pursuant to Local Rule 2.3(k) and 2.4; and

(I) Other orders to achieve the interests of justice and the timely disposition of the case.

(8) CourtCall Telephonic Appearances

(A) Unchanged

(B) Procedure. Telephonic appearances through the use of CourtCall, an independent vendor, are permitted at case management conference hearings. A party wishing to make a telephone appearance must serve and file a Request for Telephone Appearance Form with CourtCall not less than five court days prior to the case management conference hearing. Copies of the Request for CourtCall Appearance form and accompanying information sheet are available in the Clerk's office. There is a fee to parties for each CourtCall appearance and fees are paid directly to CourtCall. CourtCall with *send* confirmation of the request to parties.

(C) Unchanged

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(D) Unchanged

E. Case Management Statement

Unchanged

F. Appropriate Dispute Resolution, ADR, Policy Statement

Unchanged

G. Stipulations to Arbitration

Unchanged

H. Stipulations to Private ADR

Unchanged

I. Setting Short Cause Matters

Unchanged

J. Law and Motion

Unchanged

K. Settlement Conferences

Unchanged

L. Sanctions

Unchanged

(Adopted, effective July 1, 1996) (Amended, effective January 1, 2000)
(Amended, effective January 1, 2003) (Amended effective July 1, 2003)
(Amended, effective January 1, 2005) (Amended, effective January 1, 2006)
(Amended, effective January 1, 2007) (Amended, effective January 1, 2010)
(Amended, effective January 1, 2017)

**PROPOSED AMENDMENTS TO LOCAL COURT RULES
EFFECTIVE JANUARY 1, 2017**

| | Proposal Number 2016-Fall04 |
|-------------------------|---|
| Title | DIVISION V – FAMILY LAW DEPARTMENT AND FAMILY COURT SERVICES Rule 5.4 (E) Case Flow Management |
| Summary | Rule 5.4 (E) is amended to implement newly approved Local Form AD-10 that was put into use as of July 1, 2016. |
| Discussion | Local Form AD-10 was approved and put into use as of July 1, 2016. The previous Rule 5.4(E) was inconsistent with the procedure required by the use of Local Form AD-10. |
| Proposed Changes | <p><u>Rule 5.4 Case Flow Management</u></p> <p>Sections A through D remain unchanged.</p> <p>E. Cases Assigned to Commissioners</p> <ol style="list-style-type: none"> <i>1. Except as provided in Code of Civil Procedure § 259, subdivisions (a), (b), (c), (e), (f) and (g), parties are required to stipulate to a commissioner hearing a matter acting as a temporary judge pursuant to California Constitution, Article VI, §§ 21 and 22 and Code of Civil Procedure § 259(d).</i> <i>2. When a case is assigned to a commissioner, Local Form AD-10, Stipulation for Court Commissioner to Act as Temporary Judge For All Purposes is available to the parties and shall be filed before the first hearing. The refusal of a party to stipulate to a commissioner will result in the reassignment of the case to a judge and the hearing may be continued to another date.</i> <i>3. <u>Child Support Commissioner:</u> In cases where a party refuses to stipulate to a commissioner hearing a Title IV-D governmental child support case, the commissioner will proceed to make findings of fact and a recommended order subject to ratification by a judge pursuant to Family Code § 4251 (c).</i> <i>4. In order to avoid the undue consumption of judicial resources and to minimize inconvenience to the litigants, parties are strongly advised to file with the court and serve on all parties either a Stipulation for Court Commissioner to Act As Temporary Judge For All Purposes (Local Form AD-10) or a written objection to the assignment of a commissioner acting as a temporary judge, at least five court days before the first scheduled hearing.</i> |

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Section F remains unchanged.

(Adopted, effective January 1, 2000) (Amended, effective January 1, 2003)
(Amended, effective January 1, 2004) (Amended, effective January 1, 2005)
(Amended, effective January 1, 2007) (Amended, effective January 1, 2009)
(Amended, effective July 1, 2012) (*Amended, effective January 1, 2017*)

**PROPOSED AMENDMENTS TO LOCAL COURT RULES
EFFECTIVE JANUARY 1, 2017**

| | Proposal Number 2016-Fall05 |
|---|--|
| Title | DIVISION VII – PRETRIAL PROCEEDINGS IN CLASS ACTIONS Rules 7.1 through 7.11 |
| Summary | Rules 7.1 through 7.11 are repealed because they are either duplicative of other authority or obsolete. |
| Discussion | These local Rules regarding the handling of class actions were enacted 20 years ago, before the existence of any California Rules of Court on point. Given the adoption of CRC Rules on class actions and the continued development of case law in the field, our Local Rules are now either duplicative or obsolete. They are no longer necessary and may be inconsistent with current procedural practices. |
| Proposed Changes (insert text of new rule or changes here with track changes) | <p><u>Rule 7.1 Introduction REPEALED. See CRC 3.760(a) and (b)</u></p> <hr style="width: 20%; margin-left: 0;"/> <p style="text-align: center;">(Adopted, effective July 1, 1996) <i>(Repealed, effective January 1, 2017)</i></p> <p><u>Rule 7.2 Issues Subject to Pretrial Determination REPEALED. See CRC 3.750, 3.763, 3.764, 3.765, 3.766, 3.767</u></p> <p style="text-align: center;">(Adopted, effective July 1, 1996) <i>(Repealed, effective January 1, 2017)</i></p> <p><u>Rule 7.3 Caption of Pleadings REPEALED. See CRC 3.761</u></p> <p style="text-align: center;">(Adopted, effective July 1, 1996) <i>(Repealed, effective January 1, 2017)</i></p> <p><u>Rule 7.4 Pretrial Proceedings REPEALED. See CRC 3.750, 3.763 et seq.</u></p> <p style="text-align: center;">(Adopted, effective July 1, 1996) <i>(Repealed, effective January 1, 2017)</i></p> <p><u>Rule 7.5 Notice to Public Entity or Official REPEALED.</u></p> |

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(Adopted, effective July 1, 1996) (*Repealed, effective January 1, 2017*)

Rule 7.6 Class Action Order **REPEALED.**

(Adopted, effective July 1, 1996) (*Repealed, effective January 1, 2017*)

Rule 7.7 Early or Separate Trial **REPEALED.**

(Adopted, effective July 1, 1996) (*Repealed, effective January 1, 2017*)

Rule 7.8 Certificate of Readiness **REPEALED.**

(Adopted, effective July 1, 1996) (*Repealed, effective January 1, 2017*)

Rule 7.9 Settlement of Class Claims **REPEALED. See CRC 3.769**

(Adopted, effective July 1, 1996) (*Repealed, effective January 1, 2017*)

Rule 7.10 Retention of Jurisdiction **REPEALED. See CRC 3.769(h)**

(Adopted, effective July 1, 1996) (*Repealed, effective January 1, 2017*)

Rule 7.11 Dismissals **REPEALED. See CRC 3.770**

(Adopted, effective July 1, 1996) (*Repealed, effective January 1, 2017*)