Title 1. General and Administrative Rules

Chapter 1. General and Administrative Rules

Rule 1.1. Citation and effect of rules

These rules are the local rules for the Superior Court of California, County of Alameda. These rules may be cited as the “local rules” and are supplementary and subject to statutes and the California Rules of Court and shall be construed and applied so they do not conflict with such rules and statutes. These rules shall supersede all rules previously adopted by the superior and municipal courts of the County of Alameda. These rules shall have no retroactive effect or application.

Rule 1.1amended effective July 1, 2007; adopted effective May 19, 1998; previously amended effective July 1, 1999.

Rule 1.2. Construction and application of rules

These rules are to be liberally construed to ensure the just and speedy determination of the proceedings that they govern. Division, section, rule, and paragraph headings do not affect the scope, meaning, or intent of the provisions of these rules. If any part of a rule is held invalid, all valid parts that are severable from the invalid parts remain in effect. If a rule is held invalid in one or more of its applications, the rule remains in effect in all valid applications that are severable from the invalid applications.

Rule 1.2 amended effective July 1, 2007; adopted effective May 19, 1998; previously amended effective July 1, 1999.

Rule 1.3. Effective date of these rules

These rules shall take effect May 19, 1998.

Rule 1.3 amended effective July 1, 2007; adopted effective May 19, 1998.

Rule 1.4. Forms [Reserved]

Rule 1.5. Definitions

The definitions set forth in the California Rules of Court apply to these rules, unless the context or subject matter herein requires otherwise. As used in these rules:

(1) “County” means the County of Alameda, State of California.

(2) "Court" means the Superior Court of California, County of Alameda, and shall include and apply to any judge, commissioner, or referee who is a duly appointed or elected member of this court and to any judge who has been assigned by the Chairman of the Judicial Council to serve, and is serving, as a judge of this court, including any retired judge who is so assigned and is serving, and any attorney designated by the presiding judge as a temporary judge.

(3) "Rule" is a local rule of the Superior Court of California, County of Alameda.

(4) "Clerk" means the clerk and any deputy clerks of the Superior Court of California, County of Alameda.

(5) "Northern Division" means the combined geographic limits of Alameda, Albany, Berkeley, Emeryville, Oakland, and Piedmont; served by the René C. Davidson Alameda County Courthouse.

(6) "Southern Division" means the combined geographic limits of Hayward, San Leandro, Fremont, Newark, Union City, unincorporated areas of Ashland, Castro Valley, Cherryland, Fairview, San Lorenzo, and Washington Township, served by the Hayward Hall of Justice.

(7) "Eastern Division" means the combined geographic limits of Dublin, Livermore, Pleasanton, unincorporated areas of Sunol, East to the San Joaquin County line, West to Schafer Ranch Road, North to the Contra Costa County Line, South to Andrade Road, and Southeast to the Santa Clara County line; served by the Gale/Schenone Hall of Justice.

Rule 1.5 amended and renumbered effective July 1, 2007; adopted as rule 1.4 effective May 19, 1998; previously amended effective July 1, 1999.

Rule 1.6. Judges' vacation day

A day of vacation for a judge of the court is an approved absence for one full business day. Other absences from the court listed in California Rules of Court, rule 10.603(c)(2)(H) are excluded from this definition.

Rule 1.6 amended and renumbered effective July 1, 2007; adopted as rule 1.12 effective July 1, 2001; previously amended effective January 1, 2007.

Rule 1.7. [Reserved]

Rule 1.7 (Civil filing venues) repealed effective July 1, 2008; adopted as sections 'A' through 'E' of Appendix to Chapter 1 effective August 1, 2000 and renumbered effective July 1, 2007; previously amended effective January 1, 2002, January 1, 2004, January 1, 2007, July 1, 2007, and January 1, 2008.

Rule 1.8. Facsimile filing

The court hereby adopts California Rules of Court, rule 2.300 et seq. for the facsimile filing of documents in Civil, Probate, and Family Law proceedings, except those specified in California Rules of Court, rule 2.300(b).

(a) Filing

(1) The facsimile filing number will be posted on the court's website and will be available at the clerk's office.

(2) The court accepts direct filing as well as agency filing.

(3) Documents may be faxed to the court 24 hours a day, although filings received after 4 p.m. or on court holidays or weekends will be deemed filed on the next court day.

(b) Attorney fax number

If an attorney represents the party, the attorney must also include his or her facsimile machine telephone number, designated as a "fax" number below the attorney's state bar number.

(c) Conformed copies

Conformed copies will be available via the court's web page if permitted by the California Rules of Court. Otherwise, a conformed copy of the filing will be returned via facsimile to the number provided unless otherwise requested.

(d) Attachments

Each attachment must be immediately preceded by a faxed insert "tab title page", blank except for the title of the tab typed in the lower left-hand corner of the page. The facsimile usage fee will be assessed for each tab page.

(e) Rejected filings

If a document is rejected for filing, the clerk will fax a 'Return Information Sheet' indicating why the filing was rejected usually within two court days.

Rule 1.8 amended effective January 1, 2009; adopted effective May 19, 1998; previously amended effective August 1, 2000, July 1, 2003, January 1, 2004, January 1, 2007, and July 1, 2007.

Rule 1.9. Presentation of papers for filing in civil, family law, and probate

(a) Definition of a Civil Case.

For purposes of this rule, a "Civil Case" is an action or proceeding prosecuted by one party against another for the declaration, enforcement, or protection of a right or the redress or prevention of a wrong. Civil Cases include all cases except criminal cases, traffic cases, petitions for habeas corpus, "Family Law Cases" as defined in subparagraph (b) below, and proceedings in the Juvenile Court.

(b) Definition of a Family Law Case.

For purposes of this rule, a "Family Law Case" is any action or proceeding under the Family Code.

(c) When this rule does not apply.

This rule does not apply to pleadings, papers, forms, documents, and writings filed by facsimile transmission in compliance with section 1010.5 of the Code of Civil Procedure, rules 2.300-2.305 of the California Rules of Court, and Local Rule 1.8.

(d) Presentation of papers for filing in a Civil Case.

Except as provided in subparagraphs (f) - (k), all pleadings, papers, forms, documents, and writings to be filed in a Civil Case must be presented for filing at the René C. Davidson Courthouse, Room 109, 1225 Fallon Street, Oakland, California 94612 or the office of the civil clerk located at the Hayward Hall of Justice, Room 108, 24405 Amador Street, Hayward, California 94544.

(e) Presentation of papers for filing in a Family Law Case.

Except as provided in subparagraphs (f) - (k), all pleadings, papers, forms, documents, and writings to be filed in a Family Law Case must be presented for filing at the George E. McDonald Courthouse, First Floor, 2233 Shoreline Drive, Alameda, California 94501, or at the office of the family law clerk located at the Hayward Hall of Justice, Room 104, 24405 Amador Street, Hayward, California 94544.

(f) Presentation of papers for filing in Probate Code proceedings.

All pleadings, papers, forms, documents, and writings to be filed in a proceeding under the Probate Code must be presented for filing at the Berkeley Courthouse, 2120 Martin Luther King, Jr. Way, Berkeley,

California 94704. Notwithstanding the foregoing, if a proceeding under the Probate Code is assigned to an individual judge or commissioner who generally hears Civil Cases, then paragraph (j) of this rule applies; and, if a proceeding under the Probate Code is assigned to an individual judge or commissioner who generally hears Family Law Cases, then paragraph (k) of this rule applies.

(g) Presentation of papers for filing in proceedings under the False Claims Act or the Lanterman-Petris-Short Act.

All pleadings, papers, forms, documents, and writings to be filed in a case brought under Government Code sections 12650-12656 (False Claims Act) or in a case brought under Welfare and Institutions Code sections 5000 et seq. (Lanterman-Petris-Short Act) must be presented for filing at the René C. Davidson Courthouse, Room 109, 1225 Fallon Street, Oakland, California 94612.

(h) Presentation of papers for filing in proceedings requesting issuance of certain protective orders.

All pleadings, papers, forms, documents, and writings to be filed in a case requesting issuance of a protective order under Family Code sections 6200 et seq. (Domestic Violence Prevention Act), Welfare and Institutions Code section 15657.03 (Elder Abuse and Dependent Adult Civil Protection Act), Code of Civil Procedure section 527.6 (Civil Harassment Prevention), Code of Civil Procedure section 527.85 (Private Postsecondary School Violence Prevention), or Code of Civil Procedure section 527.8 (Workplace Violence Safety Act) must be presented for filing at the René C. Davidson Courthouse, Room 109, 1225 Fallon Street, Oakland, California 94612; the George E. McDonald Hall of Justice, First Floor, 2233 Shoreline Drive, Alameda, California 94501; or the office of the family law clerk located at the Hayward Hall of Justice, Room 104, 24405 Amador Street, Hayward, California 94544.

(i) Presentation of papers in an adoption case for filing

All pleadings, papers, forms, documents, and writings to be filed in an adoption case must be presented for filing at the René C. Davidson Courthouse, Room 109, 1225 Fallon Street, Oakland, California 94612; or the office of the civil clerk located at Hayward Hall of Justice, Room 108, 24405 Amador Street, Hayward, California 94544.

(j) Presentation of papers for filing upon issuance of an order assigning or reassigning a Civil Case

Upon issuance of an order assigning or reassigning a Civil Case to an individual judge sitting in a department of this court, all pleadings, papers,

forms, documents, and writings to be filed in such case shall be presented for filing at the filing location for such department. For purposes of this subparagraph, the filing location for all departments situated in the Alameda County Administration Building, 1221 Oak Street, Oakland, California 94612, all departments situated in the United States Post Office Building, 201 13th Street, Oakland, California, 94612, and all departments located in the Wiley W. Manuel Courthouse, 661 Washington Street, Oakland, California 94607 is the René C. Davidson Courthouse, Room 109, 1225 Fallon Street, Oakland, California 94612.

(k) Presentation of papers for filing upon assigning or reassigning a Family Law Case

Upon the assignment or reassignment of a Family Law Case to an individual judge or commissioner sitting in a department of this court, all pleadings, papers, forms, documents, and writings to be filed in such case shall be presented for filing at the office of the clerk situated where the department is located. With regard to Family Law Cases assigned or reassigned to a judge or commissioner sitting in the Gale/Schenone Hall of Justice, 5672 Stoneridge Drive, Pleasanton, California 94588, the filing location is the office of the family law clerk located at the Hayward Hall of Justice, Room 104, 24405 Amador Street, Hayward, California 94544.

Rule 1.9 amended effective January 1, 2013; adopted as rule 1.13 effective January 1, 2004 and renumbered effective July 1, 2007; previously amended effective January 1, 2008, July 1, 2008, and January 1, 2012.

Rule 1.10. Composition of jury panels

(a) Subpanels established

The master jury list will be divided into four subpanels as follows:

(1) Oakland locations (René C. Davidson County Courthouse, Administration Building, Wiley W. Manuel Courthouse, George E. McDonald Hall of Justice): Residents of Alameda, Albany, Berkeley, Emeryville, Oakland, and Piedmont.

(2) Hayward Hall of Justice: Residents of Hayward, San Leandro, unincorporated areas of Ashland, Castro Valley, Cherryland, Fairview, and San Lorenzo.

(3) Fremont Hall of Justice: Residents of Fremont, Newark, Union City, and unincorporated areas of Washington Township.

(4) Gale/Schenone Hall of Justice: Residents of Dublin, Livermore, Pleasanton, unincorporated areas of Sunol, East to the San Joaquin County line, West to Schaefer Ranch Road, North to the Contra Costa County Line, South to Andrade Road, and Southeast to the Santa Clara County line.

(b) Use of panels and subpanels

(1) Panels for criminal cases

Jurors for felony trials will be drawn from the master jury list. Jury panels for misdemeanor trials will be drawn from the subpanel of jurors serving the court location in which the trial is held.

(2) Panels for civil cases

Panels for trials in unlimited jurisdiction civil cases will be drawn from the master jury list. Panels for trials in limited jurisdiction civil cases will be drawn from the subpanel of jurors serving the location in which the trial is held, unless no such subpanel is available.

(c) Use of master panel if subpanel is insufficient

If the number of jurors in a subpanel should prove insufficient, the trial judge will have the discretion to utilize available jurors drawn from the master jury list.

Rule 1.10 amended effective January 1, 2011; adopted as rule 1.11 effective July 1, 1999 and renumbered effective July 1, 2007; previously amended effective May 1, 2000, January 1, 2001, February 5, 2001 and January 1, 2008.

Rule 1.11. Protocol regarding inter-court communication of domestic violence restraining orders

(a) Statement of purpose

This protocol is adopted in compliance with California Rules of Court, rule 5.450, effective January 1, 2004 and renumbered effective January 1, 2007, and complies with California Family Code sections 6380 and 6383, as well as California Penal Code section 136.2 as currently amended.

(b) Protocol goals

The goals of this protocol are to:

(1) Establish a procedure for communication among courts issuing criminal protection orders and courts issuing orders involving child custody and visitation orders, regarding the existence and terms of criminal protective orders and child custody and visitation orders, including:

(A) A required procedure for courts issuing child custody or visitation to make reasonable efforts to determine whether there exists any criminal court protective order that involves any party to the action; and

(B) A procedure to require courts issuing criminal court protective orders to make reasonable efforts to determine whether there exists any child custody or visitation orders that involve any party to the action.

(2) Establish a procedure by which the court issuing the criminal court protective order may, after consultation with a court issuing subsequent child custody and visitation orders, modify the criminal court protective order to allow or restrict contact between the person restrained by the order and his or her children.

(3) The above-described orders shall include the following:

(A) Family law court orders made pursuant to the Domestic Violence Prevention Act (F.C. section 6200 et. seq.);

(B) Juvenile court orders made pursuant to W. & I. section 213.5;

(C) Criminal court orders made pursuant to P.C. 136.2 where the victim and the defendant have a relationship as defined in F.C. section 6211;

(D) Civil court orders made pursuant to C.C.P. section 527.6 where the victim and the defendant have a relationship as defined in F.C. section 6211;

(E) Probate court orders made in guardianship cases.

(4) Provide for the co-existence of non-conflicting orders with the following limitations:

(A) The criminal court protective order under P.C. section 136.2 supersedes all other orders in the event of a conflict; and

(B) All orders involving child visitation with the restrained person shall be specific as to time, date, and location of the visit and shall include provisions for the safe exchange of the children. Safety of all parties shall be the court's paramount concern.

(5) Encourage the establishment of regional communication systems with courts in neighboring counties regarding the existence and terms of criminal court protective orders.

(c) Protocol

Court communication regarding restraining orders – criminal, civil, family, juvenile, probate:

(1) Criminal protective orders take precedence over all other protective orders issued by the civil, family, juvenile and probate courts, subject to the provisions below.

(2) Criminal court procedure:

(A) When the criminal court issues criminal protective orders protecting victims, the criminal court shall determine whether there are any minor children of the relationship between the defendant/restrained person and the victim/protected person, and whether there are any court orders for custody/visitation for those minor children.

(B) If there are minor children, the criminal court shall consider whether peaceful contact with the victim/protected person should be allowed for the purpose of allowing defendant/restrained person to visit the minor children. The court shall give the defendant/restrained person an information packet concerning his or her rights to request custody and/or visitation through the family or juvenile court, along with directions to the Self-Help Center.

(C) The criminal court shall also determine whether there are any existing protective/restraining orders involving the defendant/restrained person, the victim/protected person, and/or the minor children. Subject to available resources, the court shall examine available databases for existing protective or restraining orders before issuing permanent criminal protective orders.

(D) If the criminal court order includes minor children as named protected parties, the order may be made explicitly subject to

modification by a civil, family, juvenile, or probate judge. If this qualifying clause is not included in the criminal court order, the order may not be modified without notification and consent of the issuing criminal court.

(E) When the criminal court issues criminal protective orders that list the defendant/restrained person's minor children as protected persons, the criminal court shall forward a copy of its order to the family court. If a civil, juvenile, or probate court proceeding concerning the family is pending, a copy of the order shall be faxed to the applicable court.

(3) Modification of criminal protective orders:

(A) Any court responsible for issuing custody or visitation orders involving minor children of a defendant/restrained person subject to a criminal protective order may modify the criminal protective order if all of the following circumstances are applicable:

(i) Both the defendant/restrained person and the victim/protected person are subject to the jurisdiction of the family, juvenile, or probate court; and both parties are present before the court.

(ii) The defendant/restrained person is on probation (formal or court) or has a case pending for a domestic violence offense in Alameda County.

(iii) The family, juvenile, or probate court identifies a criminal protective order issued against the defendant, which is inconsistent with a proposed family, juvenile, or probate court order, such that the family, juvenile, or probate order is/will be more restrictive than the criminal protective order.

(iv) Both the victim/protected person and the defendant/restrained person agree that the criminal protective order may be modified to a less restrictive order.

(B) A criminal protective order may not be modified to a less restrictive order or to one permitting proposed visitation or custody unless a clause specifically allowing such a modification or amendment is included in the criminal protective order. (See section 2D, supra.)

(C) If the aforementioned clause allowing modification of a criminal protective order does not appear on the face of the order, or if any party objects to the modification of the criminal protective order, the family, juvenile, or probate court shall, at the request of an interested party or on its own motion, calendar a hearing before the criminal court on the issue of whether a criminal protective order should be modified. The family, juvenile, or probate court shall provide the criminal court with copies of existing or proposed orders relating to the matter. Notice of the hearing will be provided to all counsel and parties.

Any modification of a Criminal Court Protective Order must be communicated to the Alameda County District Attorney's Office.

(4) Family, juvenile, probate, civil court restraining orders involving child custody and visitation orders:

(A) All personal conduct and stay away restraining orders in a judgment must include the date of expiration of such orders and good cause for granting such order(s) shall be set forth in attached declaration(s). In addition, all such restraining orders must be separately set forth on a CLETS or other applicable Judicial Council form.

(B) Subject to available resources, the family, juvenile, and probate courts shall examine appropriate available databases for existing restraining or protective orders involving the same restrained and protected parties before issuing permanent CLETS civil restraining orders. In the event that this information is not available to the judicial officer, inquiry shall be made of the parties before issuing permanent CLETS civil restraining orders.

(C) Any order of the family, juvenile, or probate court that permits contact between a defendant/restrained person subject to either CLETS civil restraining orders or criminal protective orders and his or her minor children, shall contain specific language setting forth the time, day, place, and manner of the transfer of the minor children, including the safe exchange of the minor children, in accordance with Family Code Section 3100. Such an order shall not contain language that conflicts with a criminal protective order. Safety of all parties shall be the court's paramount concern. The court or a court-related agency may recommend safe and specific contact with the minor children. and direct the defendant/restrained person and/or the

victim/protected person to the process for modification of protective orders.

Rule 1.11 amended and renumbered effective July 1, 2007; adopted as section 'G' of Appendix to Chapters 4 and 5 effective July 1, 2005; previously amended effective January 1, 2007.

Rule 1.12. Forms [Reserved]

Rule 1.13. Failure to comply with these rules

Failure to comply with these rules is punishable by contempt or other sanctions including, but not limited to, any sanctions provided for in these rules.

Rule 1.13 amended and renumbered effective July 1, 2007; adopted as rule 1.9 effective May 19, 1998.

Chapter 2 – Policies

Rule 2.0. Policy against bias

(a) Purpose

It is the policy of the court to provide an environment free of all types of bias, prejudice, any kind of discrimination or unfair practice. All judges, commissioners, referees, court officers and court attachés, shall perform their duties in a manner calculated to prevent any such conduct, either by court personnel or by those appearing in court in any capacity. This rule does not preclude legitimate comment or advocacy when race, gender, religion, national origin, disability, age, sexual orientation, socioeconomic status or other similar factors are issues in court proceedings.

(b) Reporting a violation

Any violation of this policy by any judge, commissioner, referee, court officer, or court attaché should be reported directly to the presiding, judge, supervising judge, executive officer or court administrator of the court location in which the alleged violation occurred. Any violation of this policy by persons appearing in court should be reported directly to the judicial officer before whom the proceedings were conducted.

(c) [Reserved for implementation of Standards of Judicial Administration, standard 10.20]

Rule 2.0 amended effective January 1, 2008; previously amended effective July 1, 1999; adopted effective May 19, 1998.