



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

JOHN C. FITTON
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April 1, 2009

To All Interested Persons,

The Court is proposing to make changes to its Local Court Rules. These new changes will become effective on July 1, 2009 when adopted. The court invites you to review and provide your comment on these proposals as required by the State of California Rules of Court, Rules 10.613.

To navigate through the document, go to the next page "Table of Proposed Local Rules" and click on the link to the proposal you want to view. The link will take you to that page.

You may send your comments to:

smcccomment@sanmateocourt.org

with a subject line stating "Comments on Proposed Rule changes. Please state the proposal number, the section and paragraph number on which you are commenting and your comment.

Comments must be received in our office no later than 4 PM, Friday, May 15, 2009.

Sincerely,
John C. Fitton, Court Executive Officer

A handwritten signature in black ink that reads "Timothy J. Gee".

By: Timothy Gee
Court Rules Committee Staff

TABLE OF PROPOSED LOCAL RULE CHANGES SET SPRING 2009

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16 **S09-02** Division IV – Probate Rules – update to reflect changes to Local Court forms
 17 that are referenced in the Rules and to replace term “Professional fiduciary
 18 With the term “California Licensed Professional Fiduciaries 11

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20 **S09-03** Division V – Appendix “1” Local Court form FL-3 “Status Conference Statement”
 21 Form has been updated and the current version is now posted in this Appendix 17

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23 **S09-04** Rule 9.1 Pre-Trial Motions in Criminal Cases 19

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Title	DIVISION I – APPELLATE DEPARTMENT
Reasons for Amendments	<ol style="list-style-type: none"> 1. Revisions made to reflect recent changes to the California Rules of Court section on Appellate Rules. 2. Other changes to clean up language after the re-write of this Division during the last amendment cycle.

**DIVISION I
RULES ON APPEAL TO THE APPELLATE DEPARTMENT**

CHAPTER I. APPELLATE DEPARTMENT RULES

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1.0 GENERAL PROVISIONS

- (a) **Appellate Division.** ~~Four judges are assigned to the Appellate Division by the Chairperson of the Judicial Council.~~ The Chairperson of the Judicial Council assigns four judges to the Appellate Division, and one of the four judges shall be designated as Presiding Judge of the Appellate Division.
- (b) **Sessions.** Regular sessions of the Appellate Division shall be held on the second Friday of each month at 2:00 p.m. in Courtroom 2M at the Hall of Justice and Records in Redwood City unless otherwise ordered. ~~Special sessions may be called by the Presiding Judge of the Appellate Division.~~ The Presiding Judge of the Appellate Division may call special sessions of this Division.
- (c) **Jurisdiction.** The Appellate Division of the Superior Court has jurisdiction over all appeals arising from misdemeanor, infraction and limited civil cases in San Mateo County (except small claims appeals) and over all motions and petitions for stay in connection with such appeals. (Code Civ. Proc. (“CCP”) §77(e).)

- (d) A panel of three judges participates in each matter before the Appellate Division. The concurrence of at least two judges is required for a decision in any case. (CCP §§77(a), (b) and (d).)
- (e) The Appellate Division has jurisdiction over all petitions for writs of mandate, prohibition and review (certiorari) in any misdemeanor, infraction or limited civil case. (CCP §§1068(b), 1085(b) and 1103(b).)
- (f) Notwithstanding the above, appeals from convictions of traffic infractions are heard by one judge of the Appellate Division (C.C.P. § 77(h)).

(Adopted, eff. Jan. 1, 2009)

1.1 NOTICE OF APPEAL

- (a) **Jurisdiction.** The Appellate Division has appellate jurisdiction only over cases in which a notice of appeal was timely filed. (Cal. Rules of Court (“CRC”) rules ~~8.751 (civil appeals) and 8.782 (criminal appeals)~~ 8.810(c) and 8.812.)
- (b) **Where filed.** The notice of appeal shall be filed in the trial court from which the appeal is being taken. Unless specified otherwise in these rules or in the California Rules of Court, all subsequent filings shall be made with the Clerk of the Appellate Division.
- (c) **Late Filing/Motion to Dismiss.**
 - (1) Criminal cases. If a notice of appeal is filed late, the clerk will stamp it “Received (date) but not filed.” (CRC rule ~~8.782(a)~~ 8.853(d).) If a late notice of appeal is inadvertently filed, the Presiding Judge of the Appellate Division will dismiss the appeal without hearing, either on his or her own motion or on the motion of counsel.
 - (2) Civil cases. ~~Requests for relief from a late filed notice of appeal or a motion to dismiss on grounds of a late filed notice of appeal shall be filed with the Clerk of the Appellate Division. The requests and motions are ruled upon without hearing by the Presiding Judge of the Appellate Division.~~ If a notice of appeal is filed late, the Presiding Judge of the Appellate Division will dismiss the appeal without hearing, either on his or her own motion or on the motion of counsel. (CRC rule 8.822(d).) A motion to dismiss on grounds of a late-filed notice of appeal shall be filed with the Clerk of the Appellate Division.
- (d) **Filing Fees.**
 - (1) Filing fees required by Government Code § 70621 shall be paid in the trial court.
 - (2) For litigants who qualify, ~~filing fees may be waived by the court~~ the court may waive filing fees. - Filing fees, orders for fee waivers, or a Applications for fee waivers shall be filed in the trial court at the time of filing the notice of appeal or within ~~fifteen~~ ten (10) days thereafter. (~~CRC Rule~~ CRC rules 8.821(b)(1), (c) 8.750(e), (d).)

(Adopted, eff. Jan. 1, 2009) (Amended, effective July 1, 2009)

1.2 STAY ORDERS

(a) **Format of Papers.** All papers filed in connection with stay applications shall comply with San Mateo County Superior Court Local Rules (“LCR”), rule 1.8, and ~~CRC Rule~~[CRC rule 8.8088.705](#).

(b) **Civil Appeals.**

(1) **Before Filing Notice of Appeal.** Applications for stay orders filed before notice of appeal shall be filed in the trial court. (CCP § 918.)

(2) **After Filing Notice of Appeal.**

(A) **Filing.** Petitions for writ of supersedeas ~~or requests for stay~~ shall be filed with the Clerk of the Appellate Division and shall comply with CRC rule ~~8.8248.705(a)~~.

(B) **Service.** Petitions for writ of supersedeas ~~or requests for stay~~ shall be served in accordance with CRC rule ~~8.8248.705(a)~~ and shall be accompanied by proof of service at the time of filing. Petitions, ~~applications,~~ and oppositions shall be filed and served pursuant to LCR rule 1.8.

(C) **Decision.** Petitions for writ of supersedeas ~~and requests for stay~~ are ruled upon without hearing by the Appellate Division, which may request that opposition papers be filed before ruling. In appropriate cases, the matter may be set for oral argument.

(D) **Showing required.**

1) A stay may be granted only on a showing of exceptional circumstances.

2) Petitions in unlawful detainer actions shall meet the requirements of CCP § 1176.

(E) **Temporary stays**~~Ex parte proceedings.~~

1) Pending the Appellate Division’s ruling on a supersedeas petition ~~or application for stay~~, a temporary stay may be granted ~~by ex parte application upon a showing of good cause and upon the giving of notice to the opposing party in accordance with CRC Rules 3.1200 et seq.~~ [by the Court.](#)

2) [A request for temporary stay may be incorporated into a petition for writ of supersedeas or filed separately with notice to the respondent. \(CRC rule 8.824\(c\).\)](#)

3) ~~A~~ [Ex parte](#) applications [for temporary stay](#) shall be filed with the Clerk of the Appellate Division, and are ruled upon without hearing.

(c) **Criminal Appeals.**

(1) **Stay of Execution.**

- (A) An application for stay of execution shall first be made in the trial court, and, if denied, may then be made in the Appellate Division. (See Penal Code § 1467; CRC rule ~~8.854~~8.312.)
- (B) Applications for stay orders shall be filed with the clerk of the Appellate Division and served on opposing counsel in accord with LCR Rule 1.8.
- (C) Applications for stay are ruled upon without hearing.

(2) Request for Bail Reduction on Appeal.

- (A) An application for bail reduction shall first be made in the trial court, and, if denied, may then be made in the Appellate Division. (Penal Code § 1272; ~~CRC Rule~~CRC rule 8.312(2).)
- (B) Applications for bail reduction are ruled upon without hearing.

(3) Bonds on Appeal. All proceedings concerning bonds on appeal shall be brought in the trial court.

(Adopted, eff. Jan. 1, 2009) (~~Amended, effective July 1, 2009~~)

1.3 APPOINTED COUNSEL IN MISDEMEANOR APPEALS.

(a) Right to Counsel. A defendant appealing a misdemeanor conviction who had appointed counsel at trial or who meets the standards for appointed counsel is entitled to appointed counsel on appeal. (CRC rule ~~8.851(a)(1)~~8-786(a).)

(b) Applications for Appointed Counsel.

- (1) A party meeting the standards may apply for appointment of counsel either in the trial court or in the Appellate Division. (CRC rule ~~8.851(b)~~8-786(b).)
- (2) Applications shall be filed in accordance with LCR 1.8, except that they need not be served on other parties, and are decided without hearing.
- (3) Once ~~the applicable court has approved the~~an application for appointed counsel ~~has been approved by the applicable court~~, the designation of specific counsel on appeal is then made by the Executive Director of the San Mateo County Bar Association's Private Defender Program.

(Adopted, eff. Jan. 1, 2009) (~~Amended, effective July 1, 2009~~)

1.4 RECORD ON APPEAL

(a) Civil Appeals.

- (1) Contents. The "record on appeal" includes the clerk's transcript or agreed statement (CRC rule ~~8.830(a)(1)~~8-754) and may include the reporter's transcript, an agreed statement, or a settled statement on appeal (CRC rule ~~8.830(a)(2)~~8-753), ~~an agreed statement (CRC rule~~

~~8.755), or a settled statement (CRC rule 8.756).~~ -The record shall be designated by notice filed in the trial court. (~~CRC Rule~~[CRC rule 8.831](#)~~8.754.~~)

(2) Clerk's Transcript. Within ten days of notification by the clerk of the trial court's appeals division of the estimate of the cost of the preparation of the clerk's transcript, appellant shall make arrangement for payment of the required fees. (~~CRC Rule~~[CRC rule 8.832\(c\)\(3\)](#)~~8.754(a), (e).~~)

(3) Reporter's Transcript. Appellant shall designate and file notice in the trial court to obtain a reporter's transcript and pay for that transcript within the time required. (~~CRC Rule~~[CRC rules 8.834\(a\), \(b\).](#))

(4) Augmenting or Correcting the Record on Appeal. Either party may move to augment or correct the record on appeal. (CRC rule 8.841.) Such motions shall comply with LCR rule 1.8, and may be ruled upon without hearing. ~~8.753(a)).~~

(5) Burden of Providing the Record. It is the burden of the appellant to insure that the Appellate Division has an adequate record for review pursuant to CRC rules ~~8.834~~~~8.753~~ through ~~8.837~~, except to the extent provided in rule 8.842~~8.761.~~

(b) Criminal Appeals.

(1) Contents. The "record on appeal" includes the clerk's transcript ~~(CRC Rule 8.783),~~ and may include a reporter's transcript or ~~a settled~~ statement on appeal (CRC rule 8.860) and exhibits (CRC rule 8.870) ~~(CRC Rule 8.784).~~

(2) Clerk's Transcript. Upon filing of a Notice of Appeal, the clerk's transcript is prepared by the trial court Clerk without written request or payment of fees by the appellant. (~~CRC Rule~~[CRC rules 8.861 through 8.863](#)~~8.783.~~)

~~(3) — Settled Statement or Transcript. The parties shall comply with the rules governing the preparation, notice, and time limits for proceeding on appeal in misdemeanor or infraction case as set forth in CRC Rules 8.784 through 8.791.~~

~~—(4) Reporter's Transcript.~~

~~—(A) Appellant's responsibility. If appellant intends to present the evidentiary record by a reporter's transcript, appellant shall note that fact in his or her ~~proposed statement on appeal pursuant to notice of election filed within the time requirements specified in~~ ~~CRC Rule~~[CRC rule 8.864\(b\)](#)~~8.784(a),~~ and shall deposit with the clerk the estimated cost for preparing~~order and pay for~~ the transcript as provided in CRC rule 8.866(a)(2)(C)~~from the reporter who reported the proceedings in the trial court,~~ unless payment is waived by law or by court order. The reporter shall file the original transcript with the Clerk of the Appellate Division and provide copies to appellant and respondent. ([CRC rule 8.866\(d\).](#))~~

(B) Waiver of reporter's fees. Applications to cover the cost of reporter's transcript shall be made in the trial court at the clerk's office. If the application is denied, appellant may apply to the Appellate Division. The application shall comply with LCR Rule 1.8, and will be ruled upon without hearing.

~~(45) Augmenting or Correcting of the Record on Appeal. Either party may request from the trial court, on good cause, augmentation of the record on appeal with additional documents. (CRC rule 8.8738.791.) If denied, a party may seek an order to augment from the Appellate Division. Such motions requests shall comply with LCR rule 1.8, and may beare ruled upon without hearing.~~

~~(6) Rights of RespondentBurden of Providing the Record. Respondent is entitled to propose corrections, changes, or additions to the settled statement or transcript. It is the burden of the appellant to insure that the Appellate Division has an adequate record for review pursuant to CRC rules 8.864 through 8.870. (CRC Rule 8.785.) The proposed corrections, changes, or additions shall be ruled on by the trial court as provided in CRC rule 8.788.~~

(Adopted, eff. Jan. 1, 2009) ~~(Amended, effective July 1, 2009)~~

1.5 BRIEFS

(a) **Time for Filing.**

(1) Briefs. After the record on appeal has been transmitted, the Appellate Division will notify the parties. The parties shall file briefs in accordance with the time periods specified in CRC rule 8.882(a)~~8.706(a).~~

(2) Failure to File Timely Briefs. In civil appeals, ~~F~~failure of appellant to file an opening brief on or before the required date is a ground to dismiss the appeal. In criminal appeals, failure of appellant to file an opening brief on or before the required date is a ground to either appoint new counsel if the appellant is represented by appointed counsel or to dismiss the appeal. Failure to file a respondent's brief on or before the required date will result in the case being submitted for decision on the record on appeal, ~~and on~~ the appellant's opening brief, and the appellant's oral argument. Such failure may cause the Appellate Division to accept as true the statement of facts contained in appellant's opening brief. (CRC rule 8.882(c)~~s 8.762(e), 8.792.~~).

(b) **Content and Format.** Briefs shall comply with CRC rule 8.883~~s 8.706(e) and 8.204(b),~~ except that only one side of the paper may be used and such briefs shall be bound at the top, with cover colors that comply with CRC 8.40(b).

(c) **Length.**

(1) No brief shall exceed 6,800 words~~fifteen pages~~ in length without prior approval of the Appellate Division. ~~(See CRC rule 8.883(b)8.766, 8.706(e).)~~ Tables of contents and/or authorities are excluded from this ~~fifteen-page~~ limitation, but footnotes are included.

(2) Permission to file any briefs in excess of fifteen pages shall be obtained by application in accordance with LCR rule 1.8.

(3) The brief must include a certificate stating the number of words in the brief as required under CRC, rule 8.883(b).

(d) **Service.** Briefs shall be served as follows: the original and three copies on the Clerk of the Appellate Division, one copy on the trial court, and one copy on opposing counsel. (See CRC rule 8.882(e)~~8.706(e), (f).~~).

(e) **Extension of Time.** Applications for extensions of time to file briefs shall be filed in the Appellate Division in accordance with LCR rule 1.8.

(Adopted, eff. Jan. 1, 2009) (~~Amended, effective July 1, 2009~~)

1.6 ORAL ARGUMENT

(a) **Date and Time.**

(1) **Date.** The date for oral argument will be set after ~~the record on appeal is transmitted to the Appellate Division~~ briefing is completed. The hearing date will be subject to written notice to the parties by the Clerk of the Appellate Division at least 20 days ~~two weeks~~ prior to the hearing date, unless the Presiding Judge shortens the notice period for good cause. (CRC rule 8.885.)

(2) **Time.** Unless noticed otherwise by the Clerk of the Appellate Division, all criminal and civil matters are heard at 2:00 p.m.

(b) **Failure to Appear.** A party who fails to appear at oral argument when the case is called is deemed to have waived oral argument, unless the delay or tardiness is excused by the Appellate Division. (See CRC rule 8.885(c).)

(c) **Continuances.** Continuances will only be granted upon a showing of good cause. Continuances by stipulation are subject to the approval of the Presiding Judge of the Appellate Division. Written applications for continuance shall comply with LCR Rule 1.8, and will be ruled upon without hearing.

(d) **Amount of Time to Argue.** Parties are entitled to ~~a reasonable time to argue, usually five minutes and in no event exceeding fifteen~~ time to argue of a maximum of ten minutes per side, unless they have been granted a longer argument time by ~~without~~ prior permission. (CRC rule 8.885(d).)

(e) **Supplemental Briefing.** Supplemental briefing will be permitted when the Appellate Division indicates it intends to decide a case upon the basis of an issue not briefed or proposed by any party. (Govt. Code § 68081.)

(Adopted, eff. Jan. 1, 2009) (~~Amended, effective July 1, 2009~~)

1.7 DECISION

(a) **Time for Decision.** The Appellate Division shall decide a case within ninety days after submission. (Cal. Const., Article 6, §19; ~~CRC Rule 8.707(e).~~)

(b) **Opinion.** The Appellate Division may file an opinion on each appeal, but is not required to do so. (~~CRC Rule~~ CRC rule 8.887(a) ~~8.707(b).~~)

(c) **Publication.** An opinion is published in whole or in part in the Official Reports when a majority of the judges in the Appellate Division who participated in the opinion certifies that the opinion meets one or more of the standards set forth in CRC rule 8.1105(~~cb~~), and the Court of

Appeal does not order the case transferred to it for hearing and decision. (~~CRC Rule~~[CRC rules](#) 8.1105(~~be~~), 8.1002.)

(d) Rehearing and/or Certification.

(1) Any petition for rehearing shall be served and filed with proof of service ~~within fifteen days after the Appellate Division judgment is filed~~as provided in [CRC rule 8.889\(b\)\(1\)](#). ~~Any answer to the petition shall be served and filed within eight days after filing of the petition~~[No answer may be filed unless the court requests one.](#) (CRC rule ~~8.889(b)(2)~~[8.708\(e\)](#).)

(2) If a rehearing is ordered, the Appellate Division may place the case on calendar for further argument or may resubmit the matter for decision without argument. (CRC rule ~~8.889(d)~~[8.708\(e\)](#).)

(3) Any party may move to certify, or the Appellate Division on its own motion may certify, that transfer of a case to the Court of Appeal appears necessary to secure uniformity of decision or to settle important questions of law. (~~CRC Rule~~[CRC rule](#) 8.1005(a).) An application to certify shall be filed [within 15 days after the judgment is pronounced or modified](#)~~before the judgment on appeal is final.~~ (~~CRC Rule~~[CRC rules](#) 8.1005(b), ~~8.708(a)~~.)

(Adopted, eff. Jan. 1, 2009) (~~Amended, effective July 1, 2009~~)

1.8 APPLICATIONS AND MOTIONS

(a) **Routine Applications.** Routine applications,~~as defined by CRC rule 8.766,~~ shall be served on opposing counsel and submitted to the Appellate Division.~~Applications on routine matters shall include a declaration under penalty of perjury.~~ (CRC rules [8.810 through 8.817](#)~~8.766 and 8.787~~.)

(b) **Motions.** Written motions [in connection with all non-routine matters](#) shall be served on all parties and shall be filed in the Appellate Division~~in connection with all non-routine matters or where a party is in default.~~ (CRC rule ~~8.808~~[8.705, 8.772\(b\)](#).) [Motions filed before the Appellate Division has received the record on appeal shall be accompanied by copies of documents previously filed sufficient to permit review.](#)

(c) **Motions to Withdraw as Counsel.** Motions of an attorney to withdraw as counsel of record shall comply with the requirements of CCP sections 284 and 285, and CRC rules 3.1362 and [8.814\(c\)](#)~~8.768(b)~~.

~~(d) **Motions Before Record Filed.** Motions filed before the Appellate Division has received the record on appeal shall be accompanied by copies of documents previously filed sufficient to permit review.~~

(de) Ruling on Applications and Motions. Rulings on applications and motions made pursuant to this rule are made without hearing.

(ef) Abandonment. ~~An appeal may be abandoned before the record is filed in the Appellate Division by filing a written abandonment in the trial Court. (CRC rules 8.762(a), 8.790.) After the record is filed in the Appellate Division, a~~ civil appeal may be ~~abandoned~~[dismissed](#) on written request of the appellant or stipulation of the parties filed with the Clerk of the Appellate Division,~~.~~ ([CRC 8.8259b](#).) ~~A~~[and, in a](#) criminal appeal [may be abandoned](#), by filing a written abandonment of appeal with the Clerk of the Appellate Division. (CRC rules [8.855\(b\)](#)~~8.762(b), 8.790~~.)

(Adopted, eff. Jan. 1, 2009) ([Amended, effective July 1, 2009](#))

1.9 EXTENSIONS AND RELIEF FROM DEFAULT

(a) **Where Application For Extension Filed.**

Applications for extension of time to ~~perform an act beyond the time allowed by the rules of court~~ prepare the record on appeal shall be made to the trial court. (CRC rule ~~8.810(b)~~~~s 8.767(b)~~~~, 8.787(a)~~.) All other applications for extension of time shall be made to the Appellate Division. (CRC rule 8.810(c).)

(b) **Denial or Failure To Grant By Trial Court.** If an extension of time ~~or relief from default~~ is denied or cannot be granted by the trial court, application may be made to the Appellate Division in accordance with LCR rule 1.8, and will be ruled upon without hearing.

(c) **Reinstatement of Appeal.** Applications to grant relief from default or reinstate an appeal after dismissal shall follow the procedures set forth in sub-paragraph (b) above.

(Adopted, eff. Jan. 1, 2009) ([Amended, effective July 1, 2009](#))

1.10 WRITS

(a) **Assigned Departments.** Petitions for writ of mandate or prohibition in limited civil, misdemeanor or infraction cases shall be heard in the Appellate Division. (CCP §1085(b), 1103(b), and 1068(b); [CRC rule 8.930](#).) Petitions for writ of habeas corpus shall not be considered by the Appellate Division. (CRC rule 4.552(d).) Instead, habeas petitions may be filed with the Clerk of the Superior Court.

(b) **Content and Format.** Briefs relating to a petition for writ of mandate or prohibition shall comply with CRC rules [8.931 through 8.933 and 8.883](#)~~8.40 and 8.204(b)~~, except that only one side of the paper may be used and they must be bound at the top, with cover colors that comply with CRC 8.40(b).

(c) **Service.** Briefs relating to a petition for writ of mandate or prohibition shall be served as follows: the original and three copies on the Clerk of the Appellate Division, one copy on the trial court, and one copy on opposing counsel. (See CRC rule [8.931\(c\)\(3\)](#)~~8.706(e), (f)~~.)

(Adopted, eff. Jan. 1, 2009) ([Amended, effective July 1, 2009](#))

Title	DIVISION IV – PROBATE DEPARTMENT
Reasons for Amendments	<ol style="list-style-type: none"> 1. Change references to local court forms necessitated by recent revisions to those forms and procedures relating to completing the forms. 2. Changes also made to standardize references to California Licensed Professional Fiduciaries as necessitated by recent changes to the code sections governing Professional Fiduciaries.

1
2 **Rule 4.76 Temporary Conservatorships**

3
4 A. In exigent circumstances, petitions may be presented ex parte between 2:00 -3:30 p.m. (M,T, W,
5 Th,F). On those days that the Probate Presiding Judge is not available, the petitioner shall present his/her
6 petition to the court’s Presiding Judge or the judge designated to hear ex parte matters. A separate
7 petition for the appointment of a regular conservator must first be on file and a hearing date assigned
8 before a petition for temporary conservator will be considered. Forms necessary for temporary
9 appointment of conservator are as follows:

- 10 (1) Petition for Appointment of Temporary Conservator (GC-110);
11 (2) ~~Declaration regarding notice of ex parte hearing (Local Court Form PR-9)~~ Ex Parte
12 Application for Good Cause Exception to Notice of Hearing on Petition for Appointment of
13 Temporary Conservator (Judicial Council form GC-112) and Order on Ex Parte application
14 (Judicial Council form GC-115);
15 (3) Ex Parte Order Appointing Temporary Conservator (GC-140);
16 (4) Proof of service regarding 5-day personal service of ex parte petition to proposed
17 conservatee (if matter contested); and
18 (5) Letters of Temporary Conservatorship (GC-150) and Temporary Bond Certificate (for
19 estates).
20

21 Sections B – F unchanged
22

23 (Adopted, effective July 1, 1996) (Amended, effective July 1, 2004)(Amended, effective
24 July 1, 2006) (Amended, effective January 1, 2007) (Amended, effective January 1, 2009).
25 (Amended, effective July 1, 2009)
26
27

28 **Rule 4.77.14 Temporary Guardianship - Emergency Situations Only**

29 Section A unchanged
30

31
32 B. All the forms for a general guardianship must be submitted before a petition for temporary
33 guardianship will be granted. The additional forms necessary for a temporary guardianship (original and
34 two copies) are:
35

- 36 1. Petition For Appointment Of Temporary Guardian . (GC-110)
37 2. Order Appointing Temporary Guardian or Conservator (GC-140)
38 3. Letters of Temporary Guardianship (GC-150)
39 4. Duties of Guardian (GC-248)

1 5. Ex Parte Application for Good Cause Exception to Notice of Hearing on Petition for
2 Appointment of Temporary Conservator (Judicial Council form GC-112) and Order on Ex Parte
3 application (Judicial Council form GC-115)~~Declaration Regarding Notice of Ex Parte Hearing (Local~~
4 ~~Court Form PR-9)~~

5
6 Sections C-H unchanged.

7
8 (Adopted, effective July 1, 2004) (Amended, effective July 1, 2005) (Amended, effective July 1,
9 2006) (Amended, effective January 1, 2009) (Amended, effective July 1, 2009)

10
11 Rule 4.81.3 Guardians, Conservators and Trustees Qualifications

12
13 Section A unchanged

14
15 B. Court Appointed ~~Professional Fiduciaries as Conservator or Trustee~~California Licensed
16 Professional Fiduciary

17
18 1. In order to be a Court Appointed California Licensed Professional Fiduciary~~Professional~~
19 ~~Fiduciary~~ as a conservator or trustee by the Superior Court of California, County of San Mateo, as
20 of 01 July 2008, the Professional Fiduciary must meet be licensed by the Professional Fiduciaries
21 Bureau of the State of California. Requirements for initial licensing include completing thirty
22 (30) hours of approved education courses and passing the State of California Professional
23 Fiduciary Bureau licensing examination. For further licensing requirements, see the Professional
24 Fiduciaries Bureau website at 222.fiduciary.ca.gov.

25
26 2. Continuing Education

27 As of 01 July 2008, California Licensed Professional Fiduciary~~Professional Fiduciaries~~ must
28 complete:

- 29 - A minimum of fifteen (15) hours of continuing education credit each year for licensing
30 renewal; and
31 - Must abide by the new Professional Fiduciaries Code of Ethics (see the Professional
32 Fiduciaries Bureau website at www.fiduciary.ca.gov).

33
34 (Adopted, effective July 1, 2004) (Amended, effective January 1, 2009) (Amended, effective
35 July 1, 2009)

36
37
38 Rule 4.81.5 General Plan.

39
40 Upon appointment, Conservators shall be required to file a Confidential Level of Care/General Plan
41 (Local Court Form PR-22) with the Court within 90 days of appointment. Probate Code §2352.5 requiring
42 the filing of a Level of Care Determination within sixty (60) days of appointment is satisfied by filing the
43 Level of care/General Plan document (Local Court Form PR-22). The plan shall address in detail the
44 issues identified by the court at the appointment hearing. It shall include matters that have been resolved
45 as well as those that are outstanding and what steps currently are being taken to reach a resolution. A
46 local form “Confidential Level of Care/General Plan” ~~may~~(Local Court form PR-22) shall be submitted
47 ~~or~~and; the conservator may submit a more detailed pleading as appropriate under the circumstances.

48
49 The Public Guardian is exempted from this Rule and shall report annually to the Court on its policy and
50 practice.

(Adopted, effective July 1, 2004 [formerly Rule 4.81(g)]) (Amended, effective July 1, 2009)

Rule 4.81.8 ~~Private California Licensed Professional Conservators~~Fiduciaries.

A ~~private professional conservator~~California Licensed Professional Fiduciary or trustee as defined in Probate Code section 2341, must be licensed by the Professional Fiduciaries Bureau of the State of California in order to continue to function as a Professional Fiduciary as of January 1, 2009. For licensing requirements, see the Professional Fiduciaries Bureau website at www.fiduciary.ca.gov. A listing of California Licensed Professional Fiduciaries~~licensed Professional Fiduciaries~~ is available on the Professional Fiduciaries Bureau website listed either by county or by name. Fiduciaries are only listed in the county in which their business address is located.

(Adopted, effective July 1, 2004)(Amended, effective January 1, 2009) (Amended, effective July 1, 2009)

Rule 4.81.17 Accounts and Reports.

Sections A and C unchanged.

~~B-C. Private Professional~~California Licensed Professional Fiduciaries or licensed guardians or conservators who are required to file original account statements with the court under Prob.C. § 2620(c)(3) shall “Lodge” those records with the court rather than filing them as permitted under this code section. These records will be returned to the submitting party when the court determines the guardian’s or conservator’s accounting is final.

D. Individuals who “Lodge” their records under this Rule shall:

- (1) Review and comply with the Procedures for Lodging Confidential Financial Statements that can be found on the Court’s Website in the Probate section under the “General Information” tab Local Court Form PR-26 (Instructions for Lodging Original Financial Statements) or from the Probate Investigator’s Office.
- (2) Deliver the records to be lodged to the Court’s Probate Investigator’s Office in Redwood City, California.
- (3) All statements must be placed in a 9x12 or 10x13 manila envelop. If one envelope is insufficient to hold all of the statements, additional envelopes shall be used and numbered in sequence (i.e. 2 of 4). However if ten or more packets are being submitted, the records shall stored in a cardboard storage box.
- (4) Pick up the lodged documents from the court within (5) five court days after the “Order Approving Account”

Section E unchanged

(Adopted, effective July 1, 2004 [formerly Rule 4.81(h)(1)])(Amended, effective January 1, 2008) (Amended, effective July 1, 2009)

Rule 4.81.18 Confidential Status Report.

1 A. Unless waived by the Court, every conservator shall file a Confidential Status Report at the time
2 of the court review, excluding the six (6)-month review, or upon the filing of an accounting. A local
3 form “Confidential Status Report (PR-19)” may be submitted or, the conservator may submit a more
4 detailed pleading as appropriate under the circumstances but it must include all the information required
5 in Local Court Form PR-19. The report shall include conservatee’s:

- 6
- 7 1. Name/address/telephone/type of residence;
- 8 2. Diagnosis;
- 9 3. Living arrangements & functional level (describe what assistance is provided); length of
10 stay at residence; describe the facility, what services it offers and the medical monitoring; intent
11 to continue placement or make a change; any hospitalizations;
- 12 4. State current value, average monthly income, average monthly expenses, explaining any
13 unusual receipts, expenses or “internal accounting adjustments” not otherwise delineated in the
14 account, and the amount of the bond required to cover all assets, less real property, and estimated
15 income for one year. State if there is a trust/special needs trust, name of trustee, and fair market
16 value of the trust. Provide income information for conservatees receiving public benefits and
17 name of Representative Payee.
- 18 5. Current issues - conservator’s personal observations and compliance with court orders;
- 19 6. Description of all sales, purchases, changes in form of assets, explanation of unusual items,
20 statement of all compensation paid from assets subject to the account, family affiliation, cash
21 invested; and
- 22 7. Dates of visits to conservatee.

23
24 B. The Public Guardian is exempt from the use of the “Confidential Status Report” form that is
25 required in paragraph “A” above.

26
27 (Adopted, effective July 1, 2004 [formerly Local Rules 4.81(h) and (i)]) (Amended, effective July
28 1, 2006) (Amended, effective July 1, 2009)

29
30
31 Rule 4.81.19 Disclosure of Fees for Private Professional Conservators

32
33 At the time a private professional conservator is nominated to serve as conservator, the petitioner must
34 attach the professional conservator’s hourly rate to the petition for appointment of conservator. ~~—If the~~
35 ~~court appoints a private professional conservator who was not nominated in the petition, the private~~
36 ~~professional conservator’s compensation shall be set by a Court Standing Order.~~

37
38 (Adopted, effective July 1, 2004) (Amended, effective July 1, 2009)

39
40
41 Rule 4.82 Substituted Judgment

42
43 Prior Court approval is required for any action specified in Probate Code Section 2580, et seq. such as the
44 making of a gift or gifts or the establishment of a trust or trusts.

45
46 A. Petition: A clear factual showing as required by Probate Code Section 2583 shall be included in
47 each petition submitted.

48
49 B. Notice: Notice shall be given under Probate Code Section 2581 except in those cases in which
50 there has been a prior Court order dispensing with notice to some person or persons.

1 C. Appointment of Independent Counsel: Prior to the hearing on any petition for substituted
2 judgment pursuant to Probate Code Section 2500 et seq., unless waived by the court, independent counsel
3 for the conservatee shall be appointed by the court through the Court Investigator’s Office. Independent
4 Counsel shall report to the Court regarding the efficacy and propriety of the proposed action.
5

6 D. Bond and Accountings: A trust created pursuant to this rule shall include the following, unless
7 exempted by order of the court for good cause show:
8

9 (1) During the period of the conservatorship, any trust created pursuant to this section shall
10 state that the trustee and the trust shall be subject to court supervision. The continuing
11 jurisdiction of the court shall be reflected in the order for substituted judgment.
12

13 (2) Accountings shall be subject to court approval and are required to be filed concurrently
14 with conservatorship reviews and,
15

16 (3) A reasonable bond shall be required of the trustee, unless otherwise waived by the court.
17

18 (4) No fees shall be paid to the trustee or attorneys without prior court approval.
19

20 (5) Upon termination of the conservatorship, the trust may be released from court supervision
21 upon order of the court.
22

23 E. Confidential Filings: Petitioner may requests that estate planning documents be filed as
24 confidential documents. The request may be made on an ex parte basis.
25

26 F. Filing Procedures: All filings must consist of an original and two(2) copies. Signatures must be
27 in blue ink. The clerk will retain the original and one(1) copy of all documents. (The clerk will
28 deliver the copy to the Court Investigators). The second copy will be “endorsed filed” and will
29 be returned to the filing party for his/her records.
30

31 F.G. See Local Rules of Court, Rule 4.94
32

33 (Adopted, effective July 1, 1996) (Amended, effective January 1, 2000; effective July 1, 2004)
34 (Amended, effective July 1, 2009)
35

36
37 Rule 4.89 Prior Court Approval Is Required For Any Action Specified In Probate Code Section 3100, eEt
38 Seq.
39

40 A. Petition: A clear factual showing of the information set forth in Sections 3121, 3122 and 3123
41 shall be included in each petition submitted.
42

43 B. Notice: Notice shall be given as required by Sections 3130 and 3131.
44

45 C. Appointment of Independent Counsel: Prior to the hearing on any petition for Court approval of
46 a transaction involving an incompetent spouse, pursuant to Probate Code section 3100 et seq. independent
47 counsel for the conservatee shall be appointed by the Court pursuant to Local Court Rule, Rule 4.100.
48 Appointment of independent counsel shall be initiated by the petitioner(s) and shall be arranged through
49 the Court Investigations Office of the Probate Division . Independent Counsel shall report to the court
50 regarding the efficacy and propriety of the proposed transaction.
51

1 D. Bond: Upon the granting of a petition approving a transaction involving an incompetent spouse,
2 reasonable bond shall be required of the petitioner pursuant to Section 3150.
3

4 E. Filing Procedures: All filings must consist of an original and two(2) copies. Signatures must be
5 in blue ink. The clerk will retain the original and one(1) copy of all documents. (The clerk will
6 deliver the copy to the Court Investigators). The second copy will be “endorsed filed” and will
7 be returned to the filing party for his/her records.
8

9 (Adopted, effective January 1, 2000) (Amended, Effective July 1, 2004) (Amended, effective July
10 1, 2009)
11

Title	DIVISION V – FAMILY LAW DEPARTMENT
Reasons for Amendments	Appendix “1” is amended to reflect the recently revised form FL-3.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Number and Address): TELEPHONE NO: _____ FAX NO: (OPTIONAL) _____ E-MAIL ADDRESS (OPTIONAL) _____ ATTORNEY FOR: _____	
SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN MATEO 400 COUNTY CENTER REDWOOD CITY, CA 94063	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT:	
STATUS CONFERENCE STATEMENT Date: _____ Time: _____ Dept.: _____ <i>Note: This form must be filed at least 15 days prior to your Status Conference and a copy served on the other party.</i>	CASE NO: _____

1. Petitioner is self-represented – or -- Attorney for Petitioner is: _____
 Respondent is self-represented – or -- Attorney for Respondent is: _____

2. This case involves the following disputed issues (please describe):
 - Date of Separation: _____
 - Child Custody/Visitation: _____
 - Child Support: _____
 - Spousal Support: _____
 - Community Property (characterization/valuation/division): _____
 - Reimbursement claims: _____
 - Attorneys Fees: _____
 - Other: _____

3. At this conference, if there are issues to resolve for which you seek the court’s assistance, please describe below:
 - a. _____

b. _____

c. _____

A proposal for settlement is attached.

4. Have Preliminary Declarations of Disclosure documents been exchanged? Yes No

If "No", do you need a deadline to exchange Schedule of Assets & Debts and/or Income & Expense Declaration forms? Yes No

5. Trial Readiness:

a. Are you requesting the case be set for MSC/trial? Yes No

b. How recently have the parties and/or counsel met to discuss settlement? _____

c. This case is expected to take: _____ days hours of trial.

d. What discovery remains to be done? Interrogatories Depositions Document Production

e. This case will be ready for trial on: _____

6. I/We Request:

Continue Status Conference until _____ (date) for the following reasons:

 ADR (mediation, collaborative law, arbitration, etc.)

Family Court Services referral

Referral to the Family Law Facilitator for assistance with completing legal paperwork

Other: _____

7. Statement Prepared By:

Petitioner Respondent

Submitted:

Jointly or Individually

This statement accurately reflects the present status of the case.

Respectfully submitted: Dated: _____

Attorney for self-represented

 Petitioner Respondent

Dated: _____

Attorney for self-represented

 Petitioner Respondent

1
2

Proposal Number S09-04	
Title	LOCAL RULE 9.1 Pretrial Motions in Criminal Cases
Proposed Changes	<p><u>Rule 9.1 Pretrial Motions in Criminal Cases</u></p> <p>(a) Notwithstanding the minimum time limits set out in the California Rules of Court, all pretrial motions, accompanied by points and authorities, shall be served and filed at least fifteen (15) calendar days, all papers opposing the motion at least five (5) calendar <u>court</u> days, and all reply papers at least two (2) court days before the time of the hearing.</p> <p>Paragraphs (b) through (e) are unchanged.</p> <p>(Adopted, effective July 1, 1996) <u>(Amended, effective July 1, 2009)</u> </p>
Reasons for Amendment	<p>The reason this change is needed is that felony pretrial motions are heard on Thursdays and Fridays, and the due dates for the oppositions currently fall on Saturday or Sunday, meaning that they are not actually due until the first court day after the weekend. On weeks with Monday holidays, this means that oppositions are not due until Tuesday. This amendment will provide sufficient time for the court to review and prepare for hearings on the motions.</p>

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4
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