

AMENDMENTS

CHAPTER I. GENERAL RULES

Rule 1.5 Subordinate Judicial Officers and Temporary Judges (Effective 7/1/04; rev. 7/1/18; rev. 7/1/20)

- (a) Commissioners of the Kern County Superior Court are appointed Judge Pro Tempore in all matters calendared, or otherwise assigned, to them. They are granted full judicial power until a final determination of the matter. A party's appearance, without prompt notice to the contrary, constitutes the party's stipulation to this appointment, which grants full judicial powers until a final determination of the cause.

The Court shall post notice that: "Commissioners are appointed Judge Pro Tempore for all hearings and trials before them. Your appearance, without prompt notice to the contrary, constitutes your stipulation to this appointment, which grants full judicial powers until a final determination of the cause." (Effective 7/1/20)

- (b) No cause submitted to a subordinate judicial officer shall remain undecided and pending for longer than 90 days. (Effective 7/1/04; renum. 7/1/18; renum. 7/1/20)

- (c) A party's consent to a subordinate judicial officer or temporary judge is implied in default matters, including those matters in which a party was properly noticed and failed to appear in court, uncontested matters, and matters in which attorneys proceed without objection to the subordinate judicial officer or temporary judge. (Effective 7/1/18; renum. 7/1/20)

Rule 1.9 Facsimile Filing (Effective 7/1/03; rev.1/1/06; rev. 1/1/11; rev. 7/1/11; rev. 1/1/12; renum. 1/1/13; rev.1/1/17; rev. 7/1/18; rev. 7/1/20)

Notwithstanding Electronic Filing requirements in California and Kern County Local Rules of Court, the Superior Court of California, County of Kern, allows the filing of ~~civil~~, probate and family law documents by facsimile transmission through the use of a fax filing agency only as defined in California Rule of Court, rule 2.301(7). California Rules of Court, rules 2.300 et seq. applicable to fax filings through a fax filing agency apply. (Effective 7/1/03; rev. 1/1/11; rev. 7/1/11; rev 7/1/18; rev. 7/1/20)

Rule 1.10 Electronic Filing and Service (Effective 1/1/12; rev. 1/1/13; rev. 1/1/17; rev. 7/1/18; rev. 1/1/19; rev. 7/1/19; rev. 7/1/20)

This rule governs permissive and mandatory electronic filing and service

of documents in the Superior Court of California, County of Kern. As authorized by Code of Civil Procedure (CCP) section 1010.6(d) and California Rules of Court (CRC), rule 2.253(b)(1), Mandatory Electronic Filing (E-File) will be required for represented parties **in all cases filed in on all Limited and Unlimited Civil, Family Law (subject to the exceptions listed below),** ~~ease types, including cases related to~~ California Environmental Quality Act (CEQA), Civil Writ petitions ~~cases,~~ and Unlawful Detainers. ~~Family Law cases, Probate cases, and Habeas Corpus proceedings are not subject to the mandatory e filing requirement at this time.~~ (Effective 1/1/12; rev. 1/1/17; rev. 7/1/19; **rev. 7/1/20**)

~~This requirement is specific to all attorneys, justice partners, and vendors filing in this area. Represented parties in other civil cases including Family Law, Probate, and Habeas Corpus proceedings,~~ **Attorneys in proceedings filed under the Domestic Violence Prevention Act and the Elder Abuse and Dependent Adult Civil Protection Act, attorneys representing minors in family law proceedings, court-appointed attorneys in family law proceedings, attorneys representing parties who have been granted a fee waiver, and self-represented litigants are not required to E-File, but are encouraged to participate.** (Effective 1/1/12; rev. 7/1/18; rev. 7/1/19; **rev. 7/1/20**)

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Rule 1.12 Return of Exhibits (Effective 7/1/20)

Absent a stipulation of the parties at the conclusion of the trial or hearing to return exhibits, and provided there is compliance with Penal Code sections 1417.2, 1417.3 and 1417.5 or Code Civ. Pro. Sections 1952(a) and 1952.2, upon a noticed motion exhibits received in evidence at the trial or a hearing may be returned by the court to the party who offered them. For felony cases the noticed motion must be filed in the Criminal Calendar Department on the 8:30 a.m. calendar. For misdemeanor cases and civil cases the noticed motion must be filed in the department that handled the underlying case. (Effective 7/1/20)

CIVIL RULE AMENDMENTS

Chapter III. Civil Rules and Civil Case Management (Effective 7/1/03; **rev. 7/1/20)**

It is the policy of the Superior Court of California, County of Kern, to manage all civil cases from the date of filing through final disposition. All parties are subject to this policy and are expected to proceed diligently and expeditiously in preparing civil cases for trial. (Effective 7/1/03)

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In civil matters filed in the ~~Regional~~ **Multi-Divisional** Courts, the court shall

determine the appropriate location for the trial at the case management conference. The judge, using information concerning the parties' residences, the attorneys' residences, the likely witness' locations, estimated trial days, and other relevant factors, will determine the need to retain the case at the ~~Regional Division~~ **Multi-Divisional Court** for trial or to transfer the matter to the Metropolitan Court Civil Division. (Effective 7/1/03; rev. 7/1/20)

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Rule 3.3 Civil Law and Motion – Civil (Effective 7/1/03; renum. 1/1/13; rev. 1/1/14; rev. 7/1/15; **rev. 7/1/20**)

All law and motion matters will be heard pursuant to applicable courtroom schedules.

Within the Metropolitan Division, hearing dates for regularly noticed law and motion proceedings in the unlimited general civil departments ("Fast Track") that are filed by attorneys, shall be pre-cleared and reserved ~~through the Attorney Motions Reservation System ("System") at <http://www.kerncourtlink.com/>.~~ **by calling the Civil Division at (661) 868-7204.** All motions ~~made through the system~~ **that are pre-cleared and reserved** must be filed, and the motion filing fees paid within three (3) days of the date that the reservation is made, unless the motion is a type requiring notice to parties with delayed filing time limits, e.g., motions pursuant to Code of Civil Procedure sections 128.7 or 437(c). Failure to pay the filing fee and file the moving papers timely will result in the expiration of the reserved hearing date. ~~All moving papers must contain the Reservation Number of the Motion in the caption of the Notice of Motion underneath the information required per California Rules of Court, rule 3.1110(b). Use of the System is not available to parties representing themselves *in propria persona*; they must file their motions with the Court with a chosen date that complies with the service requirements of the Code of Civil Procedure.~~ (Effective 7/1/03; renum. 1/1/13; rev. 1/1/14; rev. 7/1/15)

This Rule does not apply to ex parte applications. (See, Local Rule 3.4.)

Attorneys with cases ~~which~~ **that** are assigned as "NFT" (Non Fast Track) to a department other than one of the unlimited general civil departments do not ~~use the System for reserving~~ **need to call in to reserve** law and motion dates, ~~and~~ **These** motions are to be filed and served pursuant to statute with the date as chosen by the attorney noticing the motion. (Effective 7/1/03; renum. 1/1/13; rev. 1/1/14; **rev. 7/1/20**)

CHAPER IX AMENDMENTS

Chapter IX. Court Communication Protocol for Domestic Violence and

Child Custody Orders (Effective 1/1/06; rev. 1/1/20; **rev. 7/1/20**)

This rule provides for a protocol that is adopted in conformity with California Rules of Court, rule 5.445 and Penal Code section 136.2. For the purposes of this rule, the following definitions apply: (Effective 1/1/06; rev. 1/1/20; **7/1/20**)

- (a) “Criminal court protective order” (hereafter CPO) means any court order issued under California Penal Code, section 136.2 arising from a complaint, an information, or an indictment in which the victim or witness and the defendant have a relationship as defined in California Family Code section 6211. (Effective 1/1/06; rev. 1/1/20)
- (b) “Court” means all divisions of the Superior Court of the County of Kern. (Effective 1/1/06)
- (c) “Civil court” means any court that issues custody and visitation orders, specifically including but not limited to Juvenile, Family Law, and Probate. (Effective 1/1/06)
- (d) “Cases involving child custody and visitation” include Family Law (dissolutions, legal separations, nullities, Domestic Violence Prevention Act, parentage, petitions for custody and support, domestic partnership actions, child support matters where custody or visitation is an issue, and any other Family Law matters related to custody or visitation), Juvenile, and Probate guardianship proceedings. (Effective 1/1/06)
- (e) This rule is intended to p**Protect the rights of all parties and enhance the ability of law enforcement to enforce orders. (Effective 1/1/20; **renum. 7/1/20**)

~~(e) — Encourage courts to establish regional communication systems with courts in neighboring counties regarding the existence of and terms of criminal court protective orders. (Effective 1/1/20)~~

~~(f) This rule is not intended to change the procedures, provided in Family Code section 6380, for the electronic entry of domestic violence restraining orders into the Domestic Violence Restraining Order System. (Effective 1/1/20)~~

The purpose of this rule is to set forth a protocol to accomplish the

following: (Effective 1/1/06; **renum. 7/1/20**)

~~(aa)~~ **(1)** For the courts to share information about the existence and terms of CPOs and other orders regarding child custody and visitation that involve the defendant and the victim or witness named in the CPO. (Effective 1/1/06; **renum. 7/1/20**)

~~(bb)~~ **(2)** For courts hearing cases involving child custody and visitation to take every action practicable to ensure that they are aware of the existence of any CPO involving the parties to the action currently before them. (Effective 1/1/06; **renum. 7/1/20**)

~~(cc)~~ **(3)** For criminal courts to take every action practicable to ensure that they are aware of the existence of any child custody or visitation court orders involving the defendant in the action currently before them. (Effective 1/1/06; **renum. 7/1/20**)

~~(dd)~~ **(4)** For the courts to permit appropriate visitation between a criminal defendant and his or her children pursuant to civil court orders, but at the same time provide for the safety of the protected person by ensuring that a CPO is not violated. (Effective 1/1/06; **renum. 7/1/20**)

This rule is not intended to change the procedures, **set forth** ~~provided~~ in Family Code section 6380, for the electronic entry of domestic violence restraining orders into the Domestic Violence Restraining Order System. (Effective 1/1/20; **renum. 7/1/20**)

Rule 9.3.3 Custody and Visitation Orders Issued Subject to a CPO (Effective 1/1/06; **rev. 7/1/20**)

A Criminal Court that issues a CPO may permit appropriate contact between a criminal defendant subject to a CPO and the protected person in order to allow **Civil Family or Juvenile** Court-ordered visitation between a criminal defendant and his or her children. If the Criminal Court permits such contact between the restrained and protected persons, the order for contact shall be indicated on the Judicial Council form entitled Protective Order in Criminal Proceeding (CLETS) and shall comply with the requirements of Penal Code Section 136.2(~~j~~**f**)(1) and (2). A CPO takes precedence over any civil, **family, or juvenile** order that has been issued at any time. (Effective 1/1/06; **rev. 7/1/20**)

Rule 9.6 Protective Orders; Transmittal/Entry in CLETS; Modifications; Terminations (Effective 7/1/12; rev. 7/1/20)

- (a) Notwithstanding other statutory requirements, any motion or request submitted for filing for the purpose of modifying or terminating a protective order issued pursuant to Sections 6221 or 6401 of the Family Code; Sections 527.6, 527.8, 527.85 of the Code of Civil Procedure; or Sections ~~213.05~~ **213.5**, 304, 362.4 , or 15657.03 of the Welfare and Institutions Code, or Penal Code 136.2 must include at time of submission, the appropriate completed “proposed” Restraining Order After Hearing form adopted by the Judicial Council of California and approved by the Department of Justice. (Effective 7/1/12; rev. 7/1/20)

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