

SUPERIOR COURT OF CALIFORNIA, COUNTY OF BUTTE

RULES OF COURT

PROPOSED RULE CHANGES

JULY 1, 2013 CYCLE

**LOCAL RULE 1 GENERAL RULES** *(Effective Date: 7/1/90, as amended 7-1-03, as amended 7-1-04, as amended 1-1-06, as amended 7-1-06, as amended 7-1-08, as amended 1-1-09, as amended 7-1-09, as amended 7-1-11, as amended 1-1-12, as amended 7-1-12, as amended 1-1-13, as amended 7-1-13)*

1.1 RESERVED *(Effective 7/1/90)*

1.2 FILING OF MOTIONS IN LIMINE *(Effective 7/1/90, as amended 7-1-00)*

Any and all motions in limine in connection with any anticipated civil trial shall be presented for filing at the Trial Readiness Conference. *(Effective 7/1/90, as amended 7-1-00)*

1.3 SMALL CLAIMS VENUE *(Effective 7-1-03)*

Small claims cases may be filed at: Butte County Courthouse in Oroville or Chico Courthouse. *(Effective 7-1-0, as amended 7-1-123)*

1.4 RESERVED *(Effective 7/1/90, as amended 1-1-00)*

1.5 RESERVED *(Effective 7/1/90, as amended 1-1-00)*

1.6 ATTORNEY OF RECORD *(Effective 7/1/90, as amended 1-1-00, as amended 7-1-12)*

Proof of service on an attorney will not be accepted for filing unless the attorney is of record in the Court's file - either by filing an appearance, a document on behalf of a party, or a notice that [s]he is counsel for a party authorized to accept service. *(Effective 7/1/90, as amended 1-1-00, as amended 7-1-12)*

1.7 COURT REPORTER'S PER DIEM FEE *(Effective 7/1/90, as amended 1-1-99)*

The fee paid by the Superior Court of California, County of Butte to pro tempore court reporters hired by the Court for reporting testimony and proceedings shall be periodically reviewed and determined by the Presiding Judge. *(Effective 7/1/90, as amended 1-1-99)*

1.8 REQUESTING A COURT REPORTER *(Effective 7/1/90, as amended 7-1-03, as amended 7-1-04, as amended 7-1-11, as amended 7-1-12)*

a) Notice is hereby given that the Superior Court of California, County of Butte only provide a court reporter for those proceedings set forth in GC §70045.8.

(b) In accordance with GC §§68086(a)(1)(A) and CRC 2.956, notice is hereby given that whenever any party desires to have any proceeding other than those set forth in GC §70045.8 reported, such party shall provide and pay for their own court reporter.

(c) Fees for court reporters pursuant to the provisions of GC §68086(a)(1), in civil cases, are available on the Court's website: [www.buttecourt.ca.gov](http://www.buttecourt.ca.gov). *(Effective 7/1/90, as amended 7-1-03, as amended 7-1-04, as amended 7-1-11, as amended 7-1-12)*

1.9 TRIAL READINESS (Effective 7/1/90, as amended 7-1-02, as amended 7-1-04, as amended 1-1-06, as amended 7-1-06, as amended 1-1-09, as amended 1-1-12, as amended 7-1-12, as amended 1-1-13, as amended 7-1-13)

(a) When a case is ready for trial (at-issue), a *Memorandum to Set Case for Trial* (form GR.010) shall be filed in the following cases only: Civil Harassment, Extraordinary Writs, and Asset Forfeiture cases under Health and Safety Code (H&S) §11470.

(b) The memorandum to set case for trial shall contain the information as set forth in *Memorandum to Set Case for Trial* (form GR.010).

(c) For any court trial which is to take in excess of two hours for presentation by all sides, the parties are required to file a trial memorandum setting forth their respective positions, together with citations to all legal authority upon which the parties intend to rely. Such trial memoranda, a list of exhibits, and a list of witnesses are to be filed no later than noon on the Wednesday immediately preceding the trial. A copy is to be submitted for the judge's use; three-hole punched on the left side and any attachments tabbed on the right side. The original, which is filed with the Court, shall be two-hole punched at the top and tabbed on the bottom. ***The Court will ordinarily set a TRC for 11:00 am on the Friday preceding the trial for all unlimited civil court trials with a time estimate greater than two (2) hours.***

(d) For all jury trials, the court will conduct a Trial Ready Conference (TRC) in advance of the first day of trial. The *Trial Readiness Conference Statement* (form GR.020) is available on the court's website: [www.buttecourt.ca.gov](http://www.buttecourt.ca.gov). The court will, at the time of setting the trial date, set a date for the TRC. At least five (5) full court days prior to the TRC, counsel are to file and provide copy to opposing counsel a *Trial Readiness Conference Statement* (form GR.020). A copy is to be submitted for the judge's use; three-hole punched on the left side and any attachments tabbed on the right side.

(e) Parties are encouraged to obtain a stipulation containing the information as set forth in *Procedural Stipulations for Jury Trial* (form GR.040). (Effective 7/1/90, as amended 7-1-02, as amended 7-1-04, as amended 1-1-06, as amended 7-1-06, as amended 1-1-09, as amended 7-1-12, as amended 1-1-13, as amended 7-1-13)

1.10 TELEPHONIC APPEARANCES (Effective 7-1-02, as amended 7-1-08)

(a) Telephonic appearances are generally authorized pursuant to CRC 3.670(c).

(b) The Court designates Court Call as the conference call provider to be used for telephonic appearances. (Court Call can be contacted at 1-888-882-6878). (Effective 7-1-02, as amended 7-1-08)

1.11 REQUESTING AND USE OF AUDIO/VISUAL PRESENTATION EQUIPMENT (Effective 7-1-09, as amended 7-1-12)

(a) To coordinate external requests for the use of audio/visual presentation equipment in Butte County Superior Court, the following procedure shall apply at all court facilities.

1. Parties who require the use of the Court's audio/visual presentation equipment shall complete a *Request/Notification for Courtroom Audio/Visual Presentation Equipment* (form GR.030) and submit the completed form to Court Administration no later than five (5) court days before the date

the equipment is to be utilized. In the event the court date is set less than five (5) court days before the hearing, the request must be made at the time the hearing is set or by the close of business on that day.

2. Parties who require the use of non-court provided equipment must complete a *Request/Notification for Courtroom Audio/Visual Presentation Equipment* (form GR.030) and submit the completed form to Court Administration no later than five (5) court days before the date the equipment is to be utilized. The party shall confirm with Court Administration that the equipment is working properly and is compatible with any court equipment that might also be used a minimum of five (5) court days before it is scheduled to be used. It is not the responsibility of Butte County Superior Court staff or Sheriff's Deputies to assist in operating or setting up of non-court provided equipment. If a party is unable to operate, connect, or set up non-court provided equipment in a reasonable period of time, as determined by the judicial officer presiding over the matter, the matter will proceed without use of the equipment.
  
3. The Court has limited audio/visual presentation equipment. In the event there are concurrent requests to use specific equipment, the equipment will be provided on a first-come, first-served basis unless other priority is determined by the Presiding Judge. *(Effective 7-1-09, as amended 7-1-12)*

**LOCAL RULE 2 LAW AND MOTION** (Effective 7-1-89, as amended 7-1-03, as amended 7-1-04, as amended 7-1-05, as amended 7-1-10, as amended 7-1-12, as amended 7-1-13)

**2.1 APPLICABILITY** (Effective 7-1-89, as amended 7-1-02)

This Rule 2 applies to all civil law and motion proceedings. (Effective 7-1-89, as amended 7-1-02)

**2.2 PAPERS PRESENTED FOR FILING** (Effective 7-1-89, as amended 1-1-03, as amended 7-1-04, as amended 1-1-07)

All documents presented for filing must comply with California Rules of Court (CRC), in particular CRC §§2.100, 3.1110 through 3.1115, and Local Rule (LR) §13.

(a) JUDGMENT. Each judgment or order submitted to the Court shall be self-contained; that is, it may not incorporate by reference any instrument or document that is not made a physical part of the judgment or order itself.

(b) The moving party on any motion, petition, or demurrer is to provide a form of order, ruling, or judgment consistent with the relief requested in the moving papers. (Effective 7-1-89, as amended 1-1-0, as amended 7-1-04, as amended 1-1-07)

**2.3 JUDICIAL NOTICE** (Effective 7-1-89, as amended 7-1-02, as amended 7-1-12)

Any request for judicial notice shall be made in a separately captioned document, listing the specific items of which notice is requested. Copies of those items shall be attached to the request as exhibits and shall be tabbed, indexed, and paginated. When judicial notice of a Butte County court file is requested, the request shall be filed with the Clerk of the Court no less than seven (7) court days before the hearing. The request shall contain the title, case number and jurisdiction of the requested Butte County court file. Where the file sought to be noticed is that of an action outside of Butte County, certified copies of the file's contents will be acceptable in lieu of the original file. The certified copies shall be filed with the court no less than seven (7) court days before the hearing. (Effective 7-1-89, as amended 7-1-02, as amended 7-1-12)

**2.4 LATE PAPERS** (Effective 7-1-89, as amended 1-1-00, as amended 7-1-12, as amended 7-1-13)

No paper shall be rejected for filing on the ground that it was submitted for filing after the time set forth in this rule. Late filed papers shall be filed by the Clerk and shall be marked conspicuously as "Late Filed Document." ***The party filing the late document shall pay a \$50 late filing fee at the time of filing, which is in addition to any other sanction the Court may impose.*** The Court may, in its discretion, refuse to consider late filed papers or may impose sanction, including monetary sanctions. Where opposition papers are late or entirely omitted, no oral argument by the opposing party will be allowed unless the Court otherwise directs. Relief from the operation of this rule must be sought from the Court by ex parte application or noticed motion and will be granted only upon a showing of good cause. Such relief may also be conditioned upon payment of sanctions for noncompliance. (Effective 7-1-89, as amended 1-1-00, as amended 7-1-12, as amended 7-1-13)

**2.5 REPORTING OF PROCEEDINGS** (Effective 7-1-89, as amended 7-1-03, as amended 7-1-12)

The Court does not provide for reporting or electronic recording of law and motion hearings. A party wishing to obtain a court reporter should make arrangements with a private court reporter prior to the hearing. *(Effective 7-1-89, as amended 7-1-03, as amended 7-1-12)*

## 2.6 REPORTING OF PROCEEDINGS *(Effective 7-1-04, as amended 1-1-07, as amended 7-1-12)*

(a) Consistent with CRC §3.1310, the court does not provide for reporting or electronic recording of hearings on motions. *(Effective 7-1-04, as amended 1-1-07, as amended 7-1-12)*

## 2.7 TIME OF HEARING *(Effective 7-1-89, as amended 7-1-03)*

For both Unlimited and Limited Civil Law and Motion matters contact the Clerk at (530) 532-7009 for dates and times to schedule hearings. *(Effective 7-1-89, as amended 7-1-03)*

## 2.8 CONTINUANCE (Civil Law & Motion Only) *(Effective 7-1-89, as amended 7-1-02, as amended 7-1-12)*

(a) REQUEST TO CONTINUE. Requests to continue law and motion matters may be made by contacting the Clerk's Office until the close of business the third court day before the hearing date. Such continuances will only be granted where there is an agreement between the parties and authorization by the moving party. Any request not accompanied by the appropriate fee will be rejected. After the close of business the third court day before the hearing date, no matter will be continued (whether by stipulation or otherwise) without written Order of the Court, and for good cause shown. Counsel are to keep the Clerk apprised of any changes in calendared law and motion matters as soon as possible.

(b) TWO CONTINUANCE LIMIT. No more than two continuances shall be permitted by stipulation of the parties, absent Court order. *(Effective 7-1-89, as amended 7-1-02, as amended 7-1-12)*

## 2.9 TENTATIVE RULINGS *(Effective 7-1-89, as amended 7-1-03, as amended 7-1-04, as amended 7-1-05, as amended 1-1-07)*

The Court follows the tentative ruling procedure set forth in CRC § 3.1308(a)(1): tentative rulings on law and motion matters will be available on the Court's website at [www.buttecourt.ca.gov](http://www.buttecourt.ca.gov) and by telephone at (530) 532-7022 by 3:00 p.m. on the court day preceding the hearing. *(Effective 7-1-89, as amended 7-1-03, as amended 7-1-04, as amended 7-1-05, as amended 1-1-07)*

## 2.10 APPLICATION FOR ORDER SHORTENING TIME AND EX PARTE ORDERS *(Effective 7-1-89, as amended 1-1-00, as amended 7-1-04, as amended 1-1-07, as amended 7-1-12, as amended 7-1-13)*

(a) All ex parte applications shall comply with CRC §3.1200-3.1207. Ex parte matters are considered at 4:00 p.m. on Monday-Thursday and 1:30 p.m. on Fridays, ***and any day before a holiday wherein the Court is closed.*** The moving papers must show that notification has been provided as required by CRC §3.1200-3.1207. Counsel may appear in person or by phone, or may submit on the papers as allowed in CRC §3.1207. The requesting party must show that exigent circumstances will result unless the matter is heard ex parte.

(b) An ex parte declaration shall contain the information as set forth in *Declaration Re: Notice of Ex Parte Application for Orders and/or Orders Shortening Time* (form LM.010). Such declaration shall be filed and served with the moving papers.

(c) Notice must be provided to opposing parties by 10:00 am the day before the requested hearing date. All papers must be filed with the Court by 10:00 am on the day of the hearing. All papers must be served on opposing parties at the earliest possible time. Non-compliance with this rule may result in either a denial of the requested relief or placing the matter on a law and motion calendar (with or without an order shortening time) in the court's discretion. *(Effective 7-1-89, as amended 1-1-00, as amended 7-1-04, as amended 1-1-07, as amended 7-1-12, as amended 7-1-13)*

2.11 RESERVED *(Effective 7/1/89, as amended 1/1/00)*

2.12 DEFAULT HEARINGS *(Effective 7-1-89, as amended 7-1-02)*

Default prove up hearings are held on the regular law and motion calendar. Prove up hearings may be set by letter request to the clerk at least ten (10) days prior to the date to be set for the prove up. These matters ordinarily are heard on declarations rather than by oral testimony, although witnesses may need to be present in case questions arise. Declarations and any other supporting evidence, and any argument, should be submitted to the Court at least one week prior to the hearing. *(Effective 7-1-89, as amended 7-1-02)*

2.13 MOTIONS FOR SUMMARY JUDGMENT OR SUMMARY ADJUDICATION  
*(Effective 7-1-89, as amended 7-1-02, as amended 7-1-04)*

FORM OF MOTION. All motions for summary judgment or summary adjudication must conform to the requirements of CCP §437c. These requirements will be strictly enforced by the Court. *(Effective 7-1-89, as amended 7-1-02, as amended 7-1-04)*

2.14 DISCOVERY DISPUTES *(Effective 7-1-89, as amended 1-1-00)*

(a) SPECIAL REFEREES. It is the policy of the Court to consider the appointment of special referees pursuant to CCP § 639 as necessary to assist in the resolution of discovery disputes. In the event that the hearing judge appoints a special referee, the moving party shall prepare an order containing the following:

**1.** A provision granting the referee power to set the date, time, and place for all hearings determined by the referee to be necessary; to direct the issuance of subpoenas; to preside over hearings; to take evidence; and to rule on objections, motions, and other requests made during the course of the hearings, all with the same power as if the Court were to preside thereat *(except for the power of contempt which is specifically reserved to the Court)*.

**2.** A provision requiring the referee to submit a written report to the parties and to the Court within twenty (20) days after the completion of the hearing, containing a proposed order and proposed sanctions if deemed appropriate.

**3.** A provision that objections to the report shall be filed with the Court no later than ten (10) calendar days after the date of mailing the report to counsel, which objections shall notice a hearing; copies of the objections and responses thereto shall be served upon the special referee.

4. A provision setting forth the hourly fee to be paid to the referee and stating that the fees for the referee and Certified Shorthand Reporter shall be paid equally by the parties within ten (10) days of billing.

5. A provision that directs the special referee to recommend that one or more of the parties pay more than an equal share of the fees.

6. A provision that the Court reserve jurisdiction to make such other and further orders with respect to the special referee as may be just and proper. *(Effective 7-1-89, as amended 1-1-00)*

2.15 RESERVED *(Effective 7-1-89, as amended 1-1-00)*

2.16 COMPROMISE OF MINOR'S OR INCOMPETENT'S CLAIM *(Effective 7-1-89, as amended 7-1-02, as amended 7-1-04, as amended 7-1-10)*

(a) Pursuant to CRC 7.950, a petition for Court approval of a compromise or covenant not to sue pursuant to CCP §372 or Prob §§2504 or 3500 shall be on the form prescribed by the Judicial Council.

(b) An expedited petition for court approval of a compromise or covenant not to sue pursuant to CCP §372 or Prob §§2504 or 3500 shall be determined and authorized by the Court pursuant to CRC 7.950.5. A party requiring a hearing under CRC 7.950.5(c) may contact the clerk at (530) 532-7017 for a hearing date and time.

(c) A petition for withdrawal of money deposited in a bank, trust company or savings and loan association on behalf of a minor or incompetent person shall be verified by the guardian, conservator or trustee and, in the case of a competent minor, by such minor if [s]he is at least twelve (12) years of age. An attorney's services relating to such petition are usually included in any fees awarded to the petitioner's attorney at the settlement of the action and, except as otherwise ordered by the Court for good cause shown, no attorney fees shall be charged by such attorney or approved by the Court for such services. *(Effective 7-1-89, as amended 7-1-02, as amended 7-1-04, as amended 7-1-10)*

2.17 ATTORNEY FEES IN CASES INVOLVING MINORS OR INCOMPETENT PERSONS *(Effective 7-1-89, as amended 7-1-02, as amended 7-1-10)*

(a) FEES. In cases compromised under CCP §372 or PROB §3500, the Court shall approve and allow attorney fees as prescribed in CRC 7.955.

(b) COURT APPROVAL OF EMPLOYMENT CONTRACT--cf. PROB. §2644. Except for good cause shown, no contract of employment providing for attorney fees shall be approved by the Court in advance. Under no circumstances shall the contract be considered for approval in advance without the client's appearance on the application for Court approval. *(Effective 7-1-89, as amended 7-1-02, as amended 7-1-10)*

2.18 ~~RESERVED~~ *(Effective 7-1-89, as amended 1-1-00)* **POLICY RE: APPOINTMENT OF GUARDIAN AD LITEM FOR MINORS AND INCOMPETENT PERSONS** *(Effective 7-1-13)*

*It is the policy of the Court to deny appointment of a guardian ad litem for a minor or incompetent person where the proposed guardian has in any manner been involved in the action or proceeding where that involvement has or may have resulted to injuries or damages to the minor or incompetent person. The Court will base its determination of this issue on a case by case basis and shall inquire as to the status and relationship of the proposed guardian and the minor or incompetent person in all cases.*

*In each case where an ex parte petition to appoint a guardian ad litem is filed, the petitioning party shall attach a statement of non-involvement to the petition. (Effective 7-1-13)*

**LOCAL RULE 12 PROBATE RULES** *(Effective 7/1/98, as amended 7-1-02, as amended 1-1-05, as amended 7-1-09, as amended 1-1-11, as amended 7-1-12 as amended 7-1-13)*

12.1 GENERAL *(Effective 7-1-98, as amended 7-1-99, as amended 7-1-12)*

(a) RESERVED

(b) FORM OF PAPERS PRESENTED FOR FILING

1. It is the duty of the attorney (or the party appearing without an attorney) to prepare and submit the supporting documents and proposed orders for all matters. All such documents shall include the time and date of the hearing, typed under the caption of the front page.

2. If a Judicial Council form is available for the particular form of relief sought, that form shall be used. The form is to be used in the same format as prescribed and printed by the Judicial Council (i.e. printed in a rolled format so that the reverse side of the document can be read by “rolling” the form as opposed to turning it over). Only current Judicial Council forms are acceptable for filing.

3. A proposed form of order is to be submitted with each petition or motion for relief. Any petition or motion filed without such proposed form of order will not be calendared for hearing until such time as the proposed form of order is submitted.

(c) PROCEDURES FOR EX PARTE MATTERS

1. If the ex parte matter is contested the petition shall so specify. If necessary, the Clerk will contact the attorney of record so the matter can be added to the next available calendar for hearing.

(a) All applications for ex parte orders must contain a list of any and all requests for special notice which have been filed in the proceedings or contain an allegation that no special notice has been requested. If any such notice has been requested, a waiver must accompany the petition.

(b) If it is reasonably likely there will be a dispute or contest as evidenced by documents on file in the proceeding, then all parties must be notified pursuant to California Rule of Court §3.1200-3.1207 of the time and place where the application for the ex parte order will be made. Proof by the attorney’s declaration of such notification shall accompany the petition.

2. For good cause, the Court may require a noticed hearing before approval of any matter. *(Effective 7-1-98, as amended 7-1-99, as amended 7-1-12)*

12.2 BOND OF PERSONAL REPRESENTATIVE *(Effective date 7-1-98)*

(a) AMOUNT OF BOND

1. Unless the requirements of Prob. §8481 are met, a bond will be required of every person appointed as a personal representative. As a general policy, the Court will require at least a \$10,000 minimum bond even if the value of the estate is less than \$10,000.
2. A petition to appoint a personal representative should set forth the estimated value of real property, personal property, and the estimated annual income from all property.
3. If the estimated value of the assets of the estate is not known at the time of the filing of the petition for appointment, ordinarily the personal representative must appear at the hearing to testify as to the estimated value of estate assets.
4. If written waivers are attached to the petition, bond will ordinarily be waived by the Court pursuant to Prob. §8481, provided all heirs or beneficiaries are competent to act. If any such persons are incompetent (e.g., minors), an appropriate representative must waive bond on their behalf.

(b) METHODS OF REDUCING BOND

1. There are three basic methods for obtaining a reduction of bond.
  - A. The first is to deposit or invest a specified amount of assets before the order of appointment is made, obtain a receipt and agreement to hold the assets in a blocked account, and offer the receipt and agreement in evidence when the petition for appointment comes on for hearing. The facts upon which the reduced bond is sought should be set forth, either in the original petition for appointment or in a separate petition to be heard simultaneously.
  - B. The second is to obtain in the order appointing the representative, a provision that if assets are deposited or invested in blocked accounts the bond may be fixed in a reduced amount. A receipt for the deposit must be obtained from the depository and filed with the Clerk. The Clerk is then authorized to issue letters upon the filing of a bond in the reduced amount.
  - C. The third is to obtain a reduction of bond after the representative has qualified and entered upon the administration of the estate. If a deposit and reduction in the amount of the bond is anticipated, this may be covered in the original order of appointment; if not, a subsequent petition should be filed. It is often convenient to present this petition with the first annual account. Petitions to decrease bond are subject to a hearing with notice given to all heirs or beneficiaries.
2. LIMITATION OF AMOUNT ON DEPOSIT WITH ONE FINANCIAL INSTITUTION: Monies in blocked accounts shall not exceed the limit of Federal Deposit Insurance Corporation insurance for each individual bank or savings and loan association. The attorney shall immediately file an ex parte petition for an order authorizing

establishment of additional blocked accounts into which funds exceeding the insurance limit shall be deposited.

3. **CORPORATE AND INDIVIDUAL EXECUTORS:** A corporate executor cannot assume responsibility for the acts of individual co-executors. Individual executors must provide bond as required by law. If a deposit is made under the provisions of Prob. §8483 to reduce bond, it must be made jointly by the corporate and individual co-executors.

4. **BOND OF NONRESIDENT PERSONAL REPRESENTATIVE.** A personal representative who is a nonresident of California and who is nominated to serve without bond may nevertheless be required to post such bond as the Court may require. Ordinarily, the amount of the bond will be the minimum bond in effect in Butte County which is currently \$10,000. However, in the Court's discretion, the maximum amount may be imposed, which is the value of the personal and real property, plus the amount of estimated income for one year for both the personal and real property. This rule applies even if there are co-executors and one or more are California residents. In the case of a personal representative who is also the sole beneficiary, the same rule applies for the protection of potential creditors.

5. **MULTIPLE REPRESENTATIVES.** When multiple representatives are appointed by an order which directs that "letters shall issue to them", the Clerk will not allow less than all to qualify and have letters issued separately. If qualification of less than all is desired, it must be so provided in the order of appointment.

6. **DISTRIBUTEES' BOND.** This Rule addresses the bond required by a personal representative to administer an estate. In certain circumstances, such as a preliminary distribution, a bond may be required of the distributee. (See Prob. §11622)

(c) **TIMELINESS OF BOND**

1. The bond is to be filed with the Court within 10 (ten) days after the appointment of the personal representative of the estate.

2. Failure to file the required bond shall be cause to remove the executor or administrator. (*Effective date 7-1-98, as amended 7-1-12*)

**12.3 SALES BY PERSONAL REPRESENTATIVES**

(a) **SALES OF REAL PROPERTY - APPRAISAL WITHIN ONE YEAR**

1. Probate Code §10309 requires that real property to be sold in an estate proceeding must be appraised within one year prior to the date of the court confirmation hearing. Probate Code §8802 requires that the first appraisal of all property be as of the date of death. All appraisals must reflect the fair market value of the property.

2. When the date of the confirmation hearing is more than one year after date of death, a reappraisal for sale (on the Judicial Council form) must be filed with the Court before the confirmation hearing can proceed. Reappraisals must be made by the probate referee unless appointment of the referee has been waived by the Court.

3. The following phrases should be inserted in the reappraisal for sale immediately after the legal description of the real property:

Appraised as of date of death

[insert month, day and year] \$ \_\_\_\_\_

Appraised as of [insert CURRENT

month, day and year] \$ \_\_\_\_\_

4. The sum offered for the property must be at least 90 percent (90%) of the appraised value of the property within one year prior to the confirmation hearing. (Prob. §10309)

**(b) BOND ON SALE OF REAL PROPERTY**

1. Petitions for confirmation of sale of real property shall set forth the amount of bond in force at the time of the sale and the amount of property in the estate which is required to be covered by a bond. (See Prob. §8482) If no additional bond is required or if bond is waived, that fact should be alleged in the petition.

2. Personal representatives subject to a bonding requirement who have full authority under The Independent Administration of Estates Act shall post their initial bond upon qualification in an amount sufficient to cover all personal property, income for one year from all sources, and the estimated proceeds of the sale of the real property. (See Prob. §10453)

**(c) BROKERS' COMMISSION ON SALE OF REAL PROPERTY**

1. Improved Property: Upon the confirmation of sale of improved real property, the Court ordinarily will allow a broker's commission not to exceed six percent (6%), or such lesser percentage as has been negotiated between the personal representative and the broker subject to net sale amount.

2. Unimproved Property: A broker's commission not exceeding ten percent (10%) of the first twenty thousand dollars (\$20,000.00), eight percent (8%) of the next thirty thousand dollars (30,000) and five percent (5%) of the balance of the sales price, ordinarily will be allowed for the sale of unimproved real property. The Court will determine, in each instance, whether property is "unimproved property".

3. Agents or brokers bidding or overbidding on their own behalf or on behalf of an entity of which they are part owner will not be allowed a commission. (Prob. § 10160.5)

4. The Court will not consider whether a broker is employed when receiving overbids.

5. Divisions of Commissions. Counsel is referred to Prob. §§10160 et seq.

(d) **CASH DEPOSIT TO ACCOMPANY BID ON REAL PROPERTY**

1. Bids for the purchase of real property shall be accompanied by a minimum of ten percent (10%) of the amount of bid. When an overbid is made in court, the bidder shall submit cash, money order or certified check at the time of the hearing in the amount of ten percent (10%) of the minimum overbid. (The minimum overbid is an increase over the bid returned to the Court by ten percent (10%) of the first ten thousand dollars (\$10,000) and five percent (5%) of the balance of the sales price.) Overbids shall be in accordance with Prob. §10311.

2. At the request of the attorney for the estate selling the real property, or on the Court's own motion if good cause exists, the Court may relax the requirements set forth above. The petition for confirmation of sale or the request made in open Court should state the reasons for the lower deposit (e.g., all-cash financing by the Veteran's Administration, or by Cal-Vet or by some other governmental agency.)

(e) **NOTICE OF SALE OF PROPERTY SOLD.** Notices and returns of sale should provide a common as well as a legal description of the property sold, as well as the Assessor's Parcel Number.

(f) **TERMS TO BE STATED IN NOTICE OF SALE OF REAL PROPERTY**

1. Counsel should use extra care in wording of the published notice of sale. If the property is being sold subject to an encumbrance, the notice should so state. (See *Mains v. City Title Insurance Co.*, 34 Cal.2d 580 (1949)) It is advisable that the notice call for "[c]ash or cash and such credit terms and conditions as the Court may approve."

2. The terms of the sale shall be consistent with the terms stated in the notice.

(g) **DISCLOSURE OF EXTRAORDINARY COSTS ON SALE OF REAL PROPERTY**

1. The petition shall include a full disclosure of all extraordinary costs which the estate will incur as a result of the sale. Such costs include, but are not limited to, termite and other repairs, lender's "point," loan fees and nonrecurring closing costs. The exact amounts required or the maximum which the estate will be required to pay shall be disclosed in the petition and included in the order.

2. Extraordinary costs will be deducted from the gross bid, and the resultant "net" will be used for the following purposes:

- A. Determination if the sale is within ninety percent (90%) of appraised value;
- B. The base figure against which overbids are made; and
- C. The real estate broker's commission.

The above amounts shall be set forth in an attachment to the petition.

- (h) **NOTICE OF CONFIRMATION HEARING.** In addition to the requirements of notice contained in Prob. §10308(c), notice of the Court hearing for confirmation of a sale of real property shall be mailed at least fifteen (15) days prior to the hearing date to all heirs and beneficiaries who may have an interest in the subject real property.
- (i) **APPEARANCE BY BIDDER.** Counsel should advise the original bidder, together with any potential bidders and their representatives, to be in Court at the time the petition for confirmation of sale is heard.
- (j) **EXCLUSIVE LISTINGS**
  - 1. Personal representatives with authority to administer the estate under the Independent Administration of Estates Act need not obtain a Court order to enter into an exclusive listing for real property.
  - 2. Personal representatives who determine it is necessary or advantageous to seek such a Court order shall observe the following:
    - A. Such petitions shall be granted only where a clear showing of necessity and advantage to the estate is made. Ordinarily, these petitions will be granted ex parte. Facts indicating necessity and advantage might include: past unsuccessful exposure, condition of the property and/or neighborhood, out-of-country residence of personal representative, or a contract which pre-dates the establishment of the court proceeding.
    - B. The petition and proposed order shall also include the name of the broker, address of the property, the fact that the Court sets commissions and that they are payable only if the sale is confirmed, and that all commissions are payable in accordance with Prob. §10160 et seq. The duration of the contract must be specified. Ordinarily, the Court will not approve a term exceeding ninety (90) days.
    - C. A copy of the listing agreement should be submitted with the petition. The listing agreement must conform to the conditions set forth above and shall further set forth in detail the obligations and duties of the broker, including but not limited to the requirement to list on Multiple Listing Service(s), place signs and advertise in newspaper[s].
    - D. Extensions of listing agreements shall follow the above procedures.

(k) SALES OF PERISHABLE OR DEPRECIATING PROPERTY. If the Estate contains perishable or depreciating property, it should be disposed of promptly. If there has been an unreasonable delay in disposing of perishable or depreciating property, the Court may hold the personal representative accountable for the decreased value of the property.

(l) SALE OF PROPERTY SPECIFICALLY DEvised OR BEQUEATHED. On a sale of property specifically devised or bequeathed, either notice of the time and place of the hearing of the return of sale shall be given to the specific devisee or legatee, or the consent of such devisee or legatee to such sale shall be filed with the Court.

(m) SALE OF SECURITIES

1. Subject to Order of Court.

A. A verified petition for authorization of sale of stocks, bonds or other securities described in Prob. §10200 must contain an allegation regarding any request for special notice and compliance with such request and one or more of the following:

- (1) Statement as to necessity for sale, giving reasons, i.e., taxes, expenses of administration, indivisible number of shares, etc.
- (2) Consent or request of heirs; if the securities are specifically bequeathed, the petition should so allege and the written consent of the legatee should be filed.
- (3) An allegation that a power of sale is conferred by the will.

B. If Securities are not listed on an established stock or bond exchange, they may be sold at a minimum price per share or bond, based on a recent market quotation, set forth in the petition. The market quotation may be obtained from financial publications or from securities brokers. If such securities are “closely held,” or there are no recent market quotations available, the petition should set forth the basis for fixing the minimum sales price (e.g., inventory and appraisement value).

2. Subject to Independent Administration of Estates Act (Prob. §§10400 et seq.)

A. A personal representative with authority to administer the estate under The Independent Administration of Estates Act may sell securities listed on an established stock or bond exchange and other assets referred to in Prob. §10537, when sold for cash, without court order. The sale shall be reported in the account and report filed by the personal representative.

B. Notwithstanding the above, real or personal property may be sold in accordance with the provisions of Prob. §10400 et seq.; provided, however, that any person objecting to a proposed action under Prob. §10400 et seq. shall give

notice to the personal representative at least forty-eight (48) hours in advance if he or she petitions the Court for an order restraining such sale, and the petitioner must show good cause. *(Effective date 7-1-98)*

12.4 COMPENSATION OF PERSONAL REPRESENTATIVES AND THEIR ATTORNEYS  
*(Effective date 7-1-98, as amended 7-1-13)*

(a) COMMISSIONS AND FEES MUST BE FIXED BY COURT

1. There is no authority for payment of any commissions or fees in advance of the court authorizing such payment. Where commissions or fees are paid in advance of court authorization, at the time of the accounting or other request for approval of compensation, the Court ordinarily will require an appearance by counsel or declaration stating the reasons therefore. The Court may require the personal representative or the attorney respectively to pay interest at the applicable legal rate from the date of payment to the date of the order authorizing the same, or may impose a surcharge, or may impose both interest and a surcharge.

2. When requests for fees are for services performed, the detail must reflect that time which was spent by the attorney; **and** that spent by a paralegal, ~~and that spent by a secretary~~. For each such person performing services for which compensation is being requested, the hourly rate charged for each such person or classification is to be set forth. The qualifications of a “paralegal” are to be set forth whenever fees are requested for services performed by a paralegal.

3. All contingency fee contracts to which the personal representative is a party, shall be submitted to the Court in advance for approval. A copy of the contingency fee contract shall be attached to the petition requesting approval.

(b) COMPENSATION FOR EXTRAORDINARY SERVICES

1. Application for compensation for extraordinary services must include detail of what was done, and how much time was spent by whom, in performing services for the ordinary fee. Under ordinary circumstances, extraordinary fees will not be awarded where the time spent in ordinary representation, plus the time spent in performing the extra ordinary services, does not exceed the statutory fee for the estate.

2. Applications for fees or commissions for extraordinary services shall be accompanied by a complete statement of facts upon which such application is based and shall specify the amount requested for each item of service, not merely a “reasonable amount.” The services claimed to be extraordinary shall be described in detail, including dates, time spent, necessity for the work, complexity of legal and/or factual issues and results accomplished. Submission of itemized time sheets by themselves will ordinarily not be sufficient to establish a claim for extraordinary services. Each specific area or item of extraordinary service should be segregated into different categories, such as litigation, sale of real property (or where applicable two categories for two sales of real

property), preparation of federal estate tax return, other tax work, etc. Where applicable, each category of extraordinary service should be segregated into subcategories such as correspondence, discovery, settlement discussions, trial proceedings, etc. For each category of service, specify the total number of hours spent by each attorney or paralegal and specify the hourly rate of each individual and provide some description of the experience and expertise of each individual providing extraordinary service. All information should be provided in a declaration or declarations under penalty of perjury.

3. Compensation for extraordinary services ordinarily will not be approved before the final accounting except in cases where it is shown to the Court's satisfaction that the estate or heirs will benefit, e.g., where it would be beneficial to reduce income taxes in a given fiscal period, or where ongoing litigation precludes presentation of a final accounting and attorneys must be retained or compensated to represent the estate in ongoing litigation. The Court ordinarily will allow extraordinary compensation for representing the estate in litigation outside of the regular administration of the estate upon a properly noticed petition upon completion of the service. Upon a proper showing, the Court may authorize progress payments prior to completion. Where the attorney or personal representative requesting a progress payment prior to completion of extraordinary work believes that public disclosure of the information required by subparagraph 2 immediately above may adversely affect the estate's interest in ongoing litigation, the petitioner may include an allegation in the petition stating why the detailed information has been deleted from the petition and that said detailed information is concurrently being filed with the Court in a sealed envelope with a request for an in camera inspection. If it is shown to the satisfaction of the Court that said detailed information may adversely affect the estate's interest in ongoing litigation, the Court will ordinarily order that the matter remain under seal until the resolution or termination of the ongoing litigation.

4. Extraordinary compensation and costs of a will contest before probate, a petition to revoke a will after probate, and/or a petition to determine persons entitled to distribution from the estate will not be allowed from the estate unless it is shown to the Court's satisfaction that the personal representative was under a legal obligation to defend or prosecute such contest or proceeding or that the heirs and beneficiaries received a benefit so that on distribution they bear the compensation and costs in proportion to their distributive shares. (See Estate of Pryor 51 Cal.App.2d 735 (1942))

5. When evaluating a request for extraordinary compensation, the Court may consider whether the statutory compensation is sufficient to compensate adequately for all services that have been rendered and may request a declaration of the attorney or the personal representative substantiating all services required.

(c) **EXPENSES OF ACCOUNTING MAY BE DEDUCTED FROM THE PERSONAL REPRESENTATIVE'S STATUTORY COMPENSATION.** The personal representative may employ tax counsel, tax auditors, accountants, or other tax experts for the preparation of tax returns and for the other tax-related services. To the extent that the personal representative utilizes the services of such counsel, auditors, accountants, or other experts to perform ordinary accounting and bookkeeping services, including the preparation of the schedules for court accountings and pays for such services from the funds of the estate, the Court may deduct any such sums so paid from the funds of the estate from the personal representative's statutory commission. *(Effective date 7-1-98, as amended 7-1-13)*

#### 12.5 OBTAINING A HEARING DATE *(Effective 1-1-05)*

Parties or counsel seeking to calendar any hearing must contact the Clerk at (530) 532-7017 to determine available hearing dates and obtain a reservation before filing the moving papers. Nothing in LR §12.5 shall be construed to alter notice or other procedural requirements applicable to such filings. *(Effective 1-1-05)*

#### 12.6 SPOUSAL AND/OR COMMUNITY PROPERTY PETITIONS *(Effective 7-1-12)*

- (a) Spousal and/or Community Property Petitions must be accompanied by a Memorandum of Points and Authorities setting forth the information supporting the requests made in the Petition.
- (b) The Court may consider if necessary, an appointment of a Guardian Ad Litem. *(Effective 7-1-12)*

#### 12.7 PRELIMINARY AND FINAL DISTRIBUTION *(Effective 7-1-98, as amended 7-1-02, as amended 7-1-12)*

(a) **FORMS OF DECREES.** A decree of distribution shall be drawn so that the full extent of the decree may be determined without reference to the petition on which it is based or to other documents, such as to the decedent's will. If the distribution includes any interest in real property, the legal description shall be included in the body of the decree or in an attachment incorporated by reference.

#### (b) DISTRIBUTION TO MINORS

1. Court policy requires that any cash distributed to a minor be placed in a blocked account at a bank or savings and loan association. Withdrawals from such account shall be allowed only pursuant to a court order. Before the Court will order such a distribution under Prob. §3401, the written assurance required under §3401(c)(2) must be filed with the Court. [See Judicial Council Forms MC 355 & MC 356]

2. The personal representative shall file a receipt acknowledged by the financial institution indicating the deposit of cash into a blocked account.

3. Ordinarily, withdrawals requested during minority may be obtained ex parte upon a showing of good cause. The Court will treat all such requests in a conservative manner in order to preserve the funds for the minor's use upon reaching majority.

4. When the minor reaches age eighteen (18), ex parte application may be made to the Court for an order to release the funds directly to the beneficiary. A certified copy of the birth certificate shall be attached to the petition.

5. In the absence of a guardianship, the estate action number may be used for the filing of documents pertaining to the assets distributed under this section. *(Effective 7-1-98, as amended 7-1-02, as amended 7-1-12)*

12.8 RESERVED *(Effective 7-1-98)*

12.9 RESERVED *(Effective 7-1-98)*

12.10 CONSERVATORSHIPS *(Effective date 7-1-98, as amended 1-1-03, as amended 7-1-09, as amended 1-1-11, as amended 7-1-12, as amended 7-1-13)*

(a) RESERVED

(b) COURT INVESTIGATOR *(Effective date 7-1-98, as amended 1-1-03, as amended 7-1-12)*

1. In all cases, the petitioner or his or her attorney must submit a completed Court Investigator Information Sheet to the Clerk's Office at the time of the filing of the petition for appointment of a conservator.

2. The provisions of the Probate Code concerning the duties of the Court Investigator apply whether or not the proposed conservatee is the petitioner, [contrary to Probate Code §1826(o).]

3. The Court Investigator must be informed immediately of any change of address for the conservatee, the conservator or any attorney of record. This may be accomplished by submitting a new Court Investigator Information Sheet.

4. After filing, the Court's file will be submitted to the Court Investigator for his use.

5. Assessment for the cost of the Court Investigator's investigation shall be paid as ordered by the Court. Prob. §1851.5 permits the county to waive, ~~or~~ defer, **or order paid in part** such fee in case of hardship. Assessments will be billed to the estate or, where applicable, to a trust where the conservatee is a beneficiary. Conservator shall provide the Court Investigator's Office with the current address of the trustee of any such trust.

6. Assessments shall be paid to the Central Collections Department.

7. Original plus one copy required of the following at the time of filing for use by the Court Investigator: Petition for Appointment, Confidential Supplemental Information, Confidential Screening, Court Investigator's Information Sheet, doctor reports and accountings.

8. ***Additional fees and/or mileage costs may apply for any time the court investigator must travel out of county to perform an investigation due to the other county not performing courtesy investigations.***

(c) TEMPORARY CONSERVATORSHIP

1. Ordinarily, no petition for appointment of a temporary conservator will be considered by the Court prior to the filing of a petition for appointment of a permanent conservator. The bond must be filed with the Court within five (5) court days of appointment as temporary conservator. Failure to do so will result in removal as the temporary conservator.

2. The petition for appointment of a temporary conservator may be brought ex parte, provided that the provisions for notice to proposed conservatee required by law are satisfied, either by giving notice to the proposed conservatee or by submission of a declaration showing facts sufficient to allow the Court to determine that good cause exists to eliminate or alter the notice requirements and provided that the following information is submitted:

A. The original and copy of the petition and proposed order;

B. A detailed statement of facts in the petition establishing the necessity for the temporary conservatorship; and

C. An endorsed, filed copy of the petition for appointment of the permanent conservator.

D. If the attorney is informed that the petition for appointment of a permanent conservator will be contested, all known potential objectors shall be notified at least forty-eight (48) hours in advance of the time and place the petition for appointment of the temporary conservator will be presented. However, if facts are found which make it clear that the notice required by this section would tend to adversely affect the conservatee or the conservatee's estate, notice to potential objectors may be waived upon a showing of exigent circumstances.

3. Ordinarily, the Court will require a bond for temporary conservators of the estate.

4. Letters of temporary conservatorship expire on the date of the hearing on the appointment of the permanent conservator or thirty (30) days after appointment of the temporary conservator, whichever is earlier, unless the Court extends the termination date pursuant to Prob. §2257.

(d) **INDEPENDENT EXERCISE OF POWERS.** No powers specified in Prob. §2591 will be granted in the absence of a clear and convincing factual showing that the grant of each power requested is needed to administer the estate, and that the grant of such power is for the advantage, benefit and best interests of the estate.

(e) **CONDITIONS FOR APPOINTMENT OF INDIVIDUAL CONSERVATORS**

1. **BOND OF CONSERVATOR.** Bond for an individual conservator of the estate shall not be waived. Under special circumstances, the Court in its discretion may order a reduced bond where the conservatee, having sufficient capacity to do so, has waived or requested bond amount. Bond of the conservator may be reduced by deposit of assets

into block accounts. The bond must be filed with the Court within ten (10) days of appointment as conservator. Failure to do so will result in removal as conservator.

2. HANDBOOK. Prior to the hearing for appointment of conservator, the proposed conservator shall obtain the “Handbook for Conservators” by accessing it at [www.courts.ca.gov/documents/handbook.pdf](http://www.courts.ca.gov/documents/handbook.pdf).

3. DUTIES OF CONSERVATOR. A completed form “Duties of Conservator” and “Confidential Conservator Screening Form” (JC Form GC-348 and GC-314) shall be filed simultaneously with the petition for appointment.

(f) ALLOWANCE OF FEES IN CONSERVATORSHIP PROCEEDINGS.

1. No fees will be ordered paid in conservatorship proceedings until the filing of the inventory, but in no event until the expiration of ninety (90) days from the issuance of letters, pursuant to Prob. §§2640-2642.

2. Conservators of persons or estates or both and attorneys may petition the Court for just and reasonable compensation earned to the date of filing the petition. The petition for compensation shall set forth the hours spent and services performed by the conservator, the attorney and any paralegal. At the time of filing the first accounting, the conservator and attorney (and the attorney on behalf of the paralegal) may petition the Court for compensation, or additional compensation earned from the date of a prior award, by setting forth the hours spent and the services performed.

A. Ordinarily, reasonable compensation for conservators shall not exceed ~~thirty dollars (\$30)~~ **seventy-five dollars (\$75)** per hour.

3. Fees for services which could ordinarily be provided by someone of less skill than the conservator (such as running errands, shopping and the like) will be compensated at a rate which one might expect for the performance of such duties rather than at a rate which might be appropriately paid to the Conservator for services which require the skill, training and expertise of a conservator.

A. In the event the attorney for a conservator performs some of the administrative and bookkeeping functions normally performed by the conservator, the attorney may be awarded a larger amount of the combined fees and the conservator allowed a smaller portion thereof so that the total compensation awarded is no larger than that provided for under the guidelines set forth above.

4. Where all or a portion of the fee awarded exceeds cash on hand in the estate, the Court may, in appropriate circumstances, issue its order imposing a lien for fees on any or all of the assets in the estate. Ordinarily, enforcement of the lien will be deferred until the assets of the estate subject to the lien have been liquidated for reasons other than the satisfaction of the unpaid fee.

5. To be valid, contingent fee contracts with an attorney require prior court approval. It is advisable for the attorney to petition the Court for its approval prior to rendering services.

6. The title of the petition embodying an application for the payment of fees and of the notice of hearing of such petition shall include a reference to the request.

7. Compensation to an attorney representing a conservatee may be ordered at the conclusion of the hearing on the appointment of the conservator.

(g) PRIVATE PROFESSIONAL CONSERVATORS.

1. REGISTRATION. All parties who fit the definition of a Private Professional Conservator as described in Prob. §2341 must register with the Clerk's Office. Contact the Clerk's Office for the current fee. One set of fingerprint cards and a Certificate of Registration of Private Professional Conservator are required when registering.

(h) APPOINTMENT OF LEGAL COUNSEL. Appointment of legal counsel pursuant to Prob. §§1470 and 1471 is made in the following manner:

A. If the conservatee or proposed conservatee is developmentally disabled or indigent, the Butte County Public Defender is appointed;

B. If the conservatee or proposed conservatee is not indigent, an attorney's name is obtained through the Court's list of attorneys available for appointment. ***The attorney will be paid up to his or her usual hourly rate from the conservatee's estate.***

C. If a conservatee or proposed conservatee has retained legal counsel independently, the representation is subject to approval by the Court.

(i) ACCOUNTINGS

A. The conservator or successor conservator may either arrange to pick up the original lodged confidential supporting documents or provide a self-addressed stamped envelope for their return upon final determination and approval of the conservator's account by the Court. If the conservator or successor conservator is picking up lodged documents in person, they must sign a receipt pursuant to CRC §10.610(c)(8) and CCP §1952.2. ***Any documents so lodged, which are not accompanied by a self-addressed stamped envelope or in the alternative not picked up and a receipt signed, may be destroyed by the clerk 45 days after the hearing.***

(j) ***TERMINATION OF CONSERVATORSHIP OF THE PERSON***  
***The conservator shall provide a copy of the death certificate of the conservatee along with a declaration prior to termination of a conservatorship of the person.*** (Effective date 7-1-98, as amended 1-1-03, as amended 7-1-09, as amended 1-1-11, as amended 7-1-12, as amended 7-1-13)

12.11 GUARDIANSHIPS (Effective date 7-1-09)

(a) RESERVED

- (b) RESERVED
- (c) RESERVED
- (d) RESERVED
- (e) RESERVED
- (f) RESERVED
- (g) RESERVED
- (h) RESERVED
- (i) ACCOUNTINGS

A. The guardian or successor guardian may either arrange to pick up the original lodged confidential supporting documents or provide a self-addressed stamped envelope for their return upon final determination and approval of the guardian's account by the court. *(Effective 7-1-09)*

**LOCAL RULE 14 ATTORNEY FEES & COST REIMBURSEMENT** *(Effective 1-1-91, title amended 7-1-99, as amended 7-1-09, as amended 7-1-12, as amended 7-1-13)*

**14.1 APPLICABILITY** *(Effective 7-1-09)*

The following attorney fees shall, under normal circumstances and in compliance with the rules set forth below, be awarded by the Court to court-appointed attorneys for reasonably necessary legal services rendered in the Superior Court of California, County of Butte. *(Effective 7-1-09)*

**14.2 ATTORNEY FEE REIMBURSEMENT EXCEPT IN CAPITAL CRIMINAL CASES**  
*(Effective 7-1-09, as amended 7-1-12, as amended 7-1-13)*

- (a) For reasonably necessary out-of-court work, such as consultation, research, discovery and general preparation, and reasonably necessary court appearances before trial, the court will authorize reimbursement at a rate of \$65.00 per hour.
- (b) The Court will authorize reimbursement for trial at a rate of \$65.00 per hour.
- (c) The Court will authorize reimbursement for post trial work at a rate of \$65.00 per hour.
- (d) Fees are not payable for "waiting time", including deliberations, which can be utilized for library work on other matters. The Court will not authorize reimbursement for travel time to and from court.
- (e) The fee reimbursements specified above exclude attorneys under contract with the county or the court to provide such services and representations unless approved by the court in advance and upon a showing of good cause.
- (f) In Probate, ~~Conservatorship~~, and Guardianship matters, if the estate has the funds available to pay for the attorney appointed by the Court, then those funds shall first be used. The Court will pay only if the private funds are exhausted. *(Effective 7-1-09, as amended 7-1-12, as amended 7-1-13)*

**14.3 ATTORNEY COST REIMBURSEMENT EXCEPT IN JUVENILE DEPENDENCY, FAMILY CODE §3150 APPOINTMENTS AND CAPITAL CRIMINAL CASES** *(Effective 7-1-09)*

- (a) Unless an order of the Court is obtained authorizing the expenses referenced above, including investigative services and/or expert witness fees, counsel incur any and all expenses at their own risk. Expenses that depart from the current Butte County protocol and guidelines except for extraordinary circumstances shown will not be authorized.
- (b) Expenses reasonably and necessarily incurred by counsel, including costs for investigative services and/ or expert witness(es) are eligible to be reimbursed. Prior authorization of the court and proper documentation that costs were incurred are required prior to reimbursement.

- (c) For copies of court documents, the attorney is eligible to be reimbursed at the same rate the Clerk of the Court's office charges to make copies.
- (d) For any other copies, the attorney is eligible to be reimbursed at a rate of 10 cents per page. Attorney time to make the copies is not reimbursable.
- (e) Reimbursement for items such as parking fees, mileage from offices to the courthouse, local telephone calls or pro rata office expenses will not be allowed.
- (f) Prior to incurring investigative, or other expert fees and/or other costs, the form of order presented for authorization must be accompanied by a declaration in support thereof, and shall contain the following language:

“The cost(s) and expense(s) of such service(s) or examination(s) shall not exceed \_\_\_\_\_ (which is the dollar amount indicated by the Court on each Ex Parte Appointment Order). The Court finds that the cost(s) for expert service(s) is/are a legitimate expense of the County of Butte and will be paid by the County of Butte upon written certification by the Butte County Superior Court that the expenses have been incurred.” *(Effective 7-1-09)*

#### 14.4 PRESENTATION OF CLAIMS *(Effective date 7-1-09)*

- (a) A request for reimbursement shall be paid upon presentation of an itemized billing attached to or listed on a completed Butte County Claim for Professional Services, with attached receipts for expenses, and a copy of the court order that previously authorized the expenditure(s). The Claim must specify the case number, an hourly rate, the number of hours billed, and shall not to exceed the total amount previously authorized by the Court. The attorney shall then present the claim to the County's Administrative Office for processing for payment.
- (b) WITNESSES. Other than in privately retained counsel cases, it is the obligation of the attorney subpoenaing a witness to obtain and prepare a Butte County Claim Form and have the witness sign the claim. The attorney shall then present the claim to the County's Administrative Office for processing for payment. *(Effective 7-1-09)*

#### 14.5 CAPITAL CRIMINAL CASES *(Effective 7-1-09)*

In capital criminal cases, the fee for trial shall be determined by the Court and the fee for other reasonably necessary expenses and legal services shall be computed in accordance with LR 14.3. *(Effective 7-1-09)*

#### 14.6 JUVENILE DEPENDENCY AND FAMILY CODE §3150 APPOINTMENTS CASES *(Effective 7-1-09)*

(a) For Juvenile Dependency conflict counsel, and Family Code §3150 appointments, reimbursement for attorney fees shall be authorized in accordance with LR 14.2. Other reasonably necessary expenses, including investigative and other expert services, shall be authorized in accordance with LR 14.3(a) through LR 14.3(e).

(b) Prior to incurring investigative, or other expert fees and/or other costs, the form of order presented for authorization must be accompanied by a declaration in support thereof, and shall contain the following language:

“The cost(s) and expense(s) of such service(s) or examination(s) shall not exceed \_\_\_\_\_ (which is the dollar amount indicated by the Court on each Ex Parte Appointment Order). The Court finds that the cost(s) for expert service(s) is/are a legitimate expense of the Superior Court of California, County of Butte and will be paid by the Court upon written certification that the expenses have been incurred.”

(c) A request for reimbursement shall be paid upon presentation of an itemized billing attached to or listed on a completed Butte County Superior Court Claim for Professional Services, with attached receipts for expenses and a copy of the court order that previously authorized the expenditure. The claim must specify the case number, an hourly rate, the number of hours billed, and shall not exceed the total amount previously authorized by the Court. The attorney shall then present the claim to the Court's Administrative Office for processing for payment. *(Effective 7-1-09)*

#### 14.7 PROFESSIONAL LIABILITY INSURANCE *(Effective date 1-1-02, renumbered 7-1-09)*

Attorneys appointed pursuant to this Rule shall secure malpractice (Errors and Omissions) coverage in the amount of One Hundred Thousand dollars (\$100,000) per occurrence; Three hundred thousand (\$300,000) aggregate. *(Effective date 1-1-02, renumbered 7-1-09)*

#### 14.8 ATTORNEY FEES IN ACTIONS ON PROMISSORY NOTES, CONTRACTS PROVIDING FOR PAYMENT OF ATTORNEY FEES, AND FORECLOSURES *(Effective date 7-1-99, renumbered 7-1-09)*

The following attorney fees shall, under normal circumstances, be awarded in actions on promissory notes, contracts providing for the payment of attorneys' fees and foreclosures:

(a) DEFAULT ACTION ON NOTE OR CONTRACT. Exclusive of costs:

25 percent of first \$1,000 with minimum fee of \$150

20 percent of next \$4,000

15 percent of next \$5,000

10 percent of next \$10,000

5 percent of next \$30,000

2 percent of the amount over \$50,000

In an action upon contract providing for an attorney fee, the clerk shall include in the judgment an attorney fee in accordance with this schedule, not to exceed the amount prayed for.

(b) **CONTESTED ACTION ON NOTE OR CONTRACT.** The same amount as computed under subdivision (a), increased by such reasonable compensation computed on an hourly or per-day basis for any additional research, general preparation, trial, or other services as may be allowed by the Court.

(c) **FORECLOSURE OF MORTGAGE OR TRUST DEED.** The same amount as computed under subdivision (a) or (b), increased by 10 percent.

(d) **FORECLOSURE OF ASSESSMENT OR BOND LIEN RELATING TO A PUBLIC IMPROVEMENT.** The same amount as computed under subdivision (a) or (b), except that the minimum fee shall be \$75 in an action involving one assessment or bond, and an additional \$20 for each additional assessment or bond being foreclosed in the same action. *(Effective date 7-1-99, renumbered 7-1-09)*

**LOCAL RULE 15 FAMILY-CENTERED CASE RESOLUTION PROCESS** *(Effective 1-1-13, as amended 7-1-13)*

**15.1 AUTHORITY** *(Effective 1-1-13)*

This rule is intended to implement a family-centered case resolution process in conformance with Family Code sections 2450, 2451 and California Rules of Court, rule 5.83. *(Effective 1-1-13)*

**15.2 APPLICABILITY** *(Effective 1-1-13)*

This rule applies to all dissolution, legal separation, nullity, parentage and grandparent cases filed after January 1, 2013. *(Effective 1-1-13)*

**15.3 STATUS CONFERENCE** *(Effective 1-1-13)*

(a) Upon the filing of any case listed in Local Rule 15.2, the Court will issue a Notice of Status Conference and calendar the conference within 180 days after the filing of the petition. The petitioner shall serve the Notice of Status Conference on the respondent with the summons and petition and any other initial papers to be served with the summons and petition.

(b) The purpose of the Status Conference is to assess the case early and assist the litigants with creating a case management plan for resolution of all of the issues presented in their cases. The design of the case management plan will depend on the complexity of the case.

(c) On request of either party or on the Court's own motion, the Court may set any matter for a status conference. *(Effective 1-1-13)*

**15.4 ATTENDANCE AT STATUS CONFERENCE** *(Effective 1-1-13)*

(a) All parties must attend the initial status conference. If the Department of Child Support Services is a party to the case, their appearance is not required.

(b) Attorneys and self-represented parties shall attend each subsequent status conference unless excused in advance by the Court, the case has been dismissed or a judgment resolving all issues has been entered.

(c) **RECONCILIATION.** Parties who file a stipulation prior to the status conference indicating they are attempting reconciliation will be exempt from the settlement conference for six (6) months. If a judgment or dismissal is not filed within six (6) months of filing of the petition, the Court will proceed with a status conference upon notice to the parties. *(Effective 1-1-13)*

**15.5 PRE-STATUS CONFERENCE REQUIREMENTS** *(Effective 1-1-13)*

(a) In dissolution and legal separation cases each party shall serve the other with a Preliminary Declaration of Disclosure no later than ninety (90) days following the service of the Petition for Dissolution or Legal Separation. The Preliminary Declaration of Disclosure shall include a completed Income and Expense Declaration, a completed Schedule of Assets and

Debts, and any other information that is required pursuant to Family Code section 2104. This does not apply to summary dissolution matters as outlined in Family Code section 2400.

(b) A *Family Law Case Management: Status Conference Statement* (form FL.060) shall be filed and served on all other parties at least five (5) calendar days before each case status conference. The *Family Law Case Management: Status Conference Statement* (form FL.060) is available upon request from the Clerk's Office or on the Court's website at [www.buttecourt.ca.gov](http://www.buttecourt.ca.gov). (Effective 1-1-13)

#### 15.6 STATUS CONFERENCE AND COURT'S ROLE (Effective 1-1-13, as amended 7-1-13)

(a) At the status conference, the judicial officer will review the case to determine whether it is progressing towards disposition in a timely and effective manner in accordance with the milestones, disposition standards, and additional factors set for the in CRC 5.83. The judicial officer may take action authorized by CRC 5.83, including but not limited to setting additional status conferences, setting a family-centered case resolution conference, or scheduling the case for further review without appearances by the parties.

(b) Counsel must inform the Court of the following matters:

1. The attendance of both parties at Family Court Services mediation;
2. The service by both parties of a complete Preliminary Declaration of Disclosure;
3. The filing with the court of a Declaration Regarding ~~Device~~ *Service* of Declaration of Disclosure and Income and Expense Declaration;
4. The readiness of the parties to participate in mediation;
5. The appropriateness of referral to arbitration;
6. The willingness of the parties to limit, schedule, or expedite discovery, including the willingness to provide the opposing party, without a discovery request: (a) the name, address, and telephone number of each individual likely to have desirable information that supports the party's disclosures, and (b) a copy of, or a description by category and location of, all documents, data compilations, and tangible things that are in the possession, custody or control of the party and that supports the party's disclosures;
7. The appropriateness of implementation of a family-centered case resolution plan pursuant to family Code section 2451; and
8. The willingness of the parties to stipulate to the appointment of court experts, and allocate the expert's expense, or to schedule a hearing for the appointment and expense allocation of court experts.

(c) At any status conference the Court may:

1. Schedule disclosure of expert witnesses, by stipulation;
2. Inquire whether issues can be narrowed by stipulation and set dates for the filing of stipulations;

3. Set dates for further status conferences, as needed, and no less often than every six months;
4. Set dates for other events that must take place before the next status conference;
5. Set the date for trial and/or settlement conferences; and
6. Take such other action, as permitted by law, which could promote the just and efficient disposition of the case. *(Effective 1-1-13, as amended 7-1-13)*