



SUPERIOR COURT

COUNTY OF MADERA
STATE OF CALIFORNIA

ERNEST J. LICALSI
PRESIDING JUDGE

DALE J. BLEA
ASSISTANT PRESIDING JUDGE

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Summary of Proposed Amendments to Local Rules

SUMMARY:

The proposed amendments to the Court's Local Rules ("Rules"), are part of the Court's continuing effort to review, correct, and update its Rules as needed.

Below is the full text of proposed local rules with deletions noted in ~~strikethrough~~ and additions noted in underline.

DIVISION 1 COURT ORGANIZATION AND GENERAL PROVISIONS

Chapter 2 Definitions and Preliminary Provisions

1.2.2 Effective Date of Rules. These rules are effective ~~July 1, 2024~~ January 1, 2022 and on the effective date shall supersede any previous local rules of the Madera County Superior Court and Madera County Municipal Court. (Effective 7/1/08, amended 1/1/13, 1/1/15, 1/1/17, 7/1/20, 7/1/21, 1/1/22).

Chapter 6 Attorney, Investigator and Expert Fees

1.6.5 Fees for Court-Appointed Attorneys. The following attorney fees shall, under normal circumstances, be awarded by the Court to court-appointed attorneys if reasonably necessary legal services are tendered in the Superior Court:

(a) Counsel is to be paid at a flat rate of ~~\$65~~ \$80 per hour for all court-appointed cases.

(b) In determining fees, the Court shall consider the difficulty of the tasks performed and the reasonable value of time expended.

(c) The Court may, by separate Policy Memorandum, adjust the amount paid to attorneys for court appointed cases, with distinctions for capital and non-capital cases, as well as other distinguishing factors.

(Effective 7/1/08, [amended 1/1/22](#))

Chapter 8 Fees for Court Services

1.8.4 Fee Waivers – Delegation of Authority. Per Government Code § 68634(d), the Court delegates to the Clerk of the Court the authority to grant applications for an initial fee waiver that meet the standards of eligibility and application requirements set forth in Sections 68632(a)-(b) and 68633.

As further provided for in Government Code § 68634(d), the Court shall not delegate to a clerk the authority to deny or to partially grant an application for an initial fee waiver. (Effective 1/1/22)

DIVISION 2 TRIAL COURT RULES

Chapter 1 General Filing Requirements

2.1.2 Typing Services or Non-Attorney Court Document Preparers

(A) The name, address and phone number of the litigant who is representing him/herself must appear at the top of all filed pleadings.

(B) Non-attorney court document preparers shall comply with the requirements of Business and Professions Code section 6408. The clerk shall not accept for filing any document presented by a non-attorney court document preparer that does not comply with these requirements.

(C) A litigant in a family law or probate case designating a non-attorney court document preparer to act as a courier to submit documents for processing or to receive endorsed copies of documents from the court shall file an Authorization for Non-Attorney Court Document Preparer (Local Form MAD-CIV-019).

(D) Notices of Entry shall be sent directly to the litigant, even when presented for filing by a non-attorney court document preparer.

(E) Nothing in this rule is intended to encourage or condone the unauthorized practice of law. In the event it appears that a preparer is engaging in the unauthorized practice of law under the guise of this rule, that matter will be reported to the appropriate authorities. (Effective 1/1/2022)

DIVISION 4 CRIMINAL LAW MATTERS

Chapter 1 General Matters.

4.1.1 Continuances in Criminal Cases. The continuance policy of this Court relating to any state of a criminal proceeding is necessarily governed by the provision of the Penal Code. It is the stated policy of this Court that all felony cases shall be brought to trial within sixty (60) days of the finding of the indictment or the filing of the information. Time waivers are generally discouraged and shall may not be accepted except in unusual and extreme circumstances, pursuant to judicial discretion and/or a formal judicial order. (Effective 7/1/08, amended 1/1/22)

DIVISION 6 ELECTRONIC FILING

Chapter 1 Electronic Filings Generally

6.1.1 Electronic Filing. E-filing requirements shall be governed in accordance with Code of Civil Procedure §1010.6 and California Rules of Court, rules 2.250 et seq. and any policies or orders adopted by the Court and posted on the court website. (Effective 1/1/22)

6.1.2 Effective Date. Should the Court implement electronic filing, these rules will be in effect immediately upon implementation of an e-filing platform or any justice partner interfaces as specified in rules 6.1.6 and 6.1.7. (Effective 1/1/22)

6.1.3 Fax Filings (Facsimile Transfer to Court). The Court may receive a facsimile transmission and may store such transmission as an electronic document. For purposes of these rules, however, such a document shall not be considered an electronically filed document, but rather shall be governed by the rules of court concerning Fax Filings. (Effective 1/1/22)

6.1.4 Format of Electronically Filed Documents. All documents electronically filed with the Court shall be in a text searchable Portable Document Format (PDF), i.e. containing Optical Character Recognition (OCR) technology, and must adhere to the requirements for general format as required in California Rules of Court, rules 2.256 and 3.1110, including those related to electronic exhibits and bookmarks. (Effective 1/1/22)

6.1.5 Hyperlinks. If a party or attorney elects to include hyperlinks in a filing, the hyperlink shall be active and should be formatted to standard citation format as provided in California Rules of Court, rule 1.200. (Effective 1/1/22)

6.1.6 Eligible Case Types – Electronic Filing Service Providers. Documents and filings can be submitted electronically from various electronic filing service providers (EFSPs) as noted on the Court's website in the following case types:

- a) Civil (limited and unlimited);
- b) Small Claims;
- c) Family Law;
- d) Probate.

Should the Court implement electronic filing, these rules will be in effect immediately upon implementation of an e-filing platform. (Effective 1/1/22)

6.1.7 Eligible Case Types – E-Delivery and Interface. Documents and filings can be submitted through electronic delivery, including electronic mail and/or interface with the Court’s case management system (CMS) in the following case types:

- a) Infractions filed in the Traffic Division;
- b) Misdemeanors and Felonies filed in the Criminal and Traffic Divisions;
- c) Juvenile Delinquency matters filed in the Juvenile Division.

The Court intends to allow for electronic filing through direct interface (Interface) with the following justice partner agencies:

- a) Madera County District Attorney: Filing of initial and subsequent charging documents to include complaints, amended complaints, informations, and amended informations;
- b) Madera County Probation Department: Filing of all probation related documents/filings;
- c) Madera County Sheriff’s Department: Filing of all executed arrest warrants, bench warrants, and body attachments;
- d) Madera County Sheriff’s Department, Jail Division: Filing of all booking sheets;
- e) Madera Police Department: Filing of all direct filed citations.

For most documents not included in justice partner agency interfaces, the Court will allow for electronic filing through electronic delivery, or E-Delivery (including e-mail), by other Court users. Please see ‘Exclusions and Exceptions’ below.

This rule will become effective immediately upon implementation of any interfaces or the implementation of electronic filing in the affected divisions. (Effective 1/1/22)

Chapter 2 Exclusions and Exceptions

6.2.1 Exceptions to E-filing. Certain documents/filings are not eligible for submission through electronic filing and must be filed through conventional methods. A notice that identifies the existence, content, and physical filing of the document/filing must be electronically filed by the Court user as specified or instructed. These documents/filings include:

- a) Affidavits re Real Property of Small Value;
- b) Any and all documents deemed sealed by the California Rules of Court or statute;
- c) Any and all documents requested or intended to be sealed by the Court;

- d) Any appeal-related documents, including, but not limited to, Labor Commissioner Appeals;
- e) Any order for Deposit into Trust Bearing Account;
- f) Any order with an original judicial officer's signature;
- g) Bonds/Undertaking documents;
- h) Claims of Right to Possession;
- i) Copy Requests;
- j) Documents and other materials that are not feasibly converted to electronic form by scanning, imaging, or other means;
- k) Exhibits to be lodged for Hearings or Trials;
- l) Family Law Request for Entry of Default, Notice of Entry of Judgment, and Child Support Case Registry Forms;
- m) Orders of Examination;
- n) Original Contracts/Instruments;
- o) Original Wills/Codicils;
- p) Out-of-State Commission;
- q) Out-of-State Judgments or Orders to be Registered;
- r) Subpoenaed documents;
- s) Subpoenas for Out of State Actions;
- t) Any paper document ordered by the Court to be filed through conventional methods in the clerk's office. (Effective 1/1/22)

6.2.2 Administrative Records in CEQA petition cases. For CEQA petition cases the format of the administrative record must comply with California Rules of Court, rules 3.2200 through 3.2208. The party lodging the administrative record must submit one (1) copy of the administrative record, contained on a CD-ROM, DVD, or other electronic format, in a manner that cannot be altered, and one (1) copy of the administrative record in paper format. All copies of the administrative record should be submitted through conventional nonelectronic means. The party lodging the administrative record shall file electronically and serve a notice of such filing for the administrative record. (Effective 1/1/22)

6.2.3 Administrative Mandamus matters. If a record in an administrative mandamus matter exceeds 100 pages in length, the party lodging the administrative record must submit one (1) copy of the administrative record, contained on a CD-ROM, DVD, or other electronic format, in a manner that cannot be altered. The copies of the administrative record should be submitted through conventional nonelectronic means. The party lodging the administrative record shall file electronically and serve a notice of such filing for the administrative record. (Effective 1/1/22)

DIVISION 7 PROBATE, ADOPTION, AND RELATED MATTERS

Chapter 8 Guardianship & Conservatorship Investigations

7.8.1 Investigation of Proposed Guardian. In conducting the investigation required under Probate Code § 1513, the Court investigator in his/her discretion may require the proposed guardian or guardians to submit a fingerprint card, and/or undergo a background check through the California Law Enforcement Telecommunications System (CLETS) ~~consent to a criminal, record history check.~~ The results of this check may be referred to ~~included~~ in the investigator's report to the Court. Upon referral to Family Court Services, it is the parties' responsibility to contact Family Court Services to initiate the intake process. (Effective 7/1/08, amended 1/1/17, 1/1/22)

7.8.7 Background Check/Electronic Fingerprint Scan. A background check through the California Law Enforcement Telecommunications System (CLETS) or ~~and an~~ electronic fingerprint scan will be required when a petition for a name change, ~~guardianship~~, or adoption has been filed. The purpose of the background check is to verify that the petitioner is not on probation, parole or a registered sex offender. (Code Civ. Proc. §1279.5 (e).) ~~A Live Scan will be requested from the petitioner, parent(s) or legal guardian(s).~~ A Live Scan, or CLETS, consists of a check of electronic fingerprint records maintained by the Department of Justice, the Child Abuse Central Index and possibly the FBI. Live Scan locations can be obtained from Family Court Services or on the Department of Justice website (doj.ca.gov) by typing "Live Scan Locations" in the search box. The individual subject to Live Scan shall pay the fee charged by the Live Scan provider. The individual subject to Live Scan shall complete the Live Scan application form with the requested information and provide the Live Scan provider valid photo identification. Failure to provide the requested information will delay the petition and/or otherwise preclude the completion of the required investigation. For Child Custody Evaluations, Conservatorships, and Guardianships this information will be obtained by Family Court Services through the California Law Enforcement Telecommunications System (CLETS) at the Madera Sheriff's Office. (Effective 1/1/17, amended 1/1/22).

List of Amended Local Forms

| Form Number: | Form Name: | Form Type: | Form Effective/Revised Date: |
|------------------------------------|---|----------------------------------|-----------------------------------|
| <u>MAD-FCS-014</u> | <u>Court Order Appointing Superior Court Investigator in Probate Guardianship Termination Pursuant to Gov. Code §1601</u> | <u>Optional</u> | <u>01/01/2022</u> |
| <u>MAD-CIV-019</u> | <u>Authorization for Non-Attorney Court Document Preparer</u> | <u>Mandatory</u> | <u>01/01/2022</u> |
| <u>MAD-JUV-017</u> | <u>Petition to Terminate Sex Offender Registration</u> | <u>Optional</u> | <u>07/01/2021</u> |
| <u>MAD-JUV-018</u> | <u>Proof of Service-Sex Offender Registration Termination</u> | <u>Optional</u> | <u>07/01/2021</u> |
| <u>MAD-JUV-019</u> | <u>Response by District Attorney to Petition to Terminate Sex Offender Registration</u> | <u>Optional</u> | <u>07/01/2021</u> |
| <u>MAD-JUV-020</u> | <u>Order on Petition to Terminate Sex Offender Registration</u> | <u>Optional</u> | <u>07/01/2021</u> |