



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

RODINA CATALANO
COURT EXECUTIVE OFFICER
CLERK & JURY COMMISSIONER

(650) 261-5016

March 29, 2018

To All Interested Persons,

The Court is making changes to its Local Court Rules. These new changes will become effective on the date indicated in the proposal. The court invites you to review and provide your comment on these proposals as afforded pursuant to the State of California Rules of Court, Rules 10.613 and 10.815.

You may send your comments to:

smsccomment@sanmateocourt.org

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

Comments must be received in our office no later than **2:30 P.M., May 16, 2018.**

Sincerely,
Rodina Catalano, Court Executive Officer

A handwritten signature in cursive script, appearing to read "R. Padilla".

By: Rosendo Padilla, Jr.
Court Rules Committee Staff

INVITATION FOR PUBLIC REVIEW AND COMMENT
[Proposed Effective Date of July 1, 2018]

Pursuant to California Government Code § 70631 and California Rules of Court, Rule 10.613 (g) and 10.815(b), the following proposed amendments to the Local Rules are hereby distributed for public comment and notice. The affected items are:

Proposed Revisions to Local Court Rules

- July 2018-02 **DIVISION II – COURT MANAGEMENT – SUPERIOR COURT**
CHAPTER 1 Form and Service of Papers
Rule 2.1.6 (NEW) Attaching Photographs to Filed Documents
- July 2018-03 **DIVISION IV – PROBATE DEPARTMENT**
CHAPTER 11 Miscellaneous Petitions and Orders
Rule 4.72 Determining Title to Real and Personal Property
- July 2018-04 **DIVISION V – FAMILY LAW DEPARTMENT / FAMILY COURT SERVICES**
Rule 5.7.1 (NEW) Tentative Rulings for Orders, Orders to Show Cause, and Notices of Motion.
- July 2018-05 **DIVISION V – FAMILY LAW DEPARTMENT / FAMILY COURT SERVICES**
Rule 5.13(C) 4 – Grievance Procedure
- July 2018-06 **DIVISION III – CIVIL LAW AND MOTION - SUPERIOR COURT**
CHAPTER 1 General Provisions
Rule 3.9 Continuances and Taking Matters Off Calendar
DIVISION V – FAMILY LAW DEPARTMENT / FAMILY COURT SERVICES
Rule 5.13 B1 & 5.13 B5 Family Court Services/Location of Family Court Services

Submitting Comments

- Comments must be submitted addressed to *Proposed Rules* via email at smscomment@sanmateocourt.org.
- Please state the proposal number, the section and paragraph number on which you are commenting and your comment.
- Comments must be received **no later than 2:30 P.M. May 16, 2018**.

PROPOSED AMENDMENTS TO LOCAL COURT RULES – Effective July 1, 2018

Proposal Number 2018 – July 02	
Title	LOCAL RULE 2.1.6 (NEW) – Attaching Photographs to Filed Documents
Summary	Filing parties are required to identify in the document caption that photographs are included as part of the document being filed
Discussion	<p>The Court is going paperless and fileless in many of its case types. All documents scanned into the case management system becomes the official record for the court. The level of resolution used to scan the documents often does not produce a clear and crisp image of the photograph.</p> <p>The court will be using a higher level of resolution to scan photographs. However in order to do so, it would advantageous for the filer to identify on the face of the document that there is a photograph attached so that the scanner can adjust the resolution level for that document to better capture the image.</p> <p>Scanning all documents (with or without a photograph) would be prohibitive since it would require a signification increase of server space to store these images. Scanning only the documents with photographs will reduce the impact this process will have on our storage capacity.</p>
Recommendation	If a photograph is attached to document being filed, the filer is required to include at the end of the document caption an indicator that a photograph is attached.
Proposed Changes (insert text of new rule or changes here with track changes)	<p><i>Rule. 2.1.6 Attaching Photographs to Filed Documents (NEW)</i> <i>A person filing a document with the court who is attaching a black and white or color photograph to the document to be filed must include on the caption page “Photograph Image Attached”.</i></p> <p><i>(Adopted, effective July 1, 2018)</i></p>

Proposal Number 2018 – July 03

Title	LOCAL RULE 4.72 Determining Title to Real or Personal Property
Summary	Amend rule 4.72 to cite correct Probate Code.
Discussion	The purpose of the amendment is so that the rule could reflect correct the Probate Code Section, which is now 850, and not 9860 which no longer exists.
Proposed Changes (insert text of new rule or changes here with track changes)	<u>Rule 4.72 Determining Title to Real or Personal Property (Section 9860 850)</u> All notices of hearing given under Section 9860 850 must contain a description of the property sufficient to give adequate notice to any party who might be interested in the property, including with respect to real property, the street address, or if none, an indication of its location. (Adopted, effective July 1, 1996) (<i>Amended, effective July 1, 2018</i>)

Proposal Number 2018 – July 04

Title	[PROPOSED NEW LOCAL RULE] 5.7.1 Tentative Rulings for Orders, Orders to Show Cause, and Notices of Motion
Summary	Adds a local rule to permit tentative rulings for law and motion calendars in Family Law cases.
Discussion	Each of the family law judges has one or two law and motion calendars, with matters commonly titled as Requests for Order, Orders to Show Cause, and Notices of Motion. Allowing tentative rulings on these calendars will better serve the public. When a motion is unopposed, parties in agreement with the tentative ruling will not need to appear. When the court needs to continue a motion (for example, to allow the parties to attend recommending counseling at Family Court Services), again parties in agreement will not need to appear. For a contested motion, the tentative ruling will allow parties an additional opportunity to meet and confer, and attempt to settle the matter prior to the hearing. Should the parties agree, no appearance will be necessary. Just as tentative rulings in civil law and motion serve the public interest, tentative rulings in family law Requests for Order, etc., also serve the public interest.
Proposed Changes (insert text of new rule or changes here with track changes)	<p><u>5.7.1 Tentative Rulings for Requests for Orders, Orders to Show Cause, and Notices of Motion (NEW)</u></p> <p><i>Tentative rulings by any judge assigned to the Family Law Department on a Request for Order, Order to Show Cause, or Notice of Motion set for hearing shall be posted by 3:00 p.m. one court day prior to the hearing or other proceeding. Counsel for the parties and/or any self-represented parties shall obtain the tentative ruling by telephoning (650) 261-5019 after 3:00 p.m. or by accessing the court’s website at:</i></p> <p><i>http://www.sanmateocourt.org/online_services/tentative_rulings.php under the category “Family Law Calendar Tentative Rulings.” Parties seeking to contest the tentative rulings and present oral argument at the hearing or other proceeding shall notify all other parties and the Court by 4:00 p.m. on the court day before the hearing or other proceeding of that party’s intention to appear. That party shall notify the Court by telephoning (650) 261-5019 by 4:00 p.m. The tentative ruling will automatically become the ruling of the Court if the Court has not directed oral argument by its tentative ruling and notice of intent to appear has not been timely given.</i></p> <p><i>(Adopted, effective July 1, 2018)</i></p>

Proposal Number 2018 – July 05

Title	Amendment to Local Rule 5.13 subsection “C” “Court Ordered Private Child Custody Evaluations:
Summary	<p>Existing Local Rule 5.13(C) 4 states as follows: “Grievance Procedure: Complaints regarding the evaluator’s performance shall be submitted to the Court for review. All submitted written complaints will receive a response from the Court.”</p> <p>The Rule provides limited guidance of the specific procedure for an attorney or party to follow in order to submit their complaint for consideration by the Court. Recent inquiries brought to light the need for clarification and direction. This proposal will specify the procedure to follow in the event an attorney and/or party wishes to submit a complaint regarding the performance of a court appointed child custody evaluator.</p>
Discussion	<p>Family Code section 3111 allows the court to appoint a child custody evaluator in cases where the court determines it is in the best interests of the child. The evaluation shall be conducted with the standards adopted by the Judicial Council pursuant to Section 3117, and all other standards adopted by the Judicial Council regarding child custody evaluations.</p> <p>California Rule of Court Rule 5.220 was adopted under Family Code Sections 211 and 3117. Rule 5.220(d) states that each court must adopt a rule to implement this Rule of Court and subsection (d)(iv) states “Provide for acceptance of and response to complaints about an evaluator’s performance”</p> <p>The court has received inquiries from attorneys or parties requesting guidance about the procedure for submitting their complaint about a court appointed evaluator’s performance. The proposed procedure is one previously adopted by other courts and this amended rule also updates and clarifies other provisions.</p>
Proposed Change(s)	<p>C. Court Ordered Private Child Custody Evaluations:</p> <ol style="list-style-type: none"> 1. *** 2. *** 3. *** 4. Grievance Procedure: Complaints regarding the evaluator’s performance shall be submitted to the Court for review. All submitted written complaints will receive a response from the Court. <i>A complaint regarding the performance of a Court appointed Child Custody Evaluator may be</i>

addressed to the appropriate professional licensing board and/or, in the case of a party, through a Request for Order and/or Motion before the judge making the appointment. The judge who made the appointment will determine the appropriate response to a complaint about the Evaluator's performance. The Court's decision concerning the removal or retention of a Court appointed Child Custody Evaluator is independent of any action taken by any applicable professional licensing board. If the Evaluator is listed on the court's resource list that include evaluators, the judge receiving the complaint may refer the matter to the Supervising Judge of the Family Law Division for further action concerning removal or retention of the Evaluator on the list.

5. ***

6. All child custody and visitation evaluations shall be ordered by the court and evaluators will be appointed under Evidence Code Section 730. ~~The court may elect not to consider evaluations which have not been approved and ordered by the court.~~

7. ***

~~8. Information from Children: The Court relies on the judgment of its experts in making decisions about when, how often, and under what circumstances children are interviewed. The expert shall be able to justify the strategy used in any particular case. Except in extraordinary circumstances, including the potential for danger to the child, children shall be informed that the information provided by the child will not be confidential.~~

98. Any evaluation based on interviews with only one parent shall not include a recommendation regarding custody.

~~109.~~ Payment of the Evaluation: The Court will order payment of the evaluation at the time of the appointment.

~~110.~~ Any court ordered child custody evaluation shall be submitted to the court and counselor for the parties not less than ten (10) days before the hearing or trial.

~~12. A list of names of local child custody evaluators can be obtained by contacting Family Court Services at 650-261-5080.~~

(Adopted, effective January 1, 2000)(Renumbered (formerly 5.11)and Amended, effective January 1, 2004) (Amended, effective January 1, 2005) (Amended, effective July 1, 2010) (Amended, effective January 1, 2011).(Amended, effective January 1, 2012) (Amended, effective January 1, 2013) (Amended, effective July 1, 2013) (Amended, effective January 1, 2014)(Amended, effective January 1, 2016) (*Amended, effective July 1, 2018*)

Proposal Number 2018 – July 06	
Title	Deleting References to Accepting Faxes as a Means to Communicate with Court Operations and Court Services Divisions
Summary	Amendments to these Rules reflect the changes to the manner litigants communicate with the Court. The Court is migrating away from using fax communications to electronic mail.
Discussion	The Court is migrating away from having fax machines. Communications to the Court should be by electronic mail (e-mail). There will be a point in time when fax machines will not be utilized in the operations and supporting divisions.
Recommendation	<p>We recommend the following:</p> <p>3.9 c) Amendment to delete faxing as an option to communicate with the Clerk’s Office.</p> <p>5.13 B 1. Amended to delete the fax number since that is not an option any longer to communicate with the Family Court Services office.</p> <p>5.13 B. 5. Amend to remove faxing as an option to communicate with the Family Court Services office. This change will also discourage litigants from ex parte communication with the office.</p>
Proposed Changes (insert text of new rule or changes here with track changes)	<p><u>Rule 3.9 Continuances and Taking Matters Off Calendar</u></p> <p>a) ***</p> <p>b) ***</p> <p>c) Drops. The Clerk’s Office cannot drop a matter from the Law & Motion calendar unless a document is received (by fax, mail, e-mail or courier) from the moving party to drop the hearing from calendar (Adopted, effective January 1, 2000) (Amended, effective January 1, 2007) <i>(Amended, effective July 1, 2018)</i></p> <p>d) ***</p> <p><u>Rule 5.13 Family Court Services</u></p> <p>A. ***</p> <p>B. Location of Family Court Services</p> <p>1. Family Court Services is located on the 6th floor of the Hall of Justice and Records, 400 County Center, Redwood City, California. Phone number: 650 261-5080; Fax 650 261-5142</p>

5. Submitting Information Sheet to Family Court Services: At or before the appointment with FCS, each party must submit a completed Information Sheet. Blank Information Sheets may be obtained at www.sanmateocourt.org/forms_and_filing. If a party is appearing by telephone, an Information Sheet may be obtained online and the completed form must be ~~faxed to or~~ received by FCS prior to the appointment. Filed-endorsed moving papers, responsive papers, and/or declarations signed under penalty of perjury which have not yet been scanned by the clerk's office may be provided to FCS at the time of the appointment by the parties or their attorney. Absent a court order to the contrary, FCS will not accept these documents unless they have been served on the opposing party or their attorney. FCS may request and review further documents submitted by either party if the counselor, at the counselor's sole discretion, determines them relevant.

C. ***

(Adopted, effective January 1, 2000)(Renumbered (formerly 5.11)and Amended, effective January 1, 2004) (Amended, effective January 1, 2005) (Amended, effective July 1, 2010) (Amended, effective January 1, 2011).(Amended, effective January 1, 2012) (Amended, effective January 1, 2013) (Amended, effective July 1, 2013) (Amended, effective January 1, 2014)(Amended, effective January 1, 2016) (***Amended, effective July 1, 2018***)