

**LIST OF AMENDMENTS TO THE CALIFORNIA RULES OF COURT  
AND STANDARDS OF JUDICIAL ADMINISTRATION**

Adopted by the Judicial Council of California on December 5, 2003

Effective January 1, 2004

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## Rule 229. Proposed jury instructions

~~(a) [Citation of authorities] Each proposed jury instruction presented by a party, except instructions requested by number reference to forms previously approved by the court, must contain at the bottom a citation of authorities, if any, supporting the statement of law in the instruction.~~

### (a) [Application]

(1) This rule applies to proposed jury instructions that a party submits to the court, including:

(A) “Approved jury instructions,” meaning jury instructions approved by the Judicial Council of California or criminal jury instructions approved by the Committee on Standard Jury Instructions, Criminal, of the Superior Court of Los Angeles County; and

(B) “Special jury instructions,” meaning instructions from other sources, those specially prepared by the party, or approved instructions that have been substantially modified by the party.

(2) This rule does not apply to the form or format of the instructions presented to the jury, which is a matter left to the discretion of the court.

*(Subd (a) amended effective January 1, 2004; previously amended effective January 1, 2003.)*

~~(b) [Form and format of proposed instructions] Except as to such approved forms, each proposed instruction must be in the form specified by rule 201, indicating the party upon whose behalf it is requested. Instructions must be numbered consecutively, but not firmly bound together.~~

(1) All proposed instructions must be submitted to the court in the form and format prescribed for papers in rule 201.

(2) Each set of proposed jury instructions must have a cover page, containing the caption of the case and stating the name of the party proposing the instructions, and an index listing all the proposed instructions.

(3) In the index, approved jury instructions must be identified by their reference numbers and special jury instructions must be numbered consecutively. The index must contain a checklist that the court may use to indicate whether the instruction was:

(A) Given as proposed;

(B) Given as modified;

(C) Refused; or

(D) Withdrawn.

(4) Each set of proposed jury instructions must be bound loosely.

*(Subd (b) amended effective January 1, 2004; previously amended effective July 1, 1988 and January 1, 2003.)*

~~(e) **[Refusing proposed instructions]** Proposed instructions, except those required by law, which do not comply with this rule or with law may be refused, in which event the judge must endorse on the proposed instruction the reason for its refusal.~~

**(c) [Format of each proposed instruction]** Each proposed instruction must:

(1) Be on a separate page or pages;

(2) Contain the instruction number and title of the instruction at the top of the first page of the instruction; and

(3) Be prepared without any blank lines or unused bracketed portions, so that it can be read directly to the jury.

*(Subd (c) amended effective January 1, 2004; previously amended effective July 1, 1988, April 1, 1962, and January 1, 2003.)*

**(d) [Citation of authorities]** For each special instruction, a citation of authorities that support the instruction must be included at the bottom of the page. No citation is required for approved instructions.

*(Subd (d) adopted effective January 1, 2004.)*

**(e) [Form and format are exclusive]** No local court form or rule for the filing or submission of proposed jury instructions may require that the instructions be submitted in any manner other than as prescribed by this rule.

*(Subd (e) adopted effective January 1, 2004.)*

*Rule 229 amended effective January 1, 2004; adopted effective January 1, 1949; previously amended effective April 1, 1962, July 1, 1988, and January 1, 2003.*

### Advisory Committee Comment

This rule does not preclude a judge from requiring the parties in an individual case to transmit the jury instructions to the court electronically.

#### **Rule 244.1. Reference by agreement**

(a)–(g) \*\*\*

~~(h) [Copies to office of presiding judge] A copy of the order appointing the referee, the referee's report under Code of Civil Procedure section 643, and any order of the court concerning the compensation of the referee must be forwarded to the office of the presiding judge of the court. On a monthly basis, the presiding judge must forward copies of these orders and reports to the Reference Research Project at the Administrative Office of the Courts.~~

*(Subd (h) repealed effective January 1, 2004; adopted effective July 1, 2001.)*

*Rule 244.1 amended effective January 1, 2004; adopted effective July 1, 1993; previously amended effective July 1, 2001.*

#### **Rule 244.2. Reference by order**

(a)–(h) \*\*\*

~~(i) [Copies to office of presiding judge] A copy of the order appointing the referee, the referee's report under Code of Civil Procedure section 643, and any order of the court concerning the compensation of the referee must be forwarded to the office of the presiding judge of the court. On a monthly basis, the presiding judge must forward copies of these orders and reports to the Reference Research Project at the Administrative Office of the Courts.~~

*(Subd (i) repealed effective January 1, 2004; adopted effective July 1, 2001.)*

*Rule 244.2 amended effective January 1, 2004; adopted effective July 1, 1993; previously amended effective January 1, 1996, and July 1, 2001.*

#### **Rule 892. Assessing fee for reporting services–official reporter**

The half-day fee to be charged pursuant to under Government Code section 68086 when the court provides verbatim recordkeeping services shall must be established by the trial court as follows: ~~(a) For a trial proceeding or portion of a trial proceeding in which a~~

certified shorthand reporter is used, the fee ~~shall be~~ is equal to the average salary and benefit costs of the reporter, plus indirect costs up to 18 percent of salary and benefits. For purposes of this rule, the daily salary ~~shall be~~ is determined by dividing the average annual salary of temporary and full-time reporters by 225 workdays.

*(Subd (a) amended and unlettered effective January 1, 2004.)*

~~(b) In municipal court proceedings, for a trial or portion of a trial in which audio or videotape record services are used and a person is used exclusively to monitor the equipment the fee shall be equal to the average equipment cost, together with salary and benefit costs of the monitor plus indirect costs up to 18 percent of equipment, salary, and benefits. For purposes of this rule, the daily salary shall be determined by dividing the average annual salary of temporary and full-time monitors by 225 work days.~~

*(Subd (b) repealed effective January 1, 2004; previously amended effective January 31, 1997.)*

~~(c) In municipal court proceedings, for a trial or portion of a trial in which audio or videotape record services are used without a person exclusively to monitor the equipment, the fee shall be based on the average daily cost of the equipment, plus indirect costs up to 18 percent of the equipment cost.~~

*(Subd (c) repealed effective January 1, 2004; previously amended effective January 31, 1997.)*

~~(d) As used in this rule, equipment cost in municipal court proceedings shall include the cost of acquisition, installation, and maintenance, amortized over the useful life of the equipment, or if the equipment is leased, its rental cost.~~

*(Subd (d) repealed effective January 1, 2004; previously amended effective January 31, 1997.)*

*Rule 892 amended effective January 1, 2004; adopted effective January 1, 1994; previously amended effective January 31, 1997 and August 17, 2003.*

## **Rule 6.620. Public access to administrative decisions of trial courts**

**(a) [Interpretation]** The provisions of this rule concern public access to administrative decisions by trial courts as provided in this rule. This rule does not modify existing law regarding public access to the judicial deliberative process and does not apply to the adjudicative functions of the trial courts or the assignment of judges.

- (b) [Budget priorities]** The Judicial Branch Budget Advisory Committee (JBBAC) may request, on 30 court day's notice, recommendations from the trial courts concerning judicial branch budget priorities. JBBAC's notice must state that if a trial court is to make recommendations to the committee, the trial court must also give notice, as provided in subdivision (g), that interested members of the public may send input to the JBBAC.
- (c) [Budget requests]** Prior to making recommendations, if any, to the Judicial Council on items to be included in the judicial branch budget that is submitted annually to the Governor and the Legislature, a trial court must seek input from the public, as provided in subdivision (e), on what should be included in the recommendations.
- (d) [Other decisions requiring public input]** Each trial court must seek input from the public, as provided in subdivision (e), prior to making the following decisions:
- (1)** A request for permission from the Administrative Office of the Courts to reallocate budget funds from one program component to another in an amount greater than \$400,000 or 10 percent of the total trial court budget, whichever is greater.
  - (2)** The execution of a contract without competitive bidding in an amount greater than \$400,000 or 10 percent of the total trial court budget, whichever is greater. This subdivision does not apply to a contract entered into between a court and a county that is provided for by statute.
  - (3)** The planned, permanent closure of any court location for an entire day or for more than one-third of the hours the court location was previously open for either court sessions or filing of papers. As used in this subdivision, planned closure does not include closure of a location on a temporary basis for reasons including but not limited to holidays, illness, or other unforeseen lack of personnel, or public safety.
  - (4)** The cessation of any of the following services at a court location: (i) the Family Law Facilitator or (ii) the Family Law Information Center.
- (e) [Manner of seeking public input]** When a trial court is required to seek public input under this rule, it must provide public notice of the request at least 15 court days prior to the date on which the decision is to be made or the action is to be taken. Notice must be given as provided in subdivision (g). Any interested person or entity who wishes to comment must send the

comment to the court in writing or electronically unless the court requires that all public comment be sent either by e-mail or through a response system on the court's Web site. For good cause, in the event an urgent action is required, a trial court may take immediate action if it (1) gives notice of the action as provided in subdivision (f), (2) states the reasons for urgency, and (3) gives any public input received to the person or entity making the decision.

**(f) [Information about other trial court administrative matters]** A trial court must provide notice, not later than 15 court days after the event, of the following:

- (1) Receipt of the annual allocation of the trial court budget from the Judicial Council after enactment of the Budget Act.
- (2) The awarding of a grant to the trial court that exceeds the greater of \$400,000 or 10 percent of the total trial court budget.
- (3) The solicitation of proposals or the execution of a contract that exceeds the greater of \$400,000 or 10 percent of the trial court budget.
- (4) A significant permanent increase in the number of hours that a court location is open during any day for either court sessions or filing of papers. As used in this subdivision, a significant increase does not include an emergency or one-time need to increase hours.
- (5) A significant permanent decrease in the number of hours that a court location is open during any day for either court sessions or filing of papers, except those governed by subdivision (d)(3). As used in this subdivision, a significant decrease does not include a decrease in response to an emergency need to close a location on a temporary basis for reasons including, but not limited to, illness or other unforeseen lack of personnel or public safety.
- (6) The action taken on any item for which input from the public was required under subdivision (d). The notice must show the person or persons who made the decision and a summary of the written and e-mail input received.

**(g) [Notice]** When notice is required to be given by this rule, it must be given in the following ways:

- (1) Posted on the trial court's Web site, if any.

- (2) Sent to any of the following persons or entities—subject to the requirements of subdivision (h) –who have requested in writing or by electronic mail to the court executive officer to receive such notice:
- (i) A newspaper, radio station, and television station in the county;
  - (ii) The president of a local or specialty bar association in the county;
  - (iii) Representatives of a trial court employees organization;
  - (iv) The district attorney, public defender, and county counsel;
  - (v) The county administrative officer; and
  - (vi) If the court is sending notice electronically using the provisions of subdivision (h), any other person or entity that submits an electronic mail address to which the notice will be sent.
- (3) Posted at all locations of the court that accept papers for filing.

**(h) [Electronic notice]** A trial court may require a person or entity that is otherwise entitled to receive notice under subdivision (g)(2) to submit an electronic mail address to which the notice will be sent.

**(i) [Materials]** When a trial court is required to seek public input under subdivision (b), (c), or (d), it must also provide for public viewing at one or more locations in the county of any written factual materials that have been specifically gathered or prepared for the review at the time of making the decision of the person or entity making the decision. This subdivision does not require the disclosure of materials that are otherwise exempt from disclosure or would be exempt from disclosure under the state Public Records Act (beginning with section 6250 of the Government Code). The materials must be mailed or otherwise be made available not less than five court days before the decision is to be made except if the request is made within the five court days before the decision is to be made, the materials must be mailed or otherwise be made available the next court day after the request is made. A court must either (1) provide copies to a person or entity that requests copies of these materials in writing or electronic mail to the executive officer of the court or other person designated by the executive office in the notice, if the requesting person or entity pays all mailing and copying costs as determined by any mailing and copy cost recovery policies established by the trial court or (2) make all materials available electronically either on its Web-site or by e-mail. This subdivision does not require the trial court to prepare reports. A



person seeking documents may request the court to hold the material for pickup by that person in lieu of mailing.

**(j) [Other requirements]** This rule does not affect any other obligations of the trial court including, but not limited to, any obligation to meet and confer with designated employee representatives. This rule does not change the procedures a court must otherwise follow in entering into a contract nor change the types of matters for which a court may contract.

**(k) [Enforcement]** This rule may be enforced under Code of Civil Procedure section 1085.

*Rule 6.620 adopted effective January 1 2004.*

### **Rule 7.151. Reimbursement of graduated filing fee by successful subsequent petitioner**

**(a) [Duty to reimburse]** In decedents' estates commenced on or after August 18, 2003, a general personal representative appointed on a petition for probate that was not the first-filed petition for appointment of a general personal representative in the proceeding must reimburse the unsuccessful petitioner on the first-filed petition for a portion of the filing fee paid by the unsuccessful petitioner.

**(b) [Amount of reimbursement]** The reimbursement required under this rule is in the amount of:

(1) The filing fee paid by the unsuccessful petitioner in excess of the filing fee that would have been payable on that date for a petition for probate of an estate valued at less than \$250,000, less

(2) The unpaid amount of any costs or sanctions awarded against the unsuccessful petitioner in favor of the party that sought the personal representative's appointment in the proceeding.

**(c) [When reimbursement payable]** The personal representative must make the reimbursement payment required under this rule in cash and in full no later than the date the Inventory and Appraisal is due under Probate Code section 8800(b), including additional time allowed by the court under that provision.

- (d) **[Payment from estate funds]** The reimbursement payment under this rule is an authorized expense of administration and may be made from estate funds without a prior court order.
- (e) **[Receipt from unsuccessful petitioner]** The unsuccessful petitioner must give its signed receipt for the reimbursement payment made under this rule.
- (f) **[Personal representative's right to claim refund]** A personal representative that is required to but fails to make the reimbursement payment under this rule may not claim a refund of the difference between the estimated filing fee and the corrected filing fee under rule 7.552(c).
- (g) **[Petitioner on dismissed petition for probate]** A petitioner that is eligible to receive a refund of filing fee for a dismissed petition for probate under rule 7.552(d) is not an unsuccessful petitioner within the meaning of this rule.

*Rule 7.151 adopted effective January 1, 2004.*

#### **Rule 7.550. Effect of waiver of account**

- (a) **[Waiver of account]** Except as provided in rule 7.550(b), if an accounting is waived under Probate Code section 10954, the details of receipts and disbursements need not be listed in the report required under section 10954(c)(1).

*(Subd (a) amended effective January 1, 2004; adopted as part of unlettered subdivision, effective January 1, 2003.)*

- (b) **[Information required in report on waiver of account]** ~~However,~~ The report required when an account has been waived must list the information required by law, including information as to:

- (1) Creditors' claims;
- (2) Sales, purchases, or exchanges of assets;
- (3) Changes in the form of assets;
- (4) Assets on hand;
- (5) Whether the estate is solvent;

- (6) Detailed schedules of receipts and gains or losses on sale (where an amount other than the amount of the Inventory and Appraisal is used as a basis for calculating fees or commissions);
- (7) Costs of administration (if reimbursement of these costs is requested);
- (8) The amount of any fees or commissions paid or to be paid;~~and~~
- (9) The calculation of such fees or commissions as described in rule 7.705;  
and
- (10) For decedent's estate proceedings commenced on or after August 18, 2003, the information required by subdivisions (a) and (b) of rule 7.552.

*(Subd (b) amended January 1, 2004; adopted as part of unlettered subdivision effective January 1, 2003.)*

*Rule 7.550 amended effective January 1, 2004; adopted effective January 1, 2003.*

### **Rule 7.552. Graduated filing fee adjustments**

- (a) [Separate schedule for graduated fee information]** The final account or report filed in every decedent's estate proceeding commenced on or after August 18, 2003, must include a separate schedule showing the following information:
- (1) The name of each petitioner on the first-filed Petition for Probate in the proceeding;
  - (2) The date the first-filed Petition for Probate was filed in the proceeding;
  - (3) The estimated value of the estate shown in item 3, "[e]stimated value of the estate for filing fee purposes," of the first-filed Petition for Probate in the proceeding;
  - (4) The filing fee paid by or for the petitioner on the first-filed Petition for Probate in the proceeding;
  - (5) The following information from the Inventories and Appraisals filed in the proceeding:
    - (A) The date each partial, supplemental, final, or corrected Inventory and Appraisal was filed;

- (B) The total appraised value of the assets of the estate shown in each filed partial, supplemental, or final Inventory and Appraisal;
  - (C) Changes in the appraised value of the assets of the estate shown in each filed corrected Inventory and Appraisal; and
  - (D) The combined total appraised value of the estate shown in all filed partial, supplemental, final, and corrected Inventories and Appraisals.
- (6) A statement of the amount of filing fee that would have been payable under Government Code section 26827, as amended effective on the date the first-filed Petition for Probate was filed in the proceeding, if the total actual appraised value of the estate had been used as the estimated value for filing fee purposes (the “corrected filing fee”);
- (7) Calculation of the difference between the estimated filing fee paid under Government Code section 26827 upon filing the first Petition for Probate in the proceeding (the “estimated filing fee”) and the “corrected filing fee,” as determined under (6) and subdivision (e) of this rule; and
- (8) The following information concerning filing fee reimbursement payments made by a personal representative in the proceeding under rule 7.151:
- (A) The amount of each payment;
  - (B) The date each payment was made; and
  - (C) The name, address, and telephone number of the payee and of any attorney of record for the payee in the proceeding.
- (b) [If estimated filing fee less than corrected filing fee]** If the estimated filing fee is less than the corrected filing fee, as determined under (a) and (e), the petition filed with the final account or report must allege that the difference between them has been paid to the clerk of the court. A copy of the clerk’s receipt for the payment, and, if applicable, a receipt or other evidence satisfactory to the court of payment of the reimbursement required under rule 7.151, must be attached as an exhibit to the account or report.
- (c) [If estimated filing fee more than corrected filing fee]**

- (1) Subject to the provisions of rule 7.151, if the estimated filing fee is more than the corrected filing fee, as determined under (a) and (e), the personal representative of the decedent's estate is eligible under this subdivision to receive a refund of the difference between them, without interest.
- (2) The personal representative must apply to the court for the refund, in accordance with the court's local rules and practices for such payments.
- (3) Unless authorized to retain a reserve against closing expenses that expressly is to include the court's refund payment after the personal representative's discharge, the personal representative must not apply for a discharge while an application for refund of filing fee under this subdivision is pending and before the court's refund payment is received.

**(d) [Refund on voluntarily dismissed Petition for Probate]**

- (1) A petitioner that files a Petition for Probate on or after August 18, 2003, and voluntarily dismisses the petition at any time within 90 days after it is filed and before an order granting or denying the petition is filed, is eligible under this subdivision to receive a refund, without interest, of all filing fees paid in excess of the filing fees that would have been payable on the original filing date for a petition for probate of an estate valued at less than \$250,000.
- (2) The petitioner on a dismissed Petition for Probate under (1) must apply to the court for the refund, in accordance with the court's local rules and practices for such payments.

**(e) [Additional adjustment in corrected filing fee in insolvent estates]** If the expenses of administration must be proportionately reduced under Probate Code section 11420 because the property in the estate is insufficient to pay them in full, the court may approve a determination of the corrected filing fee under this rule that reflects the proportionate reduction of those expenses, provided that the corrected filing fee may not be reduced below the minimum fee required by Government Code section 26827 on the date the estimated fee was paid.

**(f) [Sample schedule of graduated fee information]** The schedule of graduated fee information required under (a) may be substantially as follows:

SCHEDULE  
Graduated Filing Fee Information

1. The first-filed Petition for Probate in this proceeding was filed on [Date] by [name of each petitioner].
2. The estimated value of the estate for filing fee purposes shown on the first-filed Petition for Probate in this proceeding is \$\_\_\_\_\_.
3. The filing fee paid by or for the petitioner[s] on the first-filed Petition for Probate in this proceeding was \$\_\_\_\_\_.
4. The following Inventories and Appraisals have been filed in this proceeding:

<u>Type</u>	<u>Date Filed</u>	<u>Appraised Value</u>
[Partial no. ___]	[09/30/03]	\$_____
[Partial no. ___]		\$_____
Final		\$_____
[Supplemental]		\$_____
[Correcting]		\$ (or \$) _____
<u>Total appraised value of estate</u>		\$_____

5. Corrected Filing Fee:

<u>Total appraised value of estate:</u>	\$_____
<u>Filing fee as of the date in 1 above, based on total appraised value of estate:</u>	\$_____
<u>Adjustment to reflect proportional reduction of expenses of administration for insolvent estate under CRC, rule 7.552(e):</u>	(\$_____)
<u>Corrected Filing Fee:</u>	\$_____

6. Difference between estimated and corrected filing fee:

<u>Estimated filing fee from 3 above:</u>	\$_____
<u>Corrected filing fee from 5 above:</u>	(\$_____)
<u>Difference:</u>	\$ (or \$) _____

7. Filing fee reimbursements under CRC, rule 7.151:

<u>Payee(s)</u>	<u>Date Paid</u>	<u>Amount</u>
<u>[Name, address, and telephone number of each payee and attorney of record in the proceeding]</u>	<u>[10/25/03]</u>	<u>\$</u>

*Rule 7.552 adopted effective January 1, 2004.*