

## **PROPOSED REVISED RULES**

### **Chapter 4. Court Reporting Services**

#### **Rule 2.50. Electronic Recording**

Pursuant to Government Code section 69957, in limited civil actions and criminal misdemeanor and infraction proceedings, the court, at its sole discretion, may utilize electronic recording as a means of generating a verbatim record of proceedings. In those instances, court reporters will not be provided.

#### **Rule 2.51. Notice of Availability of Court Reporting Services in Cases Other than Limited Civil, Misdemeanor, and Infractions**

General information concerning the availability of court reporters is set forth in the Court's Notice of Availability of Court Reporting Services, which is posted in the Clerk's Office and on the Court's website.

#### **Rule 2.52. Unavailability of Court-Provided Court Reporters and Procurement of Outside Private Reporters**

(a) Rule 2.52, subsections (b), (c), and (d) shall not apply to any proceeding for which a timely request for a court-provided court reporter has been received from a litigant who has been granted a fee waiver under Government Code section 68631 et seq.

#### **(b) Unavailability of court reporters by case type**

Unless otherwise noted in the Court's Notice of Availability, pursuant to California Rules of Court, Rule 2.956, the Court does not provide court reporters for hearings in the following civil case types:

- (1) Unlimited and Limited Civil
- (2) Family Law
- (3) Probate

#### **(c) Procurement of private court reporter**

For matters where the court does not provide a court reporter due to unavailability, any party who desires a verbatim record of a court proceeding from which a transcript can later be prepared, may procure the services of a private certified court reporter pro tempore to report any scheduled hearing or trial (see Government Code section 70044 and California Rules of Court, Rule 2.956). The Court does not provide referrals to private court reporting service providers and does not have any contractual or employment obligation related to pro tempore reporters hired by the parties for this purpose. It is the party's responsibility to arrange for and pay the outside reporter's fee for attendance at the proceedings but the expense may be

recoverable as part of the costs, as provided by law. (See California Rules of Court, Rule 2.956(c).)

**(d) Requirement to meet and confer to select court reporter**

For contested matters, the parties must meet timely and confer as to the selection of a qualified court reporter and provide a written stipulation, on the court-provided form (see Government Code section 70044).

- (1) The reporter must be licensed as a Certified Shorthand Reporter in California and comply with all California statutory and rule provisions for reporting court proceedings. The court reporter pro tempore must provide their name, CSR number, business address, phone number, and e-mail address to the courtroom clerk and all parties present on the day of the hearing in the event of an appeal or if a party wishes to procure a transcript from the reporter (see California Rules of Court, Rule 2.950).
- (2) The court reporter pro tempore must execute the court's required written agreement as to the obligations of the court reporter in accepting the reporting assignment.
- (3) If court reporters become available and at the court's discretion are provided by the court for any civil hearings (including family law and probate matters), the parties will be required to pay the applicable reporter attendance fee provided for in Government Code sections 68086(a)(1)(A) and (B) in a timely manner, except any party who has been granted a fee waiver under Government Code section 68631 et seq.

**Rule 2.53. Court-Provided Court Reporters in Cases Involving Fee Waiver Litigants**

Upon receipt of a timely request from a litigant who has been granted a fee waiver under Government Code section 68631 et seq, the Court shall provide a court reporter as follows. In all such instances, parties who have not been granted a fee waiver will be required to pay any applicable court reporter attendance fee, pursuant to Government Code section 68086.

**(a) Unlimited Civil Cases**

- (1) Case Management Conferences. A request for a court-provided court reporter is timely if it is made three or more calendar days before the case management conference is to be held. The request must be made by filing Local Court Form MC-30.
- (2) Law and Motion Hearings. A request for a court-provided court reporter is timely if it is made at or before 4:00 p.m. on the court day preceding the hearing. The request may be made by e-mail, fax, or telephone to the department holding the hearing. The Court will not provide a court reporter for any law and motion hearing where the tentative ruling has not been contested.

- (3) Issue Conferences. A request for a court-provided court reporter is timely if it is made three or more calendar days before the issue conference is to be held. The request must be made by filing Local Court Form MC-30.
- (4) Trials. A request for a court-provided court reporter should be made at the issue conference. A request for a court-provided court reporter otherwise is timely if it is made on Local Court Form MC-30 three calendar days before trial is scheduled to begin.
- (5) All Other Proceedings. A request for a court-provided court reporter is timely if filed on Local Court Form MC-30 at least three calendar days before the scheduled date of the proceeding.
- (6) Continuances. Failure to timely request a court reporter pursuant to these rules shall not, standing alone, constitute grounds to continue any proceeding, absent good cause shown.

**(b) Family Law Cases**

- (1) Designated AB 1058 Department. The Court provides court reporters for all matters heard under the authority of AB 1058. No request is necessary.
- (2) Short Cause Matters. A request is timely if Local Court Form MC-30 is filed three calendar days before the matter is set to be heard.
- (3) Evidentiary Hearings and Trials. A request is timely if made at the time an evidentiary hearing or trial is set at a settlement conference or other proceeding, or if Local Court Form MC-30 is filed three calendar days before the matter is set to be heard.
- (4) Domestic Violence Restraining Orders. There is no fee to file a request for a Domestic Violence Restraining Order. However, should a person filing a request for a Domestic Violence Restraining Order request a court-provided court reporter, that person shall file a Request to Waive Court Fees (FW-001), and a request for a court-provided court reporter (Local Court Form MC-30) at least three calendar days before the matter is set to be heard.

A party responding to a Request for Domestic Violence Restraining Order who requests a court-provided court reporter may file a Request to Waive Court Fees (FW-001), and a request for court-provided court reporter (Local Court Form MC-30) at least three calendar days before the matter is set to be heard.

- (5) Continuances. Failure to timely request a court report pursuant to these rules shall not, standing alone, constitute grounds to continue any proceeding, absent good cause shown.

**(c) Probate Cases**

- (1) Requests. A request for a court-provided court reporter is timely if received by 4:00 p.m. on the court day preceding the hearing. The request must be made on Local Court Form MC-30, and can be sent to the department hearing the matter by fax or e-mail.
- (2) Continuances. If, in the exercise of due diligence, a litigant would not have been able to ascertain that a proceeding would be contested in time to make a timely request under Local Rule 2.53(c)(1), and that litigant has been granted a fee waiver under Government Code section 68631 et seq, the court may grant a continuance so that a court-provided court reporter may be provided.

**(d) Enlargement of Time During Staff Shortages**

During periods of staff shortages when the Clerk's Office may be unable to meet all of the court reporting requests and requirements that are pending, the Clerk of the Court may enlarge the periods during which a request for a court-provided court reporter may be deemed timely. Any such change to the periods will be posted in the Notice of Availability of Court Reporting Services (referenced in Rule 2.51) at least three calendar days before the effective date of any modifications to Rule 2.53, subdivisions (a), (b), and (c). The change may be effective for no more than five calendar days, after which the time periods specified under Rule 2.53, subdivisions (a), (b), and (c) will be restored.

**Rule 2.54. Transcripts and Electronic Recording**

Whenever a party requests a court reporter to furnish a transcript of all or a part of a trial or proceedings, the reporter shall immediately inform all other parties of such request and inquire whether any party desires a copy of the transcript.

Parties shall be responsible for all transcript costs listed in Government Code section 69953.

If a proceeding has been electronically recorded pursuant to Government Code section 69957 and Local Rule 2.50, the parties to such proceeding may obtain a copy of the recording at court records. Parties will be responsible for all associated fees and costs.

**Rule 3.13. Reporting of Court Proceedings in Civil Fast Track Departments**

- (1) Except as otherwise provided by Local Rule 2.53, official court reporters employed by the court are unavailable in the Unlimited/Limited Civil Fast Track Departments effective January 1, 2013 until further notice. Consult the Notice of Availability on the court's website for current status and any changes.
- (2) Except as otherwise provided by Local Rule 2.53, any party who desires a verbatim record of the proceedings from which a transcript can later be prepared, may procure the services of an outside private certified court reporter pro tempore to report any scheduled hearing or trial (see Government Code section 70044 and California Rules of Court, Rule 2.956).

- (3) Parties electing to procure the services of an outside reporter must comply with Local Rule 2.52.
- (4) (No change to current rule.)
- (5) If court reporters become available and in the court's discretion are provided by the court for any civil hearings, or if a court reporter is provided pursuant to Local Rule 2.53, any party who has not been granted a fee waiver under Government Code section 68631 et seq will be required to pay the applicable reporter attendance fee provided for in Government Code sections 68086(a)(1)(A) or (B).
- (6) (No change to current rule.)

### **Rule 3.45. Reporting of Law and Motion**

Law and motion oral arguments are not reported in Civil Fast Track Departments until further notice, except as provided by Local Rule 2.53. Otherwise, parties may procure the services of an outside reporter as set forth in Local Rule 2.52.

### **Rule 3.205. Temporary Judge Trial – Civil Division**

#### **(a) Temporary Judge trials**

Some parties with civil cases want to choose when their case will be tried, and so will agree to have the Court appoint a temporary judge to hear their case. (This is permitted by Article 6, Section 21 of the State Constitution and Rule 2.831 of the California Rules of Court.) Except for appeals in small claims cases (may also be heard by temporary judges), or court appearances where a temporary judge has been appointed to call a particular calendar, these trials are held at a time and location that is convenient for the parties and the temporary judge. Temporary judges have nearly the same authority as a superior court judge. Except for small claims appeal cases or times when the Court appoints a temporary judge to call a particular calendar, parties choose the temporary judge from a list maintained by the ADR Programs office. Temporary judge trials are handled in the same way as other civil trials, except that the trial may not take more than five (5) court days, there is no option for a jury trial, and the temporary judge might not have assistance from a court clerk or other support staff. If the case involves a litigant who has been granted a fee waiver under Government Code section 68631 et seq, and is a limited civil matter, the Court will provide electronic recording of the trial, provided the parties stipulate that the trial is to occur in a courtroom equipped with the necessary equipment and at a time where the courtroom is otherwise available. If the case involves a litigant who has been granted a fee waiver under Government Code section 68631 et seq, and is an unlimited civil matter, the Court will provide a court reporter, provided the parties stipulate that the trial is to occur at a place and time convenient for the Court to provide a reporter. Any party or parties who have not been granted a fee waiver must pay the applicable court reporter's attendance fee pursuant to Government Code sections 68086(a)(1)(A) or (B). The parties in a temporary judge trial can appeal the temporary judge's decision in the same way as following a trial by an assigned sitting judge. Whenever possible, each party must also:

- (1) Pre-mark all exhibits; and
- (2) Give the temporary judge an exhibit list, witness list, and opening statement.

**(b)** (No change to current rule.)

**Rule 4.01. Electronic Recording in Misdemeanor and Infraction Cases**

Pursuant to Government Code section 69957, in misdemeanor and infraction proceedings, the court may, in its sole discretion, utilize electronic recording as a means of generating a verbatim record of proceedings. Court reporters are not ordinarily provided by the court in these cases. The court provides court reporters for all proceedings in felony matters.

**Rule 5.9. Trials**

**(a)** (No change to current rule.)

**(b)** (No change to current rule.)

**(c)** (No change to current rule.)

**(d)** (No change to current rule.)

**(e)** (No change to current rule.)

**(f) Reporter's fees**

(1) As of the effective date of these rules, other than contempt proceedings and AB 1058 proceedings heard by the Commissioner, and as otherwise provided by Local Rule 2.53, no court reporters shall be assigned in Family Law Departments. Consult the "Court Reporters: Notice of Availability" on the Court's website for the current status and any changes. There will be no official record of the proceedings unless a court reporter is provided pursuant to Local Rule 2.53 or party who desires an official record makes arrangements for a private certified court reporter as set forth in Local Rule 2.52.

(2) (No change to current rule.)

(3) Parties electing to hire a private certified court reporter must comply with Local Rule 2.52.

(4) (No change to current rule.)

(5) In the event court reporters become available and at the court's discretion are provided by the court for any family law hearings, or if a court reporter is provided pursuant to Local Rule 2.53, any party who has not been granted a fee waiver under Government Code section 68631 et seq will be charged the court

reporter's attendance fee provided for in Government Code sections 68086(a)(1)(A) or (B).

**Rule 5.71. Court Appointed Special Advocates (CASA) Program Guidelines**

Only a representative of a CASA Program that complies with California Rules of Court, Rule 5.655 and Welfare and Institutions Code section 100 et seq is eligible to be appointed to work with a minor in this county.

**Rule 5.72. Submission, Copying, and Distribution of CASA Reports; Access to CASA Reports**

- (a) **Submission of CASA court report.** CASA shall submit CASA court reports to the Court a minimum of five court days prior to the hearing for which the report was prepared.
- (b) **Copying and Distribution of CASA court report.** CASA shall copy the CASA court report and distribute it to attorneys of all parties to the case, County Counsel's Office, and Children and Family Services a minimum of five court days prior to the hearing for which the report was prepared.
- (c) **Access to CASA court report.** Other than the attorneys for the parties (for example, parents, legal guardians, Children and Family Services), no other individuals or entities are entitled to receive a copy of the CASA court report, and only those individuals or entities named in subdivision (a) of section 827 of the Welfare and Institutions Code, and those individuals or entities named in section 827.10 of the Welfare and Institutions Code are permitted to access a CASA court report.

**Rule 7.5. Reporting of Court Proceedings in Probate Matters**

(a) **Unavailability of court reporters in Probate matters**

Except as otherwise provided by Local Rule 2.53, official court reporters employed by the court are unavailable in the Probate Division effective January 1, 2013 and until further notice. Consult the Notice of Availability on the court's website for current status and any changes.

- (b) Except as otherwise provided by Local Rule 2.53, any party who desires a verbatim record of the proceedings from which a transcript can later be prepared may procure the services of an outside private certified court reporter pro tempore to report any scheduled hearing or trial (see California Rules of Court, Rule 2.956).

(c) **Procurement process for court reporter services**

Parties electing to procure the services of an outside reporter must comply with Local Rule 2.52.

**(d)** (No change to current rule.)

**(e) Attendance fee**

If court reporters become available and in the court's discretion are provided for any civil hearings, or if a court reporter is provided pursuant to Local Rule 2.53, any party who has not been granted a fee waiver under Government Code section 68631 et seq will be required to pay the applicable reporter attendance fee provided for in Government Code sections 68086(a)(1)(A) or (B).

**(f)** (No change to current rule.)