

**CIVIL RULES, CRIMINAL RULES AND PROBATE RULES
PROPOSED REVISIONS TO THE FRESNO COUNTY LOCAL RULES
EFFECTIVE JANUARY 1, 2012**

CHAPTER 2. CIVIL RULES

RULE 2.1 ADMINISTRATION OF CIVIL CASES

2.1.2 Case Disposition Time Standards

A. No change.

B. The court shall endeavor to dispose of all general civil cases as follows: 90% within twelve (12) months after filing, 98% within eighteen (18) months after filing, 100% within twenty-four (24) months hours after filing. (Effective January 1, 2012; Rule 2.1.1 renumbered effective January 1, 2006; adopted as Rule 3.2 effective July 1, 2000)

2.1.14 Default Judgment

To obtain a default judgment a plaintiff shall present testimony in support of his or her claim by competent witnesses having personal knowledge of the essential facts, or file an affidavit or declaration by such witnesses, except for cases governed by Code of Civil Procedure § 585(a) of the Code of Civil Procedure. When a plaintiff calendars a hearing for an application for default judgment, he or she must specify whether the proof will be by written declaration or oral testimony. Applications for default judgment on declarations pursuant to Code of Civil Procedure § 585(d) is the preferred procedure.

When submitting a matter for default judgment on declarations, the parties must comply with California Rules of Court, rule 3.1800. If a hearing has been scheduled and proof is to be by written declaration, the material required by rule 3.1800(a) must be submitted together as a single packet. Each exhibit must be separated by a hard 8 ½ x 11 sheet with hard paper or plastic tabs extending below the bottom of the page, bearing the exhibit designation. Any provision for attorney fees based on a contract must be highlighted within the written contract. Parties should file such default packets in the Clerk's Office at least five (5) court days prior to the scheduled hearing date.

If, after reviewing the materials submitted, the Court determines that oral testimony or additional documentary evidence is necessary, it will indicate that in the tentative ruling posted before the hearing pursuant to Local Rule 2.2.6. ~~The plaintiff's attorney may testify based upon information and belief.~~ (Effective January 1, 2012; Rule 2.1.14 renumbered effective January 1, 2006; adopted as Rule 3.14 effective July 1, 2000)

CHAPTER 3. CRIMINAL RULES

RULE 3.3 MOTIONS AND HEARINGS IN MISDEMEANOR CASES

3.3.2 Filing of Motions

A. Absent an order shortening time, or provided by statute, ~~Unless otherwise ordered by the court,~~ motions in misdemeanor cases shall be filed in writing no later than ten (10) ~~court calendar~~ days before the hearing.

B. Motions shall contain a notice of motion, the motion itself, a declaration or affidavit in support thereof and a memorandum of points and authorities. Proof of service shall be filed no later than five (5) court days prior to the date of the hearing.

C. ~~All opposition papers Responsive pleadings and points and authorities in opposition~~ shall be filed no later than five (5) ~~two (2)~~ court days prior to the hearing, with proof of service on all parties. All reply papers shall be filed no later than two (2) court days prior to the hearing, with proof of service on all parties.

D. Each paragraph of any declaration shall be numbered sequentially. The original and all copies of exhibits and attachments shall be tabbed and shall be referred to in the pleadings or papers by tab identification. Each exhibit must be separated by a hard 8 ½ x 11 sheet with hard paper or plastic tabs extending below the bottom of the page, bearing the exhibit designation. (Effective January 1, 2012; Rule 3.3.2 renumbered effective January 1, 2006; adopted as Rule 16.2 effective July 1, 2000)

RULE 3.5 MOTIONS AND HEARINGS IN FELONY CASES

3.5.1 Motions in General

A. No change.

B. No change.

C. No change.

D. No change.

E. Motions to suppress that are to be heard at the preliminary hearing must be personally served and filed at least five (5) court days before the preliminary hearing. Any written response by the People to the motion shall be filed with the court and personally served on the self-represented defendant or the attorney of record at least two (2) court days prior to the hearing. ~~Unless expressly stated otherwise by the~~

~~Designated Department, all other motions and accompanying papers shall be filed not less than ten (10) calendar days prior to the hearing, with responsive papers filed not less than five (5) days prior to the hearing.~~

F. All other motions and accompanying papers shall be filed not less than ten (10) court days prior to the hearing, unless otherwise provided pursuant to an order shortening time or a statute. Proof of service shall be filed no later than five (5) court days prior to the date of the hearing.

G. All opposition papers shall be filed no later than five (5) court days prior to the hearing, with proof of service on all parties. All reply papers shall be filed no later than two (2) court days prior to the hearing, with proof of service on all parties.

~~F.~~ H. Any papers filed with the Clerk in connection with the motion or response thereto shall be accompanied by two complete copies in addition to the original.

~~G.~~ I. Continuances of hearings on motions shall not be granted except for good cause shown and upon the filing of a written notice of intention to move for such continuance with the Clerk, together with proof of service on all other parties two (2) court days prior to the hearing.

H. J. Motions and accompanying papers pursuant to Penal Code § 995 shall include the following:

1. No change.
2. No change.
3. No change.
4. No change.

~~I.~~ K. Each paragraph of any declaration shall be numbered sequentially. The original and all copies of exhibits and attachments shall be tabbed and shall be referred to in the pleadings or papers by tab identification. Each exhibit must be separated by a hard 8 ½ x 11 sheet with hard paper or plastic tabs extending below the bottom of the page, bearing the exhibit designation. (Effective January 1, 2012; Rule 3.5.1 renumbered effective January 1, 2006; adopted as Rule 18.1 effective July 1, 2004)

CHAPTER 7. PROBATE RULES

RULE 7.3 PRE-APPROVED MATTERS/PROBATE EXAMINERS

- A. No change
- B. The telephone “Hot-Line” is recorded daily at 3:00 p.m. 12–Noon, and contains a list of pre-approved and continued cases on the next day’s calendar. The telephone number is (559) 457-1888 (option 1).
- C. No change.
- D. A copy of the Probate Examiner Notes on all non-confidential matters is available upon request and also available on www.fresnosuperiorcourt.org.
- E. No change. (Effective January 1, 2012; Rule 7.3 renumbered effective January 1, 2006; adopted as Rule 72 effective January 1, 2004)

RULE 7.8 BLOCKED ACCOUNTS

7.8.1 General Provisions

- A. No change.
- B. No change.
- C. No change.
- D. **Maximum in Blocked Accounts.** In no event shall assets exceeding the maximum insured amount be held in any one federally insured depository. If it becomes unnecessary to transfer funds to an additional federally insured depository to comply with this rule, a request to transfer such funds may be submitted to the court on ex parte application, and the transfer shall be by an interbank or other direct transfer transaction unless otherwise approved or ordered by the court.
- E. No change.
- F. No change.
- G. No change.
- H. No change.
- I. No change. (Effective January 1, 2012; Rule 7.8.1 renumbered effective January 1, 2006; adopted as Rule 77.1 effective January 1, 2004)

7.8.3 Withdrawals from Minor's Blocked Account During Minority

A. No change.

B. If a withdrawal is requested for the purchase of a car, a copy of the proposed purchase/sale agreement shall be attached to the application showing the type of car, year, purchase price, and whether payment will be made in full or in specified installments. A binding agreement shall not be entered into before obtaining a court order. A casualty insurance quote shall be attached to the application showing public liability coverage at current state minimum limits per person and per accident for automobile insurance or policy limits equal for the funds which will remain on deposit after the purchase, whichever is greater. The application shall contain an explanation of who will pay for the insurance. A copy of the minor's current report card; a statement as to who will pay for the automobile's maintenance; and a statement of the current availability of public and alternate transportation shall also be submitted.

C. No change.

D. No change. (Effective January 1, 2012; Rule 7.8.3 renumbered effective January 1, 2006; adopted as Rule 77.3 effective January 1, 2004)

RULE 7.15 CONSERVATORSHIPS AND GUARDIANSHIPS

7.15.3 Temporary Conservatorships and Guardianships

A. **Filing Procedure.** The original and **two (2)** ~~three (3)~~ copies of the Petition for Appointment of Temporary Guardian or Conservator shall be presented to the Clerk for filing.

B. No change.

C. No change.

~~D. **Length of Appointment.** When granted, ex parte Temporary Guardianships and Conservatorships expire within thirty days, or on the first hearing date, whichever occurs first. If the temporary appointment is extended by the court, amended letters may be issued upon the request of the temporary guardian or conservator.~~ (Effective January 1, 2012; Rule 7.15.3 renumbered effective January 1, 2006; adopted as Rule 84.3 effective January 1, 2004)

7.15.5 ~~Consents by Non-English Speaking Persons~~

~~Consents signed by non-English speaking persons must be translated into the person's own language, signed, and filed. A translator certification stating that the translation is an accurate representation of the contents of the consent must accompany the foreign language consent. (Rule 7.15.5 renumbered effective January 1, 2006; adopted as Rule 84.5 effective January 1, 2004)~~

RULE 7.16 ATTORNEY'S FEES AND COMMISSIONS IN GUARDIANSHIP AND CONSERVATORSHIP

A. No change.

B. The court will allow a flat fee for attorney services, without the need to comply with Rule 7.16 (A) above, as follows:

1. Establishment of a conservatorship or guardianship and preparation of the first account: ~~\$2,500.00~~ \$2,000.00.

2. Court confirmed sale of real property: ~~\$1,250.00~~ \$1,000.00.

3. Attorney-prepared income tax returns: ~~\$600.00~~ \$500.00.

4. Each timely filed subsequent account: ~~\$1,250.00~~ \$1,000.00 per year.

5. If the account is not timely filed, compliance with Rule 7.16 (A), above, is required.

C. The court will allow a flat fee for guardians and conservators, without the need to comply with Rule 7.16 (A), above, as follows:

1. No change.

2. No change.

~~3. Preparation by the guardian or conservator of personal income tax returns for the ward or conservatee: \$500.00.~~

D. No change. (Effective January 1, 2012; Rule 7.16 renumbered effective January 1, 2006; adopted as Rule 85 effective July 1, 2004)