SUPERIOR COURT OF CALIFORNIA
COUNTY OF KERN

JUDGES

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Michael G. Bush
John D. Oglesby
Colette M. Humphrey
Craig G. Phillips
Robert S. Tafoya
David R. Lampe
John R. Brownlee
Judith K. Dulcich
John S. Somers
Michael E. Dellostritto
Raymonda B. Marquez
J. Eric Bradshaw
Charles R. Brehmer
Lorna H. Brumfield
Bryan K. Stainfield
Susan M. Gill
Jose R. Benavides
John W. Lua
Stephen D. Schuett
Thomas S. Clark
Brian M. McNamara
Kenneth G. Pritchard
Ralph Wm. Wyatt
David R. Zulfa
Marcos R. Camacho
David Wolf
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Gloria J. Cannon
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COURT EXECUTIVE OFFICER
CLERK OF THE COURT

Tamarah Harber-Pickens

Superior Court of California
County of Kern
1415 Truxtun Avenue
Bakersfield, CA 93301
(661) 868-4934

September 21, 2020

The proposed amendments to the Superior Court of California, County of Kern, Local Rules of Court, for January 1, 2021, have been posted for comment at www.kern.courts.ca.gov. A hard copy of the proposal is available on request.

1. Chapter I. General Rules
2. Chapter V. Criminal Rules

You may submit comments by e- mail to WMAdmin@kern.courts.ca.gov or mail to the following address:

Tamarah Harber-Pickens Court Executive Officer
Superior Court of California, County of Kern
1415 Truxtun Avenue
Bakersfield, CA 93301

All comments must be received by no later than 5:00 p.m. on Monday, November 2, 2020.

Sincerely,

Tamarah Harber-Pickens
Court Executive Officer
Superior Court of California, County of Kern

CHAPTER I. GENERAL RULES – PROPOSED CHANGES

Rule 1.2.3 Judicial Vacation Day Defined (Effective 1/1/21)

Vacation time is an approved absence from the court, or from a court-approved remote assignment, for one-half business day (four hours) or one full day (eight hours). Other absences listed in California Rules of Court, rule 10.603(c)(2)(H) are excluded from this definition.

Rule 1.6 Court Reporter Availability and Timely Submission of Bills (Adopted 1/1/06; rev. 1/1/19; rev. 1/1/21)

Pursuant to the requirements of Government Code section 68086 and California Rules of Court, rule 2.956(b)(1), court reporter availability for each Kern County court location is posted in that local court. In addition, court reporter availability for all Kern County Superior Court locations is posted on the court's website.

. . .

In order to allow the court to process timely refunds to parties to an appeal in accordance with California Rules of Court, rules 8.130(f)(3) and 8.834(d)(3), court reporters must submit their bills as required by these rules no later than 20 calendar days after the transcripts are completed. If the court does not receive the bills within this 20 calendar day period, it will refund all of the deposit to the designated parties.

Rule 1.10 Electronic Filing and Service (Effective 1/1/12; rev. 1/1/13; rev. 1/1/17; rev. 7/1/18; rev. 1/1/19; rev. 7/1/19; rev. 1/1/21)

This rule governs permissive and mandatory electronic filing and service of documents in the Superior Court of California, County of Kern. As authorized by Code of Civil Procedure (CCP) section 1010.6(d) and California Rules of Court (CRC), rule 2.253(b)(1), Mandatory Electronic Filing (E-File) will be required for represented parties on all Limited and Unlimited Civil case types, including Family Law cases, Probate cases, cases related to California Environmental Quality Act (CEQA), Civil Writ petition cases, and Unlawful Detainers. ~~Family Law cases, Probate cases, and~~ Habeas Corpus proceedings are not subject to the mandatory e-filing requirement ~~at this time.~~ and appeal-related documents cannot be e-filed at this time. (Effective 1/1/12; rev. 1/1/17; rev. 7/1/19; rev. 1/1/21)

Except as otherwise specified, t~~T~~his requirement is specific to all attorneys, justice partners, and vendors ~~in this area~~. Represented parties in ~~other civil cases including Family Law, Probate, and~~ Habeas Corpus proceedings, attorneys in proceedings filed under the Domestic Violence Prevention Act, attorneys in proceedings filed under the Elder Abuse and Dependent Adult Civil Protection Act, attorneys representing minors in Family Law or Probate proceedings, and

self-represented litigants are not required to E-File, but are encouraged to participate. (Effective 1/1/12; rev. 7/1/18; rev. 7/1/19; rev. 1/1/21)

. . .

j) Certain documents/filings are not eligible for submission through electronic filing and must be filed through conventional methods. These documents include:

. . .

12. Original Wills/Codicils; ~~and~~
13. Filings related to Surrogacies, Petitions to Declare Minors Free from Parental Care and Control, Petitions to Terminate Parental Rights, and Adoptions submitted to the Family Law Department; and ~~(Effective 7/1/18; rev. 7/1/19)~~
14. Any appeal-related documents. (Effective 7/1/18; rev. 7/1/19; rev. 1/1/21)

k) Foreign Registrations and/or filings requiring notarizations, certification, or apostilles must be electronically filed. However, originals must be lodged at least ten (10) days before any hearing on the matter. (Effective 1/1/21)

l) Applications for entry of a judgment that include an instrument, contract, or written obligation must be electronically filed and the original instrument must be filed at the Clerk's office via conventional methods. The original document(s) will then be cancelled and merged if the judgment is entered, in accordance with CRC rule 3.1806, after which the document will then be imaged and maintained in the electronic court record. The submitted document(s) will then be returned to the proffering party for safe-keeping. Parties must provide a suitable method of return along with the submitted document(s). If no method of return is included, the document(s) will be shredded and recycled. (Effective 7/1/18; rev. 7/1/19; renum. 1/1/21)

m) For CEQA petition cases the format of the administrative record must comply with CRC rules 3.2200 through 3.2208. The party lodging the administrative record must submit two (2) copies 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 non-electronic means. The party lodging the administrative record shall file electronically and serve a

Notice of Manual Filing for the administrative record. (Effective 7/1/19; renum. 1/1/21)

n) If a record in an administrative mandamus matter exceeds 100 pages in length, the party lodging the administrative record must submit two (2) copies 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 non-electronic means. The party lodging the administrative record shall file electronically and serve a Notice of Manual Filing for the administrative record. (Effective 1/1/21)

Rule 1.12 Elimination of Bias (Effective 1/1/21)

(a) The Kern County Superior Court (Court), in conjunction with the Kern County Bar Association (KCBA), establishes a Committee on the Elimination of Bias. The Court and KCBA adopts the procedures, goals, and guidelines contained within Title 10, Standard 10.20, Standards of Judicial Administration.

The purpose of the committee is to assist the Court in maintaining a courthouse environment free of bias and the appearance of bias.

(b) Informal Complaint Procedure

An informal complaint procedure will be developed and maintained by the Committee on the Elimination of Bias.

1. Complaints should be submitted in writing to the Presiding Judge or Court Executive Officer, and will be referred to the committee;
2. The procedure will not apply to anonymous complaints;
3. To the extent possible and unless disclosure is required by law, the Committee will protect the confidentiality of the complainant, the person who is the subject of the complaint, and other interested persons;
4. The procedure applies to incidents of bias relating to race, gender, religion, ethnicity, national origin, disability, age, sexual orientation, or socioeconomic status;
5. For those complaints that would warrant discipline if substantiated, the Committee will refer the complaint to the Presiding Judge with any recommended steps. If the complaint is about the Presiding Judge, the Committee will notify the Judicial Officer assigned to the committee and make recommendations; and
6. The complaint form shall contain a provision specifying that nothing in the procedure limits the ability of any person to submit a complaint of misconduct to an appropriate disciplinary body.

CHAPTER V. CRIMINAL - PROPOSED CHANGES

Rule 5.3.5 Penal Code Section 186.11 Provisional Remedies (Effective 1/1/21)

A. **Petition Initiating Proceeding Under Penal Code section 186.11**

1. A prosecuting agency seeking one or more of the provisional or protective remedies specified in Penal Code section 186.11(d)(2) must file a petition with the Criminal Division. The petition should be styled as a "Petition to Preserve Assets Under Penal Code § 186.11," or similar designation. The filing of the petition commences a new proceeding. The clerk's office will assign the petition an "FP" case number.

2. The petition must contain the allegations required under Penal Code section 186.11(d)(2), including the specific assets and property to be affected by an order under Penal Code section 186.11.

B. **Case Designation.** All notices, applications, pleadings, claims, supplemental petitions, and papers filed in the proceeding under Penal Code section 186.11 must list the assigned "FP" case number on the front page of the filing, and must also list the criminal proceeding case number to which it is pendent, e.g., "Case no. FP00000X [Pendent to BF00000X]."

C. **Order to Disclose Account Information; Supplemental Petition**

1. A prosecuting agency seeking an order requiring the disclosure of account information under Penal Code section 186.11(d)(5) must file an application for the order, which may be filed ex parte. The application should be styled as "Application for Order Disclosing Account Information Under Penal Code § 186.1(d)(5)," or similar designation. A proposed order must accompany the application. The application and proposed order will be submitted to a judge for review and action.

2. A supplemental petition identifying account information must contain the information required by Penal Code section 186.11(d)(5). A supplemental petition should be styled as a "Supplemental Petition Identifying Account Information," or similar designation, and successive supplemental petitions should indicate if previous supplemental petitions have been filed, e.g., "First Supplemental Petition Identifying Account Information," "Second Supplemental Petition Identifying Account Information," etc.

D. **Verified Claim by Person Claiming Interest in Property.** Any claim that is filed by a person who claims an interest in assets or property described in a petition, supplemental petition, or order granting provisional or protective relief, must be verified. A verified claim must describe the asset or property in which the person claims an interest, and state the nature and amount of that interest. A verified claim submitted to the court for filing should be styled as "Claim of [name of claimant] Asserting Interest in Property." A verified claim submitted to the court for filing must be accompanied by a proof of service on the prosecuting agency.

E. Hearing on Motion or Order to Show Cause ("OSC") re: Preservation of Property; Temporary Restraining Order ("TRO")

1. Concurrent with or subsequent to the filing of a petition under Penal Code section 186.11(d)(2), a prosecuting agency may schedule a hearing to obtain one or more orders described in Penal Code section 186.11(e) by: (a) serving and filing a noticed motion, or (b) obtaining from the court and serving an order to show cause ("OSC"). Hearing dates on noticed motions must be cleared with the Criminal Division before the motion is filed. An OSC may issue upon application to the court, which must describe the relief sought and applicable legal authority. An OSC may be issued ex parte, and the application must be accompanied by a separate proposed order. The proposed order should be styled as "Order to Show Cause re: Preliminary Injunction," or similar applicable designation, and should leave space for the court to insert the date, time and place of the hearing.

2. Pending the hearing on the noticed motion or OSC to obtain one or more of the orders described in Penal Code section 186.11(e), a temporary restraining order ("TRO") may issue, ex parte, upon application of the prosecuting agency. The application for a TRO must consist of: (a) an application describing the relief sought and applicable legal authority, (b) the sworn declaration of a peace officer required by Penal Code section 186.11(f)(1), and (c) the proposed TRO. Because the TRO is issued "pending" the hearing, it is limited in duration. The proposed TRO must include provisions that it is issued "pending the hearing on" the motion or OSC, and that the TRO "expires on" the date set for hearing on the motion or OSC, "unless the expiration date is extended by court order." If the TRO is sought concurrently with the application for an OSC, the TRO may be included as part of the OSC.

F. Request for Hearing by Defendant or Claimant

1. A defendant or a claimant who has filed a verified claim, who seeks a hearing under Penal Code section 186.11(f)(2) to determine if a TRO

should remain in effect, or if other relief should be granted, must serve on the prosecuting agency and file with the court a request for hearing.

2. The request for hearing should be styled as a "Request for Hearing by [name of person making request] Under Penal Code section 186.11(f)(2)," or similar designation.

3. The defendant or claimant should contact the Criminal Division clerk to clear a hearing date.