LIST OF AMENDMENTS TO THE CALIFORNIA RULES OF COURT and CALIFORNIA STANDARDS OF JUDICIAL ADMINISTRATION

Adopted by the Judicial Council of California on April 21, 2006,
effective July 1, 2006

Rule 14.5. Certificate of interested entities or persons

(a) Purpose and intent

The California Code of Judicial Ethics states the circumstances under which an appellate justice must disqualify himself or herself from a proceeding. The purpose of this rule is to provide justices of the Courts of Appeal with additional information to help them determine whether to disqualify themselves from a proceeding.

(b) Definitions

For purposes of this rule:

(1) "Certificate" means a Certificate of Interested Entities or Persons signed by appellate counsel or an unrepresented party.

(2) "Entity" means a corporation, a partnership, a firm, or any other association, but does not include a governmental entity or its agencies or a natural person.

(c) Serving and filing a certificate

(1) Each party must serve and file a certificate at the time it files its first document in the Court of Appeal. Each party must also include a copy of the certificate in its principal brief. The certificate must appear after the cover and before the tables.

(2) If a party fails to file a certificate as required under (1), the clerk must notify the party by mail that the party must file the certificate within 15 days after the clerk's notice is mailed and that failure to comply will result in one of the following sanctions:

(A) If the party is the appellant, the court will strike the document or dismiss the appeal; or

(B) If the party is the respondent, the court will strike the document or decide the appeal on the record, the opening brief, and any oral argument by the appellant.

(3) If the party fails to comply with the notice under (2), the court may impose the sanctions specified in the notice.

(d) Contents of certificate

(1) If an entity is a party, that party's certificate must list any other entity or person that the party knows has an ownership interest of 10 percent or more in the party.

(2) If a party knows of any other person or entity that has a financial or other interest in the outcome of the proceeding that the party reasonably believes the justices should consider in determining whether to disqualify themselves under canon 3E of the Code of Judicial Ethics, the party's certificate must list that entity or person and identify the nature of the interest of the person or entity. For purposes of this subdivision:

(A) A mutual or common investment fund's ownership of securities or bonds issued by an entity does not constitute a financial interest in that entity.

(B) An interest in the outcome of the proceeding does not arise solely because the entity or person is in the same industry, field of business, or regulatory category as a party and the case might establish a precedent that would affect that industry, field of business, or regulatory category.

(3) If the party knows of no entity or person that must be listed under (1) or (2), the party must so state in the certificate.

(e) Supplemental information

A party that learns of changed or additional information that must be disclosed under (d) must promptly serve and file a supplemental certificate in the reviewing court.

Rule 14.5 adopted effective July 1, 2006.

Advisory Committee Comment

Subdivision (d). This subdivision requires a party to list on its certificate entities or persons that the party *knows* have specified interests. This subdivision does not impose a duty on a party to gather information not already known by that party.

Rule 38. Notice of intent to file writ petition to review order setting hearing under Welfare and Institutions Code section 366.26

(a) Application

Rules 38–38.1 and 1436.5 govern writ petitions to review orders setting a hearing under Welfare and Institutions Code section 366.26. Rule 56 does not apply to petitions governed by these rules.

(Subd (a) amended effective July 1, 2006; previously amended effective January 1, 2006.)

(b)–(e) ***

(f) Sending the notice of intent

(1) When the notice of intent is filed, the superior court clerks must immediately mail a copy of the notice to:

(A)–(F) *******

(2) *******

(Subd (f) amended effective July 1, 2006; previously amended effective January 1, 2006.)

(g)–(i) ***

Rule 38 amended effective July 1, 2006; adopted effective January 1, 2005; previously amended effective January 1, 2006.

Rule 38.2. Notice of intent to file writ petition under Welfare and Institutions Code section 366.28 to review order designating specific placement of a dependent child after termination of parental rights

(a)–(g) ***

(h) Preparing the record

When the notice of intent is filed, the superior court clerk must:

(1) immediately notify the reporter by telephone and in writing to prepare a reporter's transcript of the oral proceedings at the hearing that resulted in

the order under review and to deliver the transcript to the clerk within 12 calendar days after the notice of intent is filed; and

(2) *******

(Subd (h) amended effective July 1, 2006; adopted as subd (g) effective January 1, 2005; previously relettered and amended effective January 1, 2006.)

(i)–(j) ***

Rule 38.2 amended effective July 1, 2006; adopted January 1, 2005; previously amended effective January 1, 2006.

Rule 56. Original proceedings

(a)–(b) ***

(c) Contents of supporting documents

(1) A petition that seeks review of a trial court ruling must be accompanied by an adequate record, including copies of:

(A) The ruling from which the petition seeks relief;

(B) All documents and exhibits submitted to the trial court supporting and opposing the petitioner's position;

(C) Any other documents or portions of documents submitted to the trial court that are necessary for a complete understanding of the case and the ruling under review; and

(D) A reporter's transcript of the oral proceedings that resulted in the ruling under review.

(2) If a transcript under (1)(D) is unavailable, the record must include a declaration by counsel:

(A) Explaining why the transcript is unavailable and fairly summarizing the proceedings, including counsel's arguments and any statement by the court supporting its ruling; or

(B) Stating that the transcript has been ordered, the date it was ordered, and the date it is expected to be filed, which must be a date ~~prior to~~ before any action requested of the reviewing court other than issuance of a temporary stay supported by other parts of the record.

(3) A declaration under (2) may omit a full summary of the proceedings if part of the relief sought is an order to prepare a transcript for use by an indigent criminal defendant in support of the petition and if the declaration demonstrates the petitioner's need for and entitlement to the transcript.

(4) In exigent circumstances, the petition may be filed without the documents required by (1)(A)–(C) if counsel files a declaration that explains the urgency and the circumstances making the documents unavailable and fairly summarizes their substance.

(5) If the petitioner does not submit the required record or explanations or does not present facts sufficient to excuse the failure to submit them, the court may summarily deny a stay request, the petition, or both.

(Subd (c) amended effective July 1, 2006; previously amended effective January 1, 2006.)

(d)–(h) ***

(i) Certificate of Interested Entities or Persons

(1) Each party must comply with the requirements of rule 14.5 concerning serving and filing a Certificate of Interested Entities or Persons.

(2) The petitioner's certificate must be included in the petition. The certificates of the respondent and real party in interest must be included in their preliminary opposition or, if no such opposition is filed, in their return, if any. The certificate must appear after the cover and before the tables.

(3) If a party fails to file a certificate as required under (1) and (2), the clerk must notify the party by mail that the party must file the certificate within 10 days after the clerk's notice is mailed and that failure to comply will result in one of the following sanctions:

(A) If the party is the petitioner, the court will strike the petition;

(B) If the party is the respondent or the real party in interest, the court will strike the document.

(4) If the party fails to comply with the notice under (3), the court may impose the sanctions specified in the notice.

(Subd (i) adopted effective July 1, 2006.)

~~(i)~~ (j) ***

(Subd (j) relettered effective July 1, 2006; adopted as subd (i) effective January 1, 2005.)

~~(j)~~ (k) ***

(Subd (k) relettered effective July 1, 2006; adopted as subd (j) effective January 1, 2005.)

~~(k)~~ (*l*) ***

(Subd (l) relettered effective July 1, 2006; adopted as subd (k) effective January 1, 2005.)

~~(*l*)~~ (m) ***

(Subd (m) relettered effective July 1, 2006; adopted as subd (l) effective January 1, 2005; previoulsy amended effective July 1, 2005.)

Rule 56 amended effective July 1, 2006; repealed and adopted effective January 1, 2005; previously amended effective July 1, 2005, and January 1, 2006.

Rule 57. Review of Workers' Compensation Appeals Board cases

(a)–(b) ***

(c) Certificate of Interested Entities or Persons

(1) Each party other than the board must comply with the requirements of rule 14.5 concerning serving and filing a Certificate of Interested Entities or Persons.

(2) The petitioner's certificate must be included in the petition and the real party in interest's certificate must be included in the answer. The certificate must appear after the cover and before the tables.

(3) If a party fails to file a certificate as required under (1) and (2), the clerk must notify the party by mail that the party must file the certificate within 10 days after the clerk's notice is mailed and that failure to comply will result in one of the following sanctions:

(A) If the party is the petitioner, the court will strike the petition;

(B) If the party is the real party in interest, the court will strike the document.

(4) If the party fails to comply with the notice under (3), the court may impose the sanctions specified in the notice.

(Subd (c) adopted effective July 1, 2006.)

Rule 57 amended effective July 1, 2006; repealed and adopted effective January 1, 2005.

Rule 58. Review of Public Utilities Commission cases

(a)–(b) ***

(c) Certificate of Interested Entities or Persons

(1) Each party other than the commission must comply with the requirements of rule 14.5 concerning serving and filing a Certificate of Interested Entities or Persons.

(2) The petitioner's certificate must be included in the petition and the real party in interest's certificate must be included in the answer. The certificate must appear after the cover and before the tables.

(3) If a party fails to file a certificate as required under (1) and (2), the clerk must notify the party by mail that the party must file the certificate within 10 days after the clerk's notice is mailed and that failure to comply will result in one of the following sanctions:

(A) If the party is the petitioner, the court will strike the petition;

(B) If the party is the real party in interest, the court will strike the document.

(4) If the party fails to comply with the notice under (3), the court may impose the sanctions specified in the notice.

(Subd (c) adopted effective July 1, 2006.)

Rule 58 amended effective July 1, 2006; repealed and adopted effective January 1, 2005.

Rule 59. Review of Agricultural Labor Relations Board and Public Employment Relations Board cases

(a)–(c) ***

(d) Certificate of Interested Entities or Persons

(1) Each party other than the board must comply with the requirements of rule 14.5 concerning serving and filing a Certificate of Interested Entities or Persons.

(2) The petitioner's certificate must be included in the petition and the real party in interest's certificate must be included in the answer. The certificate must appear after the cover and before the tables.

(3) If a party fails to file a certificate as required under (1) and (2), the clerk must notify the party by mail that the party must file the certificate within 10 days after the clerk's notice is mailed and that failure to comply will result in one of the following sanctions:

(A) If the party is the petitioner, the court will strike the petition;

(B) If the party is the real party in interest, the court will strike the document.

(4) If the party fails to comply with the notice under (3), the court may impose the sanctions specified in the notice.

(Subd (d) adopted effective July 1, 2006.)

Rule 59 amended effective July 1, 2006; repealed and adopted effective January 1, 2005.

Rule 243.20. Disqualifications and limitations

(a) [Code of Judicial Ethics] A temporary judge must disqualify himself or herself~~, and is limited from serving~~ as a temporary judge in proceedings~~,~~ as **provided** under the Code of Judicial Ethics.

(Subd (a) lettered effective July 1, 2006; adopted as unlettered subdivision effective July 1, 2006.)

(b) [Limitations on service] In addition to being disqualified as provided in (a), an attorney may not serve as a court-appointed temporary judge:

(1) If the attorney, in any type of case, is appearing on the same day in the same courthouse as an attorney or as a party;

(2) If the attorney, in the same type of case, is presently a party to any action or proceeding in the court; or

(3) If, in a family law or unlawful detainer case, one party is self-represented and the other party is represented by an attorney or is an attorney.

For good cause, the presiding judge may waive the limitations established in this subdivision.

(Subd (b) adopted effective July 1, 2006.)

(c) [Waiver of disqualifications or limitations]

(1) After a temporary judge who has determined himself or herself to be disqualified under the Code of Judicial Ethics or prohibited from serving under (b) has disclosed the basis for his or her disqualification or limitation on the record, the parties and their attorneys may agree to waive the disqualification or limitation and the temporary judge may accept the waiver. The temporary judge must not seek to induce a waiver and must avoid any effort to discover which attorneys or parties favored or opposed a waiver. The waiver must be in writing, must recite the basis for the disqualification or limitation, and must state that it was knowingly made. The waiver is effective only when signed by all parties and their attorneys and filed in the record.

(2) No waiver is permitted where the basis for the disqualification is any of the following:

(A) The temporary judge has a personal bias or prejudice concerning a party;

(B) The temporary judge has served as an attorney in the matter in controversy; or

(C) The temporary judge has been a material witness in the controversy.

(Subd (c) adopted effective July 1, 2006.

(d) [Late discovery of grounds for disqualification or limitation] In the event that grounds for disqualification or limitation are first learned of or arise after the temporary judge has made one or more rulings in a proceeding, but before the temporary judge has completed judicial action in the proceeding, the temporary judge, unless the disqualification or limitation is waived, must disqualify himself or herself, but in the absence of good cause the rulings the temporary judge has made up to that time must not be set aside by the judicial officer or temporary judge who replaces the temporary judge.

(Subd (d) adopted effective July 1, 2006.)

(e) [Notification of the court] Whenever a temporary judge determines himself or herself to be disqualified or limited from serving, the temporary judge must notify the presiding judge or the judge designated by the presiding judge of his or her withdrawal and must not further participate in the proceeding, unless his or her disqualification or limitation is waived by the parties as provided in (c).

(Subd (e) adopted effective July 1, 2006.)

(f) [Requests for disqualifications] A party may request that a temporary judge withdraw on the ground that he or she is disqualified or limited from serving. If a temporary judge who should disqualify himself or herself or who is limited from serving in a case fails to withdraw, a party may apply to the presiding judge under rule 243.18(e) of the California Rules of Court for a withdrawal of the stipulation. The presiding judge or the judge designated by the presiding judge must determine whether good cause exists for granting withdrawal of the stipulation.

(Subd (f) adopted effective July 1, 2006.)

Rule 243.20 amended effective July 1, 2006; adopted effective July 1, 2006.

Advisory Committee Comment

Subdivision (a) indicates that the rules concerning the disqualification of temporary judges are provided in the Code of Judicial Ethics. Subdivision (b) establishes additional limitations that prohibit attorneys from serving as court-appointed temporary judges under certain specified circumstances. Under subdivisions (c)–(e), the provisions of Code of Civil Procedure section 170.3 on waiver of disqualifications, the effect of late discovery of the grounds of disqualification, and notification of disqualification of judicial officers are made applicable to temporary judges. Under subdivision (f), requests for disqualification are handled as withdrawals of the stipulation to a temporary judge and are ruled on by the presiding judge. This procedure is different from that for seeking the disqualification of a judge under Code of Civil Procedure section 170.3.

Rule 243.31. Temporary judge—stipulation, order, oath, assignment, disclosure, and disqualification

(a)–(c) ***

(d) [Disclosure to the parties] In addition to any other disclosure required by law, no later than five days after designation as a temporary judge or, if the temporary judge is not aware of his or her designation or of a matter subject to disclosure at that time, as soon as practicable thereafter, a temporary judge must disclose to the parties~~:(1)~~ any matter subject to disclosure under the Code of Judicial Ethics~~; and~~

~~(2) Any personal or professional relationship known to the temporary judge that the temporary judge or the temporary judge's law firm has or has had with a party, attorney, or law firm in the current case~~.

(Subd (d) amended effective July 1, 2006; adopted as subd (c) effective July 1, 2001; previously amended and relettered effective July 1, 2006.)

(e) ***

(f) [Motion to withdraw stipulation] A motion to withdraw a stipulation for the appointment of a temporary judge must be supported by a declaration of facts establishing good cause for permitting the party to withdraw the stipulation, and must be heard by the presiding judge or a judge designated by the presiding judge. A declaration that a ruling is based on error of fact or law does not establish good cause for withdrawing a stipulation. Notice of the motion must be served and filed, and the moving party must mail or deliver a copy to the temporary judge. If the motion to withdraw the stipulation is based on grounds for the disqualification of the temporary judge first learned or arising after the temporary judge has made one or more rulings, but before the

temporary judge has completed judicial action in the proceeding, the provisions of rule 243.20~~(f)~~(d) apply. If a motion to withdraw a stipulation is granted, the presiding judge must assign the case for hearing or trial as promptly as possible.

(Subd (f) amended effective July 1, 2006; adopted as subd (f) effective July 1, 1993; previoulsy amended and relettered ans subd (g) effective July 1, 2001, and as subd (f) effective July 1, 2006.)

Rule 243.31 amended effective July 1, 2006; adopted as rule 244 effective January 1, 1999; previouulsy amended effective April 1, 1962, July 1, 1981, July 1, 1987, July 1, 1993, July 1 1995, January 1, 2001, and July 1, 2001; previously amended and renumbered effective July 1, 2006.

Rule 5.235. Ex parte communication in child custody proceedings

(a) **[Purpose]** Generally, ex parte communication is prohibited in legal proceedings. In child custody proceedings, Family Code section 216 recognizes specific circumstances in which ex parte communication is permitted between court-connected or court-appointed child custody mediators or evaluators and the attorney for any party, the court-appointed counsel for a child, or the court. This rule of court establishes mandatory statewide standards of practice relating to when, and between whom, ex parte communication is permitted in child custody proceedings. This rule applies to all court-ordered child custody mediations or evaluations. As in Family Code section 216, this rule of court does not restrict communications between a court-connected or court-appointed child custody mediator or evaluator and a party in a child custody proceeding who is self-represented or represented by counsel.

(b) **[Definitions]** For purposes of this rule,

(1) "Communication" includes any verbal statement made in person, by telephone, by voicemail, or by videoconferencing; any written statement, illustration, photograph, or other tangible item, contained in a letter, document, e-mail, or fax; or other equivalent means, either directly or through third parties.

(2) "Ex parte communication" is a direct or indirect communication on the substance of a pending case without the knowledge, presence, or consent of all parties involved in the matter.

(3) A "court-connected mediator or evaluator" is a superior court employee or a person under contract with a superior court who conducts child custody evaluations or mediations.

(4) A "court-appointed mediator or evaluator" is a professional in private practice appointed by the court to conduct a child custody evaluation or mediation.

(c) **[Ex parte communication prohibited]** In any child custody proceeding under the Family Code, ex parte communication is prohibited between court-connected or court-appointed mediators or evaluators and the attorney for any party, a court-appointed counsel for a child, or the court, except as provided by this rule.

(d) **[Exception for parties' stipulation]** The parties may enter into a stipulation either in open court or in writing to allow ex parte communication between a court-connected or court-appointed mediator or evaluator and:

(1) The attorney for any party; or

(2) The court.

(e) **[Ex parte communication permitted]** In any proceeding under the Family Code, ex parte communication is permitted between a court-connected or court-appointed mediator or evaluator and (1) the attorney for any party, (2) the court-appointed counsel for a child, or (3) the court, only if:

(1) The communication is necessary to schedule an appointment;

(2) The communication is necessary to investigate or disclose an actual or potential conflict of interest or dual relationship as required under California Rules of Court, rule 5.210(h)(10) and (h)(12);

(3) The court-appointed counsel for a child is interviewing a mediator as provided by Family Code section 3151(c)(5);

(4) The court expressly authorizes ex parte communication between the mediator or evaluator and court-appointed counsel for a child in circumstances other than described in (3); or

(5) The mediator or evaluator is informing the court of the belief that a restraining order is necessary to prevent an imminent risk to the physical safety of the child or party.

(f) **[Exception for mandated duties and responsibilities]** This rule does not prohibit ex parte communication for the purpose of fulfilling the duties and responsibilities that:

(1) A mediator or evaluator may have as a mandated reporter of suspected child abuse;

(2) A mediator or evaluator may have to warn of threatened violent behavior against a reasonably identifiable victim or victims;

(3) A mediator or evaluator may have to address a case involving allegations of domestic violence under Family Code sections 3113, 3181, and 3192 and California Rules of Court, rule 5.215;

(4) The court may have to investigate complaints.

Rule 5.235 adopted effective July 1, 2006.

Rule 1402. Judicial Council forms

(a) ***

(b) **[Electronically produced forms]** The forms applicable to ~~the~~ juvenile court may be produced entirely by computer, word-processor printer, or similar process, or may be produced by the California State Department of Social Services Child Welfare Systems Case Management System.

(Subd (b) amended effective July 1, 2006; adopted as subd (c) effective July 1, 1991; amended and relettered effective January 1, 2001; previously amended effective January 1, 1993, January 1, 1998, and January 1, 2006.)

(c) ***

Rule 1402 amended effective July 1, 2006; adopted effective January 1, 1991; previously amended effective July 1, 1991, January 1, 1992, July 1, 1992, January 1, 1993, January 1, 1994, January 1, 1998, January 1, 2001, and January 1, 2006.

Rule 1413. Parentage

(a)–(b) ***

(c) [Voluntary declaration] If a voluntary declaration as described in Family Code section 7570 et seq. has been executed and filed with the California Department of Social Services, the declaration ~~will~~ establishes the paternity of a child and ~~will have~~ has the same force and effect as a judgment of paternity by a court.

(Subd (c) amended effective July 1, 2006; adopted effective January 1, 2001; previously amended effective January 1, 2006.)

(d)–(h) ***

Rule 1413 amended effective July 1, 2006; adopted effective July 1, 1995; previously amended effective January 1, 1999, January 1, 2001, and January 1, 2006.

Rule 1436.5. Writ petition after orders setting hearing under section 366.26; appeal

(a)–(b) ***

(c) [Appeal from orders at hearing under section 366.26] An appeal of a judgment, order, or decree under section 366.26 may challenge the findings and orders made by the court at that hearing. The findings and orders setting a hearing under section 366.26 may be reviewed on appeal following the order of the 366.26 hearing only if the following have occurred:

(1)–(2) *******

(Subd (c) amended effective July 1, 2006; previously amended effective January 1, 2006.)

(d)–(*l*) ***

Rule 1436.5 amended effective July 1, 2006; adopted effective January 1, 1995; previously amended effective July 1, 1995, and January 1, 1996.

Rule 1462. Eighteen-month review hearing

(a)–(b) ***

(c) [Conduct of hearing (§ 366.22)] At the hearing the court must state on the record that the court has read and considered the report of petitioner, the report of any Court Appointed Special Advocate (CASA) volunteer, any report submitted by the child's caregiver under section 366.21(d), and other evidence, and must proceed as follows:

(1)–(6) *******

(7) A judgment or an order setting a hearing under section 366.26 is not ~~an~~ immediately appealable. Review may be sought only by filing Judicial Council form *Petition for Extraordinary Writ (Juvenile Dependency)* (JV-825) or other petition for extraordinary writ. If a party wishes to preserve any right to review on appeal of the findings and orders made under this rule, the party is required to seek an extraordinary writ under rules 38, 38.1, and 1436.5.

(8)–(11) *** * ***

(Subd (c) amended effective July 1, 2006; repealed and adopted as subd (b) effective January 1, 1990; previously amended effective July 1, 1991, January 1, 1992, January 1, 1993, January 1, 1995, July 1, 1995, January 1, 1999, July 1, 1999, and January 1, 2006; amended and relettered effective January 1, 2005.)

(d) ***

Rule 1462 amended effective July 1, 2006; repealed and adopted effective January 1, 1990; previously amended effective July 1, 1991, January 1, 1992, January 1, 1993, January 1, 1994, January 1, 1995, July 1, 1995, July 1, 1997, January 1, 1999, July 1, 1999, January 1, 2001, January 1, 2005, and January 1, 2006.

Rule 1463.1. Prospective adoptive parent designation (§ 366.26(n))

(a) [Request procedure] A dependent child's caregiver may be designated as a prospective adoptive parent. The court may make the designation on its own motion or upon a request by a caregiver, the child, a social worker, or the attorney for any of these parties.

(1) A request for designation as a prospective adoptive parent may be made at a hearing where parental rights are terminated or thereafter, whether or not the child's removal from the home is at issue.

(2) A request may be made orally.

(3) If a request for prospective adoptive parent designation is made in writing, it must be made on form JV-321, *Request for Prospective Adoptive Parent Designation, Notice, and Order*.

(4) The address and telephone number of the caregiver and the child may be kept confidential by filing form JV-322, *Confidential Information—Prospective Adoptive Parent*, with form JV-321. Form JV-322 must be kept in the court file under seal, and only the court, the child's attorney, the agency, and the child's CASA volunteer may have access to this information.

(b) [Criteria for designation as prospective adoptive parent] A caregiver must meet the following criteria to be designated as a prospective adoptive parent:

(1) The child has lived with the caregiver for at least six months;

(2) The caregiver currently expresses a commitment to adopt the child; and

(3) The caregiver has taken at least one step to facilitate the adoption process. Steps to facilitate the adoption process include but are not limited to:

(A) Applying for an adoption home study;

(B) Cooperating with an adoption home study;

(C) Being designated by the court or the licensed adoption agency as the adoptive family;

(D) Requesting de facto parent status;

(E) Signing an adoptive placement agreement;

(F) Discussing a postadoption contact agreement with the social worker, child's attorney, child's CASA volunteer, adoption agency, or court;

(G) Working to overcome any impediments that have been identified by the California Department of Social Services and the licensed adoption agency; and

(H) Attending any of the classes required of prospective adoptive parents.

(c) [Hearing on request for prospective adoptive parent designation] The court must evaluate whether the caregiver meets the criteria in (b).

(1) The petitioner must show on the request that the caregiver meets the criteria in (b).

(2) If the court finds that the petitioner does not show that the caregiver meets the criteria in (b), the court may deny the request without a hearing.

(3) If the court finds that the petitioner has shown that the current caregiver meets the criteria in (b), the court must set a hearing as set forth in (4) below.

(4) If it appears to the court that the request for designation as a prospective adoptive parent will be contested, or if the court wants to receive further evidence on the request, the court must set a hearing.

(A) If the request for designation is made at the same time as an objection to removal, the court must set a hearing as follows:

(i) The hearing must be set as soon as possible and not later than five court days after the objection is filed with the court.

(ii) If the court for good cause is unable to set the matter for hearing five court days after the petition is filed, the court must set the matter for hearing as soon as possible.

(iii) The matter may be set for hearing more than five court days after the objection is filed if this delay is necessary to allow participation by the child's identified Indian tribe or the child's Indian custodian.

(B) If the request for designation is made before a request for removal is filed or an emergency removal has occurred, the court must order that the hearing be set at a time within 30 calendar days after the filing of the request for designation.

(5) If all parties stipulate to the request for designation of the caregiver as a prospective adoptive parent, the court may order the designation without a hearing.

(d) [Notice of designation hearing] After the court has ordered a hearing on a request for prospective adoptive parent designation, notice of the hearing must be as described below.

(1) The following people must be noticed:

(A) The adoption agency;

(B) The current caregiver,

(C) The child's attorney;

(D) The child, if the child is 10 years of age or older;

(E) The child's identified Indian tribe if any;

(F) The child's Indian custodian if any; and

(G) The child's CASA program if any.

(2) If the request for designation was made at the same time as a request for hearing on a proposed or emergency removal, notice of the designation hearing must be provided with notice of the proposed removal hearing, as set forth in rule 1463.3.

(3) If the request for designation was made before a request for removal was filed or before an emergency removal occurred, notice must be as follows:

(A) Service of the notice must be either by first-class mail sent at least 15 calendar days before the hearing date to the last known address of the person to be noticed, or by personal service on the person at least 10 calendar days before the hearing.

(B) Form JV-321, *Request for Prospective Adoptive Parent Designation, Notice, and Order*, must be used to provide notice of a hearing on the request for prospective adoptive parent designation.

(C) The clerk must provide notice of the hearing to the participants listed in (1) above, if the court, caregiver, or child requested the hearing.

(D) The child's attorney must provide notice of the hearing to the participants listed in (1) above, if the child's attorney requested the hearing.

(E) Proof of notice on form JV-325, *Proof of Notice of Hearing*, must be filed with the court prior to the hearing on the request for prospective adoptive parent designation.

(e) [Termination of designation] If the prospective adoptive parent no longer meets the criteria in rule 1463.1(b), a request to vacate the order designating the caregiver as a prospective adoptive parent may be filed under section 388 and rule 1432.

(f) [Confidentiality] If the telephone or address of the caregiver or the child is confidential, all forms must be kept in the court file under seal. Only the court, the child's attorney, the agency, and the child's CASA volunteer may have access to this information.

Rule 1463.1 adopted effective July 1, 2006.

Rule 1463.3. Proposed removal (§ 366.26(n))

(a) [Application of rule] This rule applies, after termination of parental rights, to the removal by the Department of Social Services (DSS) or a licensed adoption agency of a dependent child from a prospective adoptive parent under rule 1463.1(b) or from a caregiver who may meet the criteria for designation as a prospective adoptive parent under rule 1463.1(b). This rule does not apply if the caregiver requests the child's removal.

(b) [Participants to be served with notice] Before removing a child from the home of a prospective adoptive parent under rule 1463.1(b) or from the home of a caregiver who may meet the criteria of a prospective adoptive parent under rule 1463.1(b), and as soon as possible after a decision is made to remove the child, the agency must notify the following participants of the proposed removal:

(1) The court;

(2) The current caregiver, if that caregiver either is a designated prospective adoptive parent or, on the date of service of the notice, meets the criteria in rule 1463.1(b);

(3) The child's attorney;

(4) The child, if the child is 10 years of age or older;

(5) The child's identified Indian tribe if any;

(6) The child's Indian custodian if any; and

(7) The child's CASA program if any.

(c) [Form of notice] DSS or the agency must provide notice on form JV-323, *Notice of Intent to Remove Child and Proof of Notice, Objection to Removal, and Order After Hearing.*

(d) [Service of notice] DSS or the agency must serve notice of its intent to remove a child as follows:

(1) DSS or the agency must serve notice either by first-class mail, sent to the last known address of the person to be noticed, or by personal service.

(2) If service is by first-class mail, service is completed and time to respond is extended by five calendar days.

(3) Notice to the child's identified Indian tribe and Indian custodian must be given under rule 1439.

(4) Proof of service of the notice on form JV-323, *Notice of Intent to Remove Child and Proof of Notice, Objection to Removal, and Order After Hearing* must be filed with the court.

(e) [Objection to proposed removal] Each participant who receives notice under (b) may object to the intent to remove the child and may request a hearing.

(1) A request for hearing on the proposed removal must be made on form JV-323, *Notice of Intent to Remove Child and Proof of Notice, Objection to Removal, and Order After Hearing.*

(2) A request for hearing on the proposed removal must be made within five court or seven calendar days from date of notification, whichever is longer. If service is by mail, time to respond is extended by five calendar days.

(3) The court must order a hearing as follows:

(A) The hearing must be set as soon as possible and not later than five court days after the objection is filed with the court.

(B) If the court for good cause is unable to set the matter for hearing five court days after the petition is filed, the court must set the matter for hearing as soon as possible.

(C) The matter may be set for hearing more than five court days after the objection is filed if this delay is necessary to allow participation by the child's identified Indian tribe or the child's Indian custodian.

(f) [Notice of hearing on proposed removal] After the court has ordered a hearing on an intent to remove a child, notice of the hearing must be as follows:

(1) The clerk must provide notice of the hearing to the agency and the participants listed in (b) above, if the court, caregiver, or child requested the hearing.

(2) The child's attorney must provide notice of the hearing to the agency and the participants listed in (b) above, if the child's attorney requested the hearing.

(3) Notice must be either by personal service of form JV-323, *Notice of Intent to Remove Child and Proof of Notice, Objection to Removal, and Order After Hearing*, or by telephone. Telephone notice must include the reasons for and against the removal, as indicated on the form.

(4) Proof of notice on form JV-325, *Proof of Notice of Hearing,* must be filed with the court before the hearing on the intent to remove the child.

(g) [Burden of proof] At a hearing on an intent to remove the child, the agency intending to remove the child must prove by a preponderance of the evidence that the proposed removal is in the best interest of the child.

(h) [Confidentiality] If the telephone or address of the caregiver or the child is confidential, all forms must be kept in the court file under seal. Only the court, the child's attorney, the agency, and the child's CASA volunteer may have access to this information.

(i) [Appeal] If the court order made after a hearing on an intent to remove a child is appealed, the appeal must be made under rules 38.2 and 38.3.

Rule 1463.3 adopted effective July 1, 2006.

Rule 1463.5. Emergency removal (§ 366.26(n))

(a) [Application of rule] This rule applies, after termination of parental rights, to the removal by the Department of Social Services (DSS) or a licensed adoption agency of a dependent child from a prospective adoptive parent under rule 1463.1(b) or from a caregiver who may meet the criteria for designation as a prospective adoptive parent under rule 1463.1(b) when the DSS or the licensed adoption agency has determined a removal must occur immediately due to a risk of physical or emotional harm. This rule does not apply if the child's removal is carried out at the request of the caregiver.

(b) [Participants to be noticed] After removing a child from the home of a prospective adoptive parent under rule 1463.1(b), or from the home of a caregiver who may meet the criteria of a prospective adoptive parent under rule 1463.1(b), because of immediate risk of physical or emotional harm, the agency must notify the following participants of the emergency removal:

(1) The court;

(2) The current caregiver, if that caregiver either is a designated prospective adoptive parent or, on the date of service of the notice, meets the criteria in rule 1463.1(b);

(3) The child's attorney;

(4) The child if the child is 10 years of age or older;

(5) The child's identified Indian tribe if any;

(6) The child's Indian custodian if any; and

(7) The child's CASA program if any.

(c) [Form of notice] Form JV-324, *Notice of Emergency Removal, Objection to Removal, and Order After Hearing*, must be used to provide notice of an emergency removal, as described below.

(1) The agency must provide notice of the emergency removal as soon as possible but no later than two court days after the removal.

(2) Notice must be either by telephone or by personal service of the form.

(3) Telephone notice must include the reasons for removal as indicated on the form, and notice of the right to object to the removal.

(4) Whenever possible, the agency, at the time of the removal, must give a blank copy of the form to the caregiver and if the child is 10 years of age or older, the child.

(5) Notice to the court must be by filing of the form with the court. The proof of notice included on the form must be completed when the form is filed with the court.

(d) [Objection to emergency removal] Each participant who receives notice under (b) may object to the removal of the child and may request a hearing.

(1) A request for hearing on the emergency removal must be made on form JV-324, *Notice of Emergency Removal, Objection to Removal, and Order After Hearing.*

(2) The court must order a hearing as follows:

(A) The hearing must be set as soon as possible and not later than five court days after the objection is filed with the court.

(B) If the court for good cause is unable to set the matter for hearing within five court days after the petition is filed, the court must set the matter for hearing as soon as possible.

(C) The matter may be set for hearing more than five court days after the objection is filed if this delay is necessary to allow participation by the child's identified Indian tribe or the child's Indian custodian.

(e) [Notice of emergency removal hearing] After the court has ordered a hearing on an emergency removal, notice of the hearing must be as follows:

(1) Notice must be either by personal service of form JV-324, *Notice of Emergency Removal, Objection to Removal, and Order After Hearing,* or by telephone. The telephone notice must include the reasons for and against the removal, as indicated on the form.

(2) The clerk must provide notice of the hearing to the agency and the participants listed in (b) above, if the court, the caregiver, or the child requested the hearing.

(3) The child's attorney must provide notice of the hearing to the agency and the participants listed in (b) above, if the child's attorney requested a hearing.

(4) Proof of notice on form JV-324, *Notice of Emergency Removal, Objection to Removal, and Order After Hearing,* must be filed with the court before the hearing on the emergency removal.

(f) [Burden of proof] At a hearing on an emergency removal, the agency that removed the child must prove by a preponderance of the evidence that the removal is in the best interest of the child.

(g) [Confidentiality] If the telephone or address of the caregiver or the child is confidential, all forms must be kept in the court file under seal. Only the court, the child's attorney, the agency, and the child's CASA volunteer and program may have access to this information.

Rule 1463.5 adopted effective July 1, 2006.

Rule 1496.2. Appointment of legal guardians for wards of the juvenile court; modification or termination of guardianship

(a)–(e) ***

(f) [Findings and orders] If the court finds that establishment of a legal guardianship is necessary or convenient, and consistent with the rehabilitation and protection of the minor and with public safety, the court must appoint a legal guardian and order the clerk to issue letters of guardianship (Judicial Council form *Letters of Guardianship (Juvenile)* (JV-~~325~~ 330).)

(1)–(2) *******

(Subd (f) amended effective July 1, 2006.)

(g) ***

Rule 1496.2 amended effective July 1, 2006; adopted effective January 1, 2004.)

Rule 1520. Motions filed in the trial court

(a) ***

(b) [Permission to submit a petition for coordination]

(1)–(2) *******

(3) *(Stay permitted pending preparation of petition)* To provide sufficient time for a party to submit a petition, the presiding judge may stay all related actions pending in that court for a reasonable time not to exceed 30 ~~court or~~ calendar days.

(Subd (b) amended effective July 1, 2006; previously amended effective January 1, 1983, and January 1, 2005.)

Rule 1520 amended effective July 1, 2006; adopted effective January 1, 1974; previously amended effective January 1, 1983, and January 1, 2005.

Rule 1542. Remand of action or claim

The coordination trial judge may at any time remand a coordinated action or any severable claim or issue in that action to the court in which the action was pending at the time the coordination of that action was ordered. Remand may be made on the stipulation of all parties or on the basis of evidence received at a hearing on the court's own motion or on the motion of any party to any coordinated action. No action or severable claim or issue in that action may be remanded over the objection of any party unless the evidence demonstrates a material change in the circumstances that are relevant to the criteria for coordination under Code of Civil Procedure section 404.1. If the order of remand requires that the action be transferred, the provisions of rule 1543~~(b)~~(c) and (d) are applicable to the transfer. A remanded action is no longer part of the coordination proceedings for purposes of the rules in this chapter.

Rule 1542 amended effective July 1, 2006; adopted effective January 1, 1974; previously amended effective January 1, 2005.

Rule 2006. Direct filing

(a)–(f) ***

~~**(g) [Facsimile filing fee]** In addition to any other fee imposed by law, a party filing a document by fax directly with a court shall pay a fee of $1 for each page of the document.~~

(Subd (g) repealed effective July 1, 2006.)

Rule 2006 amended effective July 1, 2006; adopted effective March 1, 1992.

Rule 6.603. Authority and duties of presiding judge

(a)–(b) ***

(c) [Duties]

(1)–(3) *******

(4) *(Oversight of judicial officers)* The presiding judge shall:

(A) [Judges] Notify the Commission on Judicial Performance of

(i) A judge's substantial failure to perform judicial duties, including but not limited to any habitual neglect of duty, persistent refusal to carry out assignments as assigned ~~but~~ by the presiding judge, or persistent refusal to carry out the directives of the presiding judge as authorized by the rules of court; or

(ii) *******

(B)–(E) *******

(5)–(11) *******

(Subd (c) amended effective July 1, 2006; previously amended effective January 1, 2001, January 1, 2002, and January 1, 2006.)

(d) ***

Rule 6.603 amended effective July 1, 2006; adopted and amended effective January 1, 2001; previously amended effective January 1, 2002, and January 1, 2006.

Rule 6.712. Fees to be set by the court

(a) ***

(b) [Approved fees] The Judicial Council authorizes courts to charge a reasonable fee not to exceed costs for the following products and services unless courts are prohibited by law from charging a fee for, or providing, the product or service:

(1) Forms;

(2) Packages of forms;

(3) Information materials;

(4) Publications, including books, pamphlets, and local rules;

(5) Compact discs;

(6) DVDs;

(7) Audiotapes;

(8) Videotapes;

(9) Microfiches;

(10) Envelopes;

(11) Postage;

(12) Shipping;

(13) Off-site retrieval of documents;

(14) Direct fax filing under rule 2006 (fee per page);

(15) Returning filed-stamped copies of documents by fax to persons who request that a faxed copy be sent to them;

~~(9)~~(16) Training programs for attorneys who serve as court-appointed temporary judges, including the materials and food provided to the participants; and

~~(10)~~(17) Other training programs or events~~,~~ ~~offered by the court for members of the public~~ including materials and food provided to the participants.

(Subd (b) amended effective July 1, 2006.)

(c)–(f) ***

(g) [Procedure for adoption of fee] ~~Beginning January 1, 2006, a court may charge a fee authorized under (b) by determining the reasonable amount of the fee not to exceed costs under (c) and (d), providing the Administrative Office of the Courts with the information about the fee required under (e), and notifying the public of the fee under (f). After July 1, 2006,~~ If a court proposes to change any fee authorized under (b) that it is already charging or to charge any new fee authorized under (b), the court must follow the procedures for adopting or amending a local rule under rule 981 of the California Rules of Court.

(Subd (g) amended effective July 1, 2006.)

Rule 6.712 amended effective July 1, 2006; adopted effective January 1, 2006.

Rule 7.1010. Qualifications and continuing education requirements for private professional guardians

(a) [Definitions] For purposes of this rule:

(1)–(4) *******

(5) The term "private professional guardian" has the meaning specified in Probate Code section 2341(b), including a guardian of one unrelated minor and a guardian of the person of one or more unrelated minors whom an appointing court has required to comply with article 4 of chapter 4 of part 4 of division 4 of that code (commencing with section 2340).

(6) *******

(Subd (a) amended effective July 1, 2006.)

(b) [Qualifications for appointment] Except as otherwise provided in this rule, effective January 1, 2006, a court may not appoint a private professional guardian as guardian of ~~the estate or guardian of the person and estate of~~ an unrelated minor unless on the date of the order of appointment, the private professional guardian:

(1)–(4) *******

(Subd (b) amended effective July 1, 2006.)

(c)–(i) ***

(j) [~~Exemption of~~ Discretion concerning certain guardians of the person] Notwithstanding any other provision of this rule, ~~a private professional guardian of the person only of two or more unrelated minors is exempt from the requirements of this rule~~ in the exercise of its discretion, a court that requires a guardian of the person to comply with the provisions of article 4 of chapter 4 of part 4 of division 4 of the Probate Code (commencing with section 2340) because the guardian receives compensation may exempt that guardian from some or all of the requirements of this rule.

(Subd (j) amended effective July 1, 2006.)

Rule 7.1010 amended effective July 1, 2006; adopted effective January 1, 2006.