

The courts endorse the Attorney Code of Conduct adopted by the San Diego County Bar Association and hereby encourage all attorneys practicing before them to comply with these guidelines. The Code states:

#### **GENERAL**

- A.** Lawyers must observe all rules of law, including the California Rules of Professional Conduct and the State Bar Act, particularly Business and Professions Code section 6068.
- B.** Lawyers should honor their commitments.
- C.** Lawyers should honor and maintain the integrity of our system of justice.
- D.** Lawyers should not compromise their integrity for the sake of a client, case or cause.
- E.** Lawyers should conduct themselves in a professional manner.
- F.** Lawyers should be guided by a fundamental sense of fair play in all professional dealings.

#### **DUTIES OWED IN PROCEEDINGS BEFORE THE COURT**

- A.** Lawyers should always be courteous and respectful to the court.
- B.** Lawyers should always be candid with the court.
- C.** Lawyers and clients appearing in court should dress neatly and appropriately.
- D.** Lawyers should be on time.
- E.** Lawyers should be prepared for all court appearances.
- F.** Lawyers should attempt to resolve, by agreement, their differences relating to procedural and discovery matters.
- G.** Lawyers should discourage and decline to participate in litigation that is without merit or is designed primarily to harass or drain the financial resources of the opposing party.
- H.** Lawyers should avoid any communication, direct or indirect, about a pending case with a judge except as permitted by court rules or otherwise authorized by law.
- I.** Lawyers should refrain from impugning the integrity of the judicial system, its proceedings, or its members.

## **DUTIES OWED TO MEMBERS OF THE BAR**

**A.** Lawyers must remember that conflicts with opposing counsel are professional and not personal; vigorous advocacy is not inconsistent with professional courtesy.

**B.** Lawyers should treat adverse witnesses, litigants and opposing counsel with common courtesy, good manners, fairness, and due consideration.

**C.** Lawyers should not be influenced by ill feelings or anger between clients in their conduct, attitude or demeanor toward opposing counsel.

**D.** Lawyers should conduct themselves in discovery proceedings as they would if a judicial officer were present.

**E.** Lawyers should not use discovery to harass the opposition or for any improper purpose.

**F.** Lawyers should not intentionally make any misrepresentation to an opponent.

**G.** Lawyers should not arbitrarily or unreasonably withhold consent to a just and reasonable request for cooperation or accommodation.

**H.** Lawyers should not attribute to an opponent a position not clearly taken by the opponent.

**I.** Letters intended to make a record should be scrupulously accurate.

**J.** Lawyers should not propose stipulations in the presence of the trier of fact unless previously agreed to by the opponent.

**K.** Lawyers should avoid interrupting an opponent's legal argument unless there is a legitimate basis for an appropriate objection.

**L.** Lawyers in court should address opposing lawyers through the court.

**M.** Lawyers should not seek sanctions against another lawyer to obtain a tactical advantage or for any other improper purpose.

**N.** Lawyers should inspire and encourage opposing counsel to conform to the standards in this code and to amicably resolve related disputes promptly, fairly and reasonably, with resort to the court for judicial relief only if necessary.

**O.** Lawyers should conduct themselves so that they may conclude each case with a handshake with the opposing lawyer.

**DIVISION I  
GENERAL AND ADMINISTRATIVE**

**CHAPTER 1  
SCOPE OF RULES**

These rules apply to all cases filed in or transferred to the courts of San Diego County.

**Rule 1.1.1**

**Construction Citation and Effect of Rules**

These rules are known and cited as the "San Diego Superior Court Rules" and are at all times supplementary to and subject to statutes, the California Rules of Court, and any rules adopted by the Judicial Council and are to be construed and applied so they do not conflict with such rules and statutes. These rules have no retroactive effect or application.

(Adopted 1/1/1998; Rev. 1/1/2000; Rev. 1/1/2004; Renum. 1/1/2006)

**Rule 1.1.2**

**Construction and Application of Rules**

These rules will be construed to secure the efficient administration of the business of the court and to promote and facilitate the administration of justice by the court. Division, section, rule, and paragraph headings do not affect the scope, meaning, or intent of the provisions of these rules. If any part of a rule is held invalid, all valid parts that are severable from the invalid parts remain in effect. If a rule is held invalid in one or more of its applications, the rule remains in effect in all valid applications that are severable from the invalid applications.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 1/1/2006)

**Rule 1.1.3**

**Definition of Words**

The definitions set forth in the California Rules of Court for the trial courts apply to these rules with equal force and for all purposes, unless the context or the subject matter requires otherwise.

"Answer" includes response.

"Case management conference" includes what was formerly referred to as "status conference."

"Complaint" includes cross-complaint and petition.

"County" means the County of San Diego, State of California.

"Court" means the Superior Court of the County of San Diego and includes any judge, commissioner, referee, and temporary judge currently serving on the bench of any division in the county.

"Day" means a calendar day, unless otherwise specified.

"Defendant" includes cross-defendant and respondent.

"Party," or other designation of a party, includes such party's attorney of record.

"Plaintiff" includes cross-complainant and petitioner.

"Rule" refers to a rule of the San Diego Superior Court, unless otherwise indicated.

(Adopted 1/1/1998; Rev. 1/1/1999; Rev. 1/1/2000; Rev. 1/1/2004; Renum. 1/1/2006)

**Rule 1.1.4**

**New, Amended, Repealed Rules**

Any rule may be amended or repealed, and new rules may be added by majority vote of the judges of the San Diego Superior Court.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 1/1/2006)

**CHAPTER 2  
GENERAL RULES**

**Rule 1.2.1**

**Policy Against Bias**

It is the policy of the court to provide an environment free of all types of bias, prejudice, any kind of discrimination, or unfair practice. All judges, commissioners, referees, court officers, and court attachés must perform their duties in a manner calculated to prevent any such conduct, either by court personnel or by those

appearing in court in any capacity. This rule does not preclude legitimate comment or advocacy when race, gender, religion, national origin, disability, age, sexual orientation, social economy, or other similar factors are issues in court proceedings.

Any violation of this policy by any judge, commissioner, referee, court officer, or court attaché should be reported directly to the presiding judge or executive officer, or assistant executive officer of the division in which the alleged violation occurred. Any violation of this policy by persons appearing in court should be reported directly to the judicial officer before whom the proceedings were conducted.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Renum. 1/1/2006)

### **Rule 1.2.2**

#### **Departments, Divisions of the Court, and Venue**

**A.** The court consists of all the departments and divisions wherever they may be located and whatever their function. These include all facilities located within the North County, East County, South County, and Central Divisions. The hours of operation are published in the professional and legal newspapers in the county, on the court's website, and posted in each courthouse.

**B.** In addition to the trial departments of each division, there is a presiding or supervising department and other specialized departments as determined by the presiding judge. The supervising judge at each location is responsible for the administrative and calendar operations of the departments located there and for assignment of proceedings in those cases that are filed there.

**C.** Except as set forth otherwise below or elsewhere provided in these rules, venue for all cases will be according to the zip codes found on the Court's website at <http://www.sdcourt.ca.gov>.

**D.** The following matters must be filed in the Central Division:

1. Matters now heard on the mental health calendar of the court, including all proceedings under the Lanterman-Petris-Short Act, except permanent conservatorships;
2. The return and filing of indictments;
3. False claims actions; and
4. If a case primarily involves construction defect claims, the case must be filed in the Central Division (Hall of Justice) through the court approved e-filing vendor, and will be assigned to a judge designated to hear construction defect cases.

**E.** Venue for CEQA Cases. Venue for CEQA (California Environmental Quality Act) cases is divided into two divisions, Central and North County. The East and South Divisions are included in the Central Division for purposes of CEQA cases only. Original petitions must show the proper venue and be filed in the appropriate court according to zip code as set forth in the zip code list accessed via the court's Internet site at: <http://www.sdcourt.ca.gov>, and in accordance with this rule.

**F.** Venue for Criminal Cases

1. Generally. Except as otherwise set forth in these rules, the People must file all criminal cases in the division in which the crime is alleged to have occurred, in accordance with the zip code list found on the court's web site at <http://www.sdcourt.ca.gov>. The People may make written application to the Supervising Judge of the division in which the case would be filed in accordance with the zip code list on the court's web site, setting forth good cause why that case should not be filed in accordance with this rule.

2. City of Coronado and City of Del Mar Cases. Cases arising in the City of Coronado must be filed in the South County Division, and cases arising in the City of Del Mar must be filed in the North County Division.

**G.** Venue for Adult Traffic/Minor Offense Cases. Except as set forth in Vehicle Code section 40502, subdivision (b), venue for traffic and minor offense cases charged against adults will be in accordance with the zip code list set forth on the court's web site (<http://www.sdcourt.ca.gov>), except that cases arising in the City of Coronado must be filed in the South County Division, and cases arising in the City of Del Mar must be filed in the North County Division.

**H.** Venue for Juvenile Traffic/Minor Offense Cases. Venue for traffic and minor offense violations charged against juveniles (under 18 years of age) will be in the Juvenile Court of the Central Division, except the following categories of citations will be accepted for filing in the Adult Traffic and Minor Offense Departments of the respective Court Divisions:

1. All Vehicle Code infraction citations issued to juveniles (under 18 years) that do not involve drugs or alcohol;
2. All Municipal Code and Local Ordinances that involve driving or operation of a motor vehicle;
3. All appeals of parking citations issued to juveniles (under 18 years) and minors (18-21 years);

4. All infractions citations issued to minors (18-21 years) for Business and Professions Code violations involving minors in possession and related alcohol and drug charges; and

5. Citations issued to minors (18-21 years) for Vehicle Code section 23140, subdivision (a), (person under 21 years, driving under the influence of alcohol). See exception noted below.

Exception: Citations issued to minors (18-21 years) for Vehicle Code section 23140, subdivision (a), in the Central Division will be accepted for filing in the Criminal Division downtown.

**I. Venue for Juvenile Delinquency Cases.** Venue for all delinquency cases initiated by petition will be in the Juvenile Court of the Central Division, except as otherwise set forth in these rules.

**J. Venue for Juvenile Dependency Cases.** Juvenile dependency cases must be filed in the Central, North County, South County and East County Divisions in accordance with the zip code list that is as agreed upon by the Juvenile Court, Child Welfare Services, and County Counsel. The current list will be maintained by the Presiding Judge of the Juvenile Court.

**K. Venue for Family, Domestic Violence and State Government Child Support Cases.** Venue in family law, domestic violence and state government child support cases will be governed by rules 5.1.2 and 5.9.1 of Division 5 – Family Law, of these Local Rules.

**L. Venue for Probate Cases.** Venue in probate cases will be governed by rule 4.1.2 of Division 4, Probate of these rules.

**M. Transfer of Actions.** Any action or proceeding may, for good cause shown on motion of a party, and after hearing, be transferred to a different division. Motions and hearings on such transfer must be heard in the court where the action or proceeding is pending. In ruling on such a motion the judge presiding may, in his or her discretion, deny transfer of a case that has been filed in a court not authorized by subsection C above.

The presiding judge, supervising judge, or designee (including any judge assigned for all purposes to a case), may order a transfer at any time without motion or hearing in his or her discretion for reasons stated in the order to transfer. Although transfer will ordinarily be ordered in civil matters at the time of the case management conference or in criminal matters at the time of arraignment, such transfer may be ordered at any time at the discretion of any of the judges set forth above. If the order to transfer is made without a hearing or at a time other than a hearing, any party will be entitled to be heard concerning such transfer if a request for hearing is made to the judge who ordered the transfer within ten days after notice of transfer.

Whenever, in the discretion of the presiding judge or his or her designee, the criminal calendar in any division has become so congested so as to jeopardize the right of a party to a speedy trial or to interfere with the proper handling of the judicial business in that division, or for security or calendar management reasons, the judge may order those cases that are to be filed in that division be filed in a different division.

(Adopted 1/1/1998; Rev. 1/1/1999; Rev. 1/1/2001; Renum. 7/1/2001; Rev. 1/1/2002; Rev. 1/1/2003; Rev. 1/1/2004; Rev. & Renum. 1/1/2006; Rev. 1/1/2007; Rev. 1/1/2010; Rev. 1/1/2013; Rev. 1/1/2015)

### **CHAPTER 3 EXECUTIVE OFFICER OF THE COURT**

#### **Rule 1.3.1**

##### **Appointment, Powers, and Duties**

A majority of the judges of the court may appoint a court executive officer pursuant to section 71620 of the Government Code who also acts as jury commissioner and clerk of the court. Any reference in these rules, the California Rules of Court, or statutes, to the executive officer, clerk of the court, or jury commissioner refers to the executive officer who functions in each of these capacities.

The powers, duties, and responsibilities transferred from the county clerk to the court executive officer pursuant to this rule include all of those performed by the county clerk with respect to court actions, proceedings, and records.

The county clerk is hereby relieved of any obligation imposed by law with respect to the above powers, duties, and responsibilities. This rule does not transfer from the county clerk to the court executive officer obligations in reference to the issuance of marriage licenses or the filing of fictitious business names.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006)

### **CHAPTER 4 MISCELLANEOUS PROVISIONS**

#### **Rule 1.4.1**

##### **Records**

Nothing on file in any court may be taken out of the clerk's office or the civil business office unless it is going to a courtroom or chambers of a judge.  
(Adopted 1/1/1998; Renum. 7/1/2001; Renum. 1/1/2006)

#### **Rule 1.4.2**

##### **Exhibits**

Evidence admitted in any case before any court will be only those items required in the case and will be retained by the court for the minimum time required by law, unless good cause is shown to retain the evidence. No exhibit will be received by any court if the exhibit poses a security, storage, safety, or health problem.

**A.** Exhibits which will not be received include but are not limited to:

1. Any type of explosive powder;
2. Explosive chemicals, toluene, ethane;
3. Explosive devices, such as grenades or pipe bombs;
4. Flammable liquids such as gasoline, kerosene, lighter fluid, paint thinner, ethyl-ether;
5. Canisters containing tear gas, mace;
6. Rags which have been soaked with flammable liquids;
7. Liquid drugs such as phencyclidine (PCP), methamphetamine, corrosive liquids, pyrrolidine, morpholine, or piperidine;
8. Samples of any bodily fluids, liquid or dried; and
9. Except in murder cases, foam-core boards or substantially similar material used for displaying exhibits such as, but not limited to, photographs, charts, drawings or maps.

**B.** No exhibits will be accepted by the exhibits custodian unless:

1. Containers with liquid substances are clearly marked and identified as to type and amount;
2. Containers of controlled substances are clearly marked, identified, weighed, and sealed;
3. Cash is specifically identified, whether individually or packaged, as to the total amount and number of each denomination;
4. Firearms are secured by a nylon tie or trigger guard; and
5. Hypodermic needles are placed in containers which will safeguard personnel.

Unless otherwise ordered, unidentified liquids, containers, controlled substances, or other suspect substances will be returned to the party offering them.

All exhibits must be individually tagged with the proper exhibit tag. Each exhibit tag must be properly completed and securely attached to the exhibit. Any exhibit improperly tagged, marked, weighed, or otherwise identified will not be accepted by any court. Original photographs must be substituted for any photographically enlarged exhibits. A court, in its discretion, may order a photograph substituted for large or bulky exhibits which might pose a storage problem. A court, in its discretion, may admit any exhibit in the interest of justice.

Only attorneys of record and court employees may view the exhibits; all other interested persons must obtain an order of the court. Viewing must take place in the presence of an exhibit custodian. Exhibits may not be altered or taken apart, except by court order. If the court issues an order permitting the copying of exhibits, all exhibits may be copied regardless of format (e.g., paper, photograph, DVD, CD, audiotape, videotape) unless copying of a specific exhibit, or use of a particular type of copying equipment, is prohibited by law or court order.

Attorneys, investigators, law enforcement agencies, and other interested parties may seek temporary release of exhibits for copying or laboratory testing. A stipulation and court order is required in all instances, except a stipulation is not required in civil cases. The party seeking the release must present a certified copy of a signed stipulation and order to the exhibit custodian. The order must include the case number, names of the parties, name and telephone number of the person to whom the exhibits are to be released, a description of the exhibits, and the date the exhibits are to be returned.

Exhibits in a criminal matter may be released for use in a civil action brought by the victim of the crime. To obtain such exhibits, the party in the civil action must submit a stipulation signed by the prosecutor and criminal defense counsel (including appellate counsel if applicable), a declaration, and certified copy of an order signed by the judge. The stipulation shall bear the criminal case caption and number, and reference the civil case by name and number.

Unless specifically ordered by the court, all exhibits marked, identified and/or admitted into evidence in a civil case must be retrieved by the offering party at the conclusion of trial. The party introducing the exhibit is responsible for maintaining and preserving that exhibit pending any post-verdict proceedings and appeals, until there is a final disposition of the action or proceeding. All exhibit tags and other identifying markings or information concerning each exhibit must remain in place and not be disturbed. Each exhibit must remain intact and in the same

condition as during trial. In the event further proceedings of any court having jurisdiction of the matter require the presence of any exhibit, the party introducing the exhibit must promptly deliver the exhibit to the court, with notice to all parties.

(Adopted 1/1/1998; Renum. 7/1/2001; Rev. 7/1/2002; Renum. 1/1/2006; Rev. 1/1/2007; Rev. 1/1/2011; Rev. 1/1/2013)

### **Rule 1.4.3**

#### **Jury Lists**

The jury master list for the Central Division will be comprised of those jurors residing in any of the filing districts.

The jury master list for the East, North and South County Division will be comprised of those jurors residing in the filing district as determined by zip code that corresponds with the division in which the juror lives. The zip code list may be accessed via the court's Internet site at <http://www.sdcourt.ca.gov/pls/portal/docs/page/sdcourt/generalinformation/forms/adminforms/adm254.pdf>.

The jury master list will be drawn so that all eligible persons have an equal chance of being selected for the court division in which they reside regardless of their place of residence. The Jury Commissioner or his or her designee may grant a temporary excuse from jury service to a prospective juror who has served on a grand or trial jury in any state or federal court during the previous thirty-six months. A prospective juror who was summoned and appeared for jury service in any state or federal court during the previous twelve months will be temporarily excused from jury service, upon request.

(Adopted 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Rev. & Renum. 1/1/2006; Rev. 1/1/2007; Rev. 1/1/2008)

### **Rule 1.4.4**

#### **Appointment of Counsel Under the Servicemembers Civil Relief Act**

If the plaintiff or defendant in an action is in the military service, the Servicemembers Civil Relief Act ("the Act") may apply. (50 U.S.C. Appen. § 501 et seq.)

##### **A. If the defendant servicemember has not made an appearance:**

1. The court may not enter a default judgment or an order of default on the merits unless the court appoints an attorney for the defendant. Default means any order, ruling or decree which is adverse to the servicemember's interest. Actions taken by the appointed attorney do not bind the servicemember or waive any defenses (including lack of jurisdiction) unless the servicemember has authorized action.

2. The court must grant a ninety-day or longer initial stay if there may be a defense to the proceeding which the servicemember cannot present without being present, or if after due diligence, counsel has been unable to contact the defendant or otherwise determine if a meritorious defense exists.

3. After the ninety-day stay, the court must appoint an attorney to represent the servicemember in the action or proceeding if it refuses to grant an additional stay.

4. If the court does enter a default, plaintiff may be required to file a bond to indemnify the responding servicemember if the order is later set aside.

5. If the court enters a default judgment during a period of military service (or within sixty days after the end of service), the court must reopen the judgment to allow the servicemember to defend if:

a. The service member was materially affected due to military service in asserting a defense, and

b. The service member has a meritorious or legal defense to the action or some part of it, so long as the application is filed within ninety days after the end of military service.

##### **B. If the plaintiff or defendant servicemember has received notice of the proceeding:**

1. The court must grant a minimum ninety-day stay of the proceedings if the servicemember communicates that military duty requirements materially affect the servicemember's ability to appear, stating a date when the servicemember will be available, and if the servicemember's commanding officer communicates that the servicemember's current military duties prevent an appearance and leave is not authorized at the time of the hearing.

2. The service member may apply for an additional stay in the same manner as the original request. If the court refuses to grant the additional stay, the court must appoint counsel to represent the servicemember in the proceeding. In cases where an attorney is appointed and the attorney is unable to locate and/or secure the servicemember's agreement to representation, actions by the attorney shall not waive any defense of the servicemember or otherwise bind the servicemember. Any actions taken by the attorney appointed pursuant to an order under the Act do not constitute an appearance for jurisdictional purposes and do not constitute a waiver of any substantive or procedural defense, including a defense relating to lack of personal jurisdiction.

##### **C. Miscellaneous.**

1. Appointments of counsel under the Act are pro bono.
  2. Any individual holding a power of attorney from the servicemember may appear in court on his or her behalf to request a stay or additional stay.
  3. A request for a stay does not constitute a general appearance for jurisdictional purposes or a waiver of substantive or procedural defenses.
- (Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2009; Renum. 1/1/2010; Rev. 1/1/2012)

#### **Rule 1.4.5**

#### **Communication and Coordination Regarding Criminal Protective Orders and Restraining Orders (California Rules of Court, rule 5.445)**

##### **A. Definition and Purpose.**

The definitions and purpose of this local rule are set forth in the California Rules of Court, rule 5.445.

##### **B. Communication and Coordination.**

1. The court will ensure that clerks assigned to departments that hear criminal protective and restraining orders and child custody and visitation orders, will receive training in the use of the San Diego County Sheriff's Restraining Order Index so that judicial officers have access to existing restraining orders issued in the court upon request.

2. Courts responsible for hearing criminal protective orders and courts issuing orders relating to child custody and visitation that involve the same parties are encouraged to communicate and share information in order to coordinate terms of the orders with a goal towards ensuring the safety of all parties involved in those proceedings. (Cal. Rules of Court, rule 5.445(c)(3), Pen. Code § 136.2(f).) This rule does not abrogate any requirement that a court considering modifying an order set the matter for hearing and share the information with the parties.

##### **C. Notice by Parties to Court Handling Protective or Restraining Orders.**

1. **Duties of Self-Represented Parties and Attorneys Family Law, Dependency and Probate Guardianship Cases.** All self-represented parties and attorneys must inform the judicial officer hearing any temporary or permanent domestic violence, family, civil harassment, juvenile, or elder abuse (i.e., "personal conduct") restraining order, or any hearing involving child custody and visitation of the existence of any temporary or permanent personal conduct restraining order, criminal protective order, or order regarding child custody and visitation, that involves any party to the case pending before that court. The parties must also provide the court with a copy of the restraining order and have a continuing duty to update the court regarding the status of such orders.

2. **Prosecuting Attorney's Duty.** The prosecuting attorney must investigate and disclose to the judicial officer hearing any criminal case in which a temporary or permanent criminal protective order is sought or issued, of the existence of any temporary or permanent domestic violence, family, civil harassment, juvenile or elder abuse (i.e., "personal conduct") restraining order that involves any party to the criminal case.

**D. Modification of Criminal Protective Order.** To request a modification of a criminal protective order, counsel or a litigant must file a Petition to Modify a Domestic Violence Protective Order (SDSC Form #CRM-248), which will then be calendared in a department whose caseload includes said hearings.

1. In Central, the petition must be filed in Room 1001 and the hearing will be set in Department 9.

2. In North County, the petition must be filed and the hearing scheduled in the Business Office, and the hearing will be set in Department 1 for misdemeanors and in Department 5 for felonies.

3. In South County, the petition must be filed in the Business Office and the hearing will be set in Department 12.

4. In East County, the petition must be filed in the Business Office and the hearing will be scheduled in a calendaring department.

(Adopted 1/1/2015)