



Superior Court of the State of California

County of Madera

209 W. Yosemite Avenue
Phone: 559-675-7944



Madera CA 93637
Fax: 559-675-0701

Presiding Judge: Mitchell C. Rigby

Assistant Presiding Judge: D Lynn Jones

Court Executive Officer: Bonnie Thomas

April 1, 2011

To Whom It May Concern:

Thank you for taking the time to review the proposed and revised local rules for 2011. If you have any comments or questions on this topic, please contact me at the above address, or e-mail me at john.oconnor@madera.courts.ca.gov, and please include the words "Local Rules 2011" in the subject line. Please send your e-mail no later than May 17, 2011. Please check back, as comments may lead to further changes to the rules in the coming weeks. If there are changes, the website will note this, and the documents on the site will be updated.

Please note that the following changes have been made:

- Throughout, minor spacing and wording issues have been addressed, including updating 2010 to 2011, where appropriate. Such changes are not noted below.
- The list of judges and assignments on the front page has been updated.
- Minor grammatical and/or spelling errors have been corrected.
- Note that the Table of Contents and Index may not be updated until the rules are formally adopted.

Amended Rules

- 2.11.1 Payment of Fees. Fees for papers delivered to the Court via facsimile filing shall be remitted within three (3) days after the fax filing is completed by payment to the Clerk. If a party or counsel fails to pay the fee within the required time, the pleading shall be stricken on the Court's own motion after notice to the parties of record. (Effective 7/1/08, renumbered effective 1/1/10, amended 7/1/11) (*Formerly, payment had to be remitted within 10 days.*)
- 3.3.5 Class Actions. Where not inconsistent with California law, the California Rules of Court or these local rules, cases filed in this Court as representative or class actions under California Code of Civil Procedure § 382, shall be governed by, and comply with, Rule 23 of the Federal Rules of Civil Procedure. (Effective 7/1/08, renumbered, 7/1/11) (*Rule is merely renumbered.*)



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4.1.9 Disposition of Exhibits. Pursuant to Penal Code § 1417.2, any exhibits offered by the state or defendant shall be returned to the party offering them, by order of the Court, where the exhibit poses a security, storage, safety, or health problem. A photographic record shall be substituted for said exhibit. Exhibits which are within this category are:

- (1) Any type of explosive powder
- (2) Any explosive chemical such as toluene, ethane, etc.
- (3) Any explosive device (i.e. pipe, bomb, grenade)
- (4) Any container which contains a flammable liquid
- (5) Any canister containing tear gas or mace
- (6) Any rags soaked with any flammable liquid
- (7) Phencyclidine, methamphetamine, corrosive liquid pyrrolodine, morpholine, or piperidine in liquid form
- (8) Samples of blood, urine, human or animal tissue or other items requiring refrigeration and/or humidity-controlled storage
- (9) Any controlled substance that requires special destruction under the State of California as being a hazardous material, which would include any cocaine, methamphetamine or heroin.

All such substances will be returned to the district attorney's office or the agency that confiscated the controlled substance and who has presented it as evidence in court in a criminal action or proceeding. It shall be returned by stipulation of Counsel as provided in Penal Code § 1417.2.

If exhibits or evidence are presented by either party which are deemed by the Court, in its discretion, as a health or safety hazard, or which may otherwise interfere with the Court's orderly business, the Trial Judge may direct such exhibits or evidence to be placed in storage containers or such applicable containers so as to minimize the intrusiveness or safety concerns of such exhibits or evidence. Counsel are also specifically directed to place evidence or exhibits with a pungent odor into plastic containers wherever practicable when they are brought into Court.

(Effective 7/1/08, amended 7/1/11) *(The last paragraph has been added.)*

4.1.5 Forfeiture and Reinstatement of Bail; Resumption of Liability on Bail Bonds

The general procedure for a motion to vacate forfeiture of bond is as follows:

- (a) All motions to vacate forfeiture and exonerate or reinstate bonds in the Superior Court shall be filed in the criminal case.
- (b) A notice of motion shall be filed setting forth the date and time of the hearing. A



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supporting declaration must be filed stating the specific grounds upon which the motion is based and, unless there is a statement that the surety, or his agent, has surrendered the defendant, also indicating non-collusion of the surety.

(c) Pursuant to Penal Code § 1306(b), if the Court grants relief from forfeiture, the Court will impose a fee reflecting the actual costs of returning a defendant to custody, except in cases where the Court determines that in the best interest of justice no costs shall be imposed. Where the fee is levied, it shall be no less than \$150.00, reflecting the minimum cost incurred by the Court and the People as found by this Court.

(Effective 7/1/08, amended 7/1/11) (*Part (c) has been added.*)

New Rules

1.8.2 Withholding of Judgment for Non-Payment of Fees

Except where the interests of justice would require otherwise, the Court may refuse to enter judgment when any party to the case has failed to pay fees due and owing to the Court. (Effective 7/1/11).

1.9.1 Copying Fees

When the parties stipulate that the Court file shall be the record in the case, the Court shall charge a fee of \$1.00 per page, to cover the cost of paper and labor, for copies of the record for transmission to the Court of Appeal or the Appellate Division of the Superior Court, for copies of the record for the Superior Court's own files, and for copies of the record for each of the parties. This fee shall be shared by the Appellant and Respondent. An Appellant or Respondent may apply to the appropriate court for relief from such fees. (Effective 7/1/11)

Hard copies of the proposed and revised rules are available upon request. Thank you again for your interest and feedback.

Sincerely,

/s/

John M. O'Connor