

CHAPTER 1
COURT ACCESS AND ADMINISTRATION

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1.1 PRESIDING JUDGE

The Presiding judge shall be chosen by a majority vote of the Judges of the Superior Court and shall hold office at their pleasure. He or she shall perform the duties prescribed by the California Rules of Court and by these Rules. The Presiding judge shall, when necessary, designate an acting Presiding judge. The Superior Court shall comply with the court's Governance and Administrative Policies Manual.

(Adopted October 1, 1998; Amended July 1, 2015)

1.2 CALENDAR ASSIGNMENTS

In December of each year, the presiding judge, or his or her delegee, shall designate judicial assignments for the coming year in accordance with the California Rules of Court, rule 10.603. This rule is not intended to limit the ability of the presiding judge, in her or his sound discretion, to make judicial assignments whenever circumstances warrant.

(Adopted October 1, 1998; Amended July 1, 1999; Amended July 1, 2012)

1.3 DIRECT CALENDAR

Direct Calendar. All misdemeanor, felony, family law, probate, civil, traffic and juvenile law cases shall be assigned under the Direct Calendar system. The Presiding judge may, in consultation with the Executive Committee and Executive Management, change the calendar system. Any changes will be posted on the court's website.

(Adopted October 1, 1998; Amended January 1, 2001; Amended January 1, 2004; Amended July 1, 2015; Amended July 1, 2016)

1.4 JUDICIAL ASSIGNMENTS

Current judicial assignments can be viewed on the court's website from the General Information tab at: <https://www.monterey.courts.ca.gov/general-information/judges-assignments>

(Adopted October 1, 1998; Amended July 1, 1999; Amended October 12, 1999; Amended July 1, 2000; Amended January 1, 2001; Amended January 1, 2001; Amended January 1, 2002; Amended July 1, 2003; Amended January 1, 2004; Amended July 1, 2004; Amended January 1, 2005; Amended July 1, 2005; Amended July 1, 2006; Amended January 1, 2007; Amended July 1, 2007; Amended January 1, 2008; Amended July 1, 2008; Amended January 1, 2009; Amended July 1, 2010; Amended January 1, 2011; July 1, 2012)

1.5 COURT HOLIDAYS

A list of current court holidays can be viewed on the court's website from the General Information tab at: <https://www.monterey.courts.ca.gov/general-information/holidays>

A holiday occurring on a Saturday is observed on the preceding Friday, and a holiday occurring on a Sunday is observed on the following Monday. (California Rules of Court, rule 1.11.)

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(Adopted October 1, 1998; Amended July 1, 1999; Amended January 1, 2000; Amended January 1, 2001; Amended January 1, 2002; Amended July 1, 2003; Amended January 1, 2004; Amended January 1, 2005; Amended January 1, 2007; Amended January 1, 2008; Amended January 1, 2009; Amended January 1, 2010; Amended January 1, 2011; Repealed July 1, 2012)

1.6 DELEGATION OF AUTHORITY – ELISORS

Where one of the parties fails to execute a document necessary to carry out a court order, the Clerk of the Superior Court or the Clerk’s authorized designee may be appointed as an elisor to sign the document pursuant to Code of Civil Procedure section 128(a)(4) and/or Family Code section 1101(e).

The Clerk of the Court hereby delegates to the Chief Operations Officer and Civil Operations Manager the authority to sign deeds, or other ordered documents, when the court has ordered the appointment of the Clerk of the Court to sign such documents as an elisor.

When applying for the appointment of an elisor, the application and proposed order must designate “The Clerk of the Superior Court, County of Monterey or the Clerk’s Designee” as the elisor.

An application for appointment of an elisor shall be made by filing an appropriate pleading (Notice of Motion, Order to Show Cause or Request for Order). The pleading shall have as an attachment, a sample copy of the document(s) to be signed by the elisor. The declaration supporting the application must include specific facts establishing the necessity for the appointment of an elisor.

An acknowledgement fee (see Statewide Civil Fee and Local Fee Schedule on the court’s website) will be assessed at the time of the appointment. If the elisor is signing documents requiring notarization, the applicant must arrange for a notary to be present when the elisor signs the document(s) at the applicant’s cost.

The Clerk may develop and promulgate local procedures to be followed when an elisor is ordered.

(Adopted July 1, 2017; Amended January 1, 2022, Amended Title and Renumbered from 1.7 to 1.6 January 1, 2023)

1.7 E-FILING OF DOCUMENTS

Electronic filing of documents in all case type is required, excepting appellate department cases.

A. Filing Service Provider

Electronic filing of documents shall occur through the court’s electronic service provider(s). Electronic service provider information is available on the court’s website at www.monterey.courts.ca.gov.

B. Exceptions to E-filing

The following items are not subject to mandatory e-filing under these rules (E-Filing of Documents):

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1. Documents presented for filing by a self-represented party. Although e-filing is not mandatory for self-represented parties, they are encouraged to e-file documents.
2. Documents ordered by the court as exempt from e-filing. A party may seek a court-ordered exemption by ex parte application for reason of undue hardship, significant prejudice, or other good cause.
3. Documents and other materials that are not feasibly converted to electronic form by scanning, imaging, or other means.
4. Documents lodged with the court provisionally under seal pursuant to California Rules of Court, rule 2.551, or lodged with the court as confidential documents.
5. Documents with jurisdictional time limits, including notices of appeal, motions for new trial, motions for JNOV, motions to quash service for personal jurisdiction, and petitions for writs taken from local court determination. Although not required, e-filing of these documents is encouraged.
6. Original documents required for a proceeding, including bench warrants, subpoenaed documents, affidavits regarding real property of small value, bonds, undertakings, financial documents submitted by a private professional conservator, letters (probate, guardianship, conservatorship), wills and codicils (for filing or safekeeping), and orders to deposit money and receipt of depository.
7. Challenges to judicial officers pursuant to Code of Civil Procedure section 170.1 *et seq.*

C. Effective Date and Time of E-Filing

Documents transmitted electronically are deemed filed only after accepted for filing by the clerk. Documents may be electronically transmitted to the court at any time.

Nothing in this section shall limit the clerk's ability to reject filings.

The court will issue a confirmation that the document has been received and filed in accordance with California Rules of Court, rule 2.259. The confirmation shall serve as proof that the document has been filed.

D. Format of E-Filed Materials

1. All documents filed electronically must be in electronic text-searchable portable document format (PDF).
2. Pagination. Document pages must be consecutively numbered using only the Arabic numbering system (such as 1, 2, 3), beginning with the number 1 on the first page of the document. When a document, transcript, or record is served in both paper format and electronic format, the pagination must be consistent for both versions.

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3. If a party or attorney elects to include hyperlinks in a filing, the hyperlink shall be active and should be formatted to standard citation format as provided in California Rules of Court, rule 1.200.
4. Exhibits. Electronic exhibits must include electronic bookmarks with links to the first page of each exhibit and with bookmark titles that identify the exhibit number or letter and briefly describe the exhibit. Electronic exhibits not so bookmarked are subject to rejection.

E. Courtesy Copy

A judge may order a courtesy copy at any time, either printed or through electronic delivery.

F. E-File Version Follow Up to Hand-Served Documents

Documents served by hand, in court, or otherwise permissively, must then be e-filed unless the court specifically provides otherwise. Such e-filing must take place before the close of business on the court day following service by hand in open court. In addition, the Proof of Service must reference the date the document was originally served in open court.

G. Errors are the Responsibility of the Filer

The confirmation of filing of the document and verification of the accuracy of the document shall be the sole responsibility of the filer. The court shall not be responsible for errors or malfunction occurring in the electronic transmission of a document to the court for filing.

H. Redaction of Confidential Information is the Filer's Responsibility

The responsibility for redacting personal identifiers and privileged or confidential information rests solely with counsel and the parties. The clerk will not review pleadings or other documents for compliance with the law. The court may impose sanctions for violation of these requirements.

I. Fees and Fee Waiver

Electronic filing service providers may charge reasonable fees in addition to any filing fees required by the court. A party who has received a fee waiver from the court, or who has otherwise obtained an order of the court waiving such fees, is exempt from the fees and costs associated with electronic filing.

(Adopted January 1, 2016; Amended July 1, 2016; Amended July 1, 2017; Amended January 1, 2019, Renumbered January 1, 2023)

1.8 REMOTE CIVIL PROCEEDINGS

A. General

1. The purpose of this rule is to provide greater access to justice, promote court efficiency, and facilitate remote proceedings consistent with Code of Civil Procedure section 367.75 and California Rules of Court, rule 3.672. This rule sets forth the remote and in-person proceeding protocols for civil cases.

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2. Technology and Capability. Parties and witnesses who intend to appear remotely must ensure that they have the appropriate technology and skill to appear remotely, and that the visual and audio quality of the device they use allows for the effective management of the proceeding.
3. The Court will follow the procedures set forth in California Rules of Court, rule 3.672, except as set forth herein.

B. Definitions

The court adopts the definitions set forth by the Judicial Council in California Rules of Court, rule 3.672(c).

C. Appearances

1. A party or witness may appear remotely at any of the following:
 - a. Any civil limited or unlimited proceeding, including *ex parte* hearings, law and motion, court trials, unlawful detainer matters, judgment debtor examinations, civil harassment restraining order hearings, domestic violence restraining order hearings, elder abuse restraining order hearings, gun violence restraining order hearings and settlement conferences; and
 - b. Any family law proceeding; and
 - c. Any probate law proceeding.
2. Notice of intent to appear remotely for the proceeding or the duration of the case may be provided to the court and all parties orally during a proceeding, or by filing and serving the *Notice of Remote Appearance* (Judicial Council Forms, form RA-010), within the time frames prescribed by California Rules of Court, rule 3.672(f), (g) and (h).
3. Any opposition to a remote proceeding shall be filed and served using the *Opposition to Remote Proceeding at Evidentiary Hearing or Trial* (Judicial Council Forms, form RA-015) consistent with California Rules of Court, rule 3.672(h)(3). In determining whether to conduct an evidentiary hearing or trial in whole or in part remotely where an opposition has been made, the court will consider the factors set forth in Code of Civil Procedure section 367.75 subdivision (b) and (f) and California Rules of Court, rule 3.672(d).
4. Any party may appear in person for any proceeding. (California Rules of Court, rule 3.672(j).) A party or witness choosing to appear in person can do so by appearing in the courtroom on the date and time of the proceeding. The court retains the discretion to require a party or witness to appear in person at any proceeding, consistent with Code of Civil Procedure section 367.75 subdivision (b) and California Rules of Court, rule 3.672(d).
5. Notwithstanding California Rules of Court, rule 3.672 or any provision of this Local Rule, the court may permit a party to appear remotely upon a finding of good cause, unforeseen circumstance, or that the remote appearance would promote access to justice. (California Rules of Court, rule 3.672(j)(2).)

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6. If any party requires assistance with a remote appearance they may call the court at: (831) 647-5800, or as indicated on the court's website.
7. The remote appearance platform used by the Court for video teleconferencing is Zoom. Remote appearance information for each non-confidential department may be found at: <https://www.monterey.courts.ca.gov/remote> on the court's website.

D. Evidence – Physical and Electronic Evidence for Remote Trials or Evidentiary Hearings

1. For current guidance regarding preparing, sharing, lodging and presenting exhibits at trials and evidentiary hearings conducted partially or completely remotely, please see the “Exhibit Guidelines for Remote Trials and Evidentiary Hearings” for Civil, Family, Domestic Violence, Civil Harassment and Small Claims matters, which may be found at: <https://www.monterey.courts.ca.gov/remote> on the court's website.
2. Any removable storage devices, including but not limited to CDs, flash drives and memory sticks, will not be considered for filing and the court will not consider documents offered on a removable storage device.
3. Any electronic sound or sound-and-video recordings, must comply with California Rules of Court, rule 2.1040. The person wishing to present any electronic sound or sound-and-video recordings must provide the equipment necessary to listen to and/or view the recordings and provide the opposing party with a copy of the recording and any required transcript at least 5 court days prior to the hearing, unless for good cause the judicial officer makes an exception.
4. Any party wishing to present evidence must ensure they have the requisite skill and technology to enable all parties, whether appearing in person or remotely, to view the evidence during the hearing.

E. Small Claims Cases and Child Support Cases – Special Provisions

1. All Small Claims trials and Child Support hearings will be set for in-person appearances.
2. Parties may request to appear remotely by filing a *Notice of Remote Appearance* (Judicial Council Forms, form RA-010) at least ten (10) court days before the scheduled hearing. The court will evaluate the request, considering the factors set forth in Code of Civil Procedure section 367.75 subdivisions (b) and (f) and California Rules of Court, rule 3.672(d).
3. If the court requires a party or witness to appear in person because one or more of the factors in Code of Civil Procedure section 367.75 is present, then the parties will be notified at least five (5) court days before the hearing date. If the court determines that the date and time of the proceeding must be changed to facilitate a remote proceeding, notification will be issued to the parties by either email or U.S. mail.
4. Any opposition to a remote proceeding shall be filed and served using the *Opposition to Remote Proceedings at Evidentiary Hearing or Trial* (Judicial Council Forms, form RA-010) consistent with California Rules of Court, rule 3.672(h)(3). An *Opposition to Remote Proceedings at Evidentiary Hearing or Trial* should be filed at least five (5) court days

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before the proceeding, or as otherwise provided by California Rules of Court, rule 3.672(h)(3). In determining whether to conduct an evidentiary hearing or trial in whole or in part remotely where an opposition has been made, the court will consider the factors set forth in Code of Civil Procedure section 367.75 subdivision (b) and (f).

5. For child support cases, all declarations and any supporting evidence must be filed and served on all opposing parties in compliance with California Rules of Court, rule 5.92 *et seq.*
6. For small claims cases, all documentary evidence should be lodged as provided in the “Exhibit Guidelines for Remote Trials and Evidentiary Hearings” for Civil, Family, Domestic Violence, Civil Harassment and Small Claims matters, which may be found at: <https://www.monterey.courts.ca.gov/remote> on the court’s website. Any physical evidence may only be considered at an in-person hearing.

F. Probate – Special Provisions for Probate Court Confirmation of Sale of Real Property

1. Notice of Sale

- a. The Notice of Sale must include the information regarding the hearing on the Report of Sale and Petition for Order Confirming Sale of Real Property – the date, time, department, and that the hearing will be conducted in person and via electronic platform (video or audio) provided by the court.
- b. The Notice of Sale shall also include information regarding the submission of overbids in writing at or before the hearing through the court’s e-filing system (see <https://www.monterey.courts.ca.gov/efiling>) or by email to: emergencyprobate@monterey.courts.ca.gov.

2. Written Offers. Any overbidder who appears remotely shall submit an offer in writing at or before the hearing through the court’s e-filing system or by email to: emergencyprobate@monterey.courts.ca.gov and shall notify the court at the hearing of the electronically-submitted overbid.

G. Juvenile Justice (Delinquency) Proceedings

1. All Juvenile Justice proceedings are set for in person appearances with the capability of allowing remote appearances. Because of the confidential nature of the proceedings, to assist in the effective management and resolution of Juvenile Justice cases and to achieve the goal of successful rehabilitation of youth, personal appearances are strongly encouraged and sometimes required. At all initial detention hearings, Minors’ appointed counsel will be available to meet with Minors and families prior to the start of court. Requests to appear remotely may be submitted as follows:
 - a. Minors and their parents/guardians, Indian custodians and CASA workers may seek approval from the Court through counsel for the minor or the Probation Department at (831) 755-3900 or by email to acosta-sosam@co.monterey.ca.us. Parties may also request to appear remotely by filing a *Notice of Remote Appearance* (Judicial Council Forms, form RA-010).

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- b. Victims may seek approval from the Court through the Victim Assistance Program of the District Attorney's office at (831) 755-5072 or by filing a *Notice of Remote Appearance* (Judicial Council Forms, form RA-010).
 - c. Requests for remote appearances at these hearings may be made orally in court when the matter is being set, or by filing a *Notice of Remote Appearance* (California Rules of Court, rule 3.672(f) and (h)). Any opposition to a remote proceeding may be made orally in court, or by using the *Opposition to Remote Proceeding at Evidentiary Hearing or Trial* (Judicial Council Forms, form RA-015) consistent with California Rules of Court, rule 3.672(h)(3). In determining whether to conduct an evidentiary hearing in whole or in part remotely where an opposition has been made, the court will consider the factors set forth in Code of Civil Procedure section 367.75 subdivision (b) and (f) and California Rules of Court, rule 3.672(d). The court retains discretion to require in-person appearance as permitted by law.
2. The following proceedings shall be set for in person appearances:
- a. All Initial and Detention hearings;
 - b. Any hearing at which the Minor intends to admit as true any allegation; and
 - c. Jurisdictional Hearings, Transfer Hearings and other Evidentiary Hearings.

3. Courtesy Notices by Email

As a courtesy to all parties and the court, any notice of intent to appear remotely or opposition to the notice must be promptly emailed to all parties and the court.

4. Confidentiality.

All statutory confidentiality requirements in Juvenile Justice proceedings are applicable to both in-person appearances and remote appearances. Parties or persons appearing remotely shall ensure that their remote location affords the required level of privacy for the proceeding. (California Rules of Court, rule 3.672(b)(3).)

H. Juvenile Dependency Proceedings

Any party or person authorized to be present in any juvenile dependency proceedings may appear remotely as provided in California Rules of Court, rule 3.672, subsection (i). A request to appear remotely may be made orally or in writing. If the request is in writing, *Request to Appear Remotely – Juvenile Dependency* (Judicial Council Forms, form RA-025) may be used. In all other respects, remote appearances are governed by Code of Civil Procedure section 367.75 and California Rules of Court, rule 3.672(i) and this Local Rule.

I. Procedures

Information regarding the ability to appear in person or through the use of remote technology is available on the court's website at <https://www.monterey.courts.ca.gov/remote>. The court's remote technology system is designed to ensure that all persons, whether appearing remotely or in person, can meaningfully participate in the conference, hearing, proceeding, or trial.

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J. Technology or Audibility Issues

In the event a party, witness, official reporter, official reporter pro tempore, court interpreter, or other court personnel experiences technology or audibility issues that arise during a remote conference, hearing, proceeding, or trial, the person is to alert the court. A party or witness may raise their hand, place a comment in the “Chat” box (if available) or call the court’s general number at (831) 647-5800 to obtain assistance.

K. Privacy and Security Settings

Nothing in this rule is intended to modify current rules, statutes, or case law regarding confidentiality or access to confidential proceedings. (California Rules of Court, rule 3.672(b)(3).)

L. No Electronic Recording

No electronic recording of court proceedings, including remote court proceedings, other than by a court reporter or electronic recording authorized by the court, shall be permitted without advance written approval of the court. The parties, or anyone attending the proceeding, may not record the proceeding or any part of it unless specifically authorized by the judicial officer. (California Rules of Court, rule 1.150(d).)

M. Effective Dates

This rule is effective from March 31, 2022 until July 1, 2023, or until the sunset date of Code of Civil Procedure section 367.75. The following local rules regarding telephonic appearances at a court proceeding are suspended from March 31, 2022 until July 1, 2023 or until the sunset date of Code of Civil Procedure section 367.75: Local Rules 6.9(A), 6.12(F)(5), 6.13(C), 6.14, 7.7, 10.1(G), 10.2(A), 10.6(E)(3), and 10.8(A).

(Adopted July 1, 2022; Amended and Renumbered from Chapter 20 to 1.7 January 1, 2023)

1.9 JOINT COMMITTEE ON THE ELIMINATION OF BIAS

Pursuant to California Rules of Court, Standards of Judicial Administration, Standard 10.20, the court has established the “Joint Committee on the Elimination of Bias” that includes members of the court community including judges, lawyers and court administrators. The purpose of the committee is to assist in maintaining courtrooms free of bias and the appearance of bias through sponsoring educational programs and training and promoting open communication. A complete statement of the charter, mission, committee membership and roles and responsibilities of the committee is available on the court’s website.

(Adopted January 1, 2023)