

8. MISCELLANEOUS RULES

8.1 CITATION

These miscellaneous rules should be cited as "Marin County Rule, Miscellaneous" or "MCR Misc" followed by the rule number (e.g., Marin County Rule, Miscellaneous 8.2 or MCR Misc 8.2).

[Rule 8.1 adopted effective 5/1/98; amended 1/1/10]

8.2 CONDUCT OF ATTORNEYS

Attorneys are expected, at a minimum, to conduct themselves in accordance with the requirements of the State Bar Act and the State Bar mandated Rules of Professional Conduct. In addition, the Court encourages all attorneys to abide by the standards set forth in the Code of Civility which have been approved by the Board of Directors of the Marin County Bar Association. (Copies of the Code of Civility can be obtained from the Clerk's Office or the Marin County Bar Association.) The Court may consider the Code of Civility and the standards contained therein when making rulings regarding sanctions.

[Rule 8.2 adopted effective 5/1/98]

8.3 COURTROOM DRESS

No person shall appear in court unless wearing a shirt, shoes, pants (or skirt), dress or other appropriate attire (no shorts, sleeveless shirts).

[Rule 8.3 adopted effective 5/1/98]

8.4 LATE APPEARANCES

An attorney, defendant or other person who is late for a scheduled court appearance may be subject to disciplinary action such as sanctions or contempt proceedings. A defendant who is late for court may be subject to having bail increased or terminated, or O.R. terminated.

[Rule 8.4 adopted effective 5/1/98]

8.5 COURT INTERPRETERS

Where a party or defendant or other person is entitled to and requires the assistance of a court interpreter, the party, defendant or counsel of record shall notify the Court at least three (3) calendar days before the hearing. Where it is later determined that the interpreter is not needed, defendant or counsel shall provide notice to the Court at least 24 hours before the hearing. If such notice is not provided and the Court incurs costs of the interpreter, the Court will bill the requesting party for such costs.

[Rule 8.5 adopted effective 5/1/98; amended 7/1/09]

8.6 MEDIA COVERAGE

The use of photographic, video, or audio recording or transmission equipment in the courtroom is prohibited without advance approval of the judge pursuant to CRC 1.150.

Any and all video, cell phone and other photography through courtroom windows or into the courtroom from the hallway is subject to the same restrictions that apply to the use of

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cameras in the courtroom and shall require prior approval by the judge of the affected courtroom. (See CRC 1.150.)

Any and all video, cell phone and other photography in the hallway itself shall require prior approval by the presiding judge, or designee, and the County of Marin. Television, video and still photography inside the Marin County Civic Center, other than in a courtroom with the express authorization of the judge, requires a special permit, obtained from the Marin County Community Development Agency.

Television cameras, video cameras and/or camera operators, still photographers, media reporters or any combination thereof shall not block corridors, access to any courtroom, or the ingress to or egress from the courthouse.

[Rule 8.6 adopted effective 7/1/09]

8.7 USE OF LAPTOPS OR OTHER ELECTRONIC DEVICES

The use of laptops and/or electronic devices by counsel or any member of the public in specific courtrooms will be regulated by each individual trial judge.

In no event shall an attorney or any member of the public use wireless internet connections, whether by laptop computers or any form of electronic access, to record, photograph or transmit any court proceeding unless otherwise specifically authorized by CRC 1.150.

[Rule 8.7 adopted effective 7/1/09]

8.8 COURT FILE RETRIEVALS AND VIEWING

A. Public Index Search. All attorneys, parties, proprietary records research vendors and members of the public shall search the Court's public index for case numbers and/or case names of files they wish to review.

B. Court Files Located at the Courthouse. There is no retrieval fee for files located at the courthouse. Attorneys, parties, proprietary records research vendors and members of the public may request up to six (6) court files per day for viewing. If available and not in use by the Court, these files will be available for viewing the business day following the date of the request.

To request more than six (6) court files located at the courthouse to be viewed at one time, a \$15 retrieval fee per every six additional files requested will be due and payable at the time the request is made.

C. Court Files Located at an Offsite Records Storage Facility. Files located at offsite storage facilities can take up to a week for retrieval. Retrieval fees of \$5 for each file are due at the time the request is made. There is no limit to the number of files that may be requested from offsite storage. The clerk will advise the requestor of the date the file will be available for viewing. Court files retrieved from offsite storage warehouses will be kept in the Records Management Office for five (5) business days from the date they are available for viewing before being returned to offsite storage unless the requestor contacts the Court to ask that they be held longer. If the requestor does not view the files during the five-day viewing period and the files are returned to offsite storage, the requestor will be charged a new retrieval fee.

D. Confidential Court Files Not Listed in the Public Index. No information whatsoever will be provided to a requestor regarding court files that are determined to be confidential under California law unless the requestor is a party to the case or the current attorney of record. Requestors must present valid photo identification at the time of the request. Confidential court files include establishment of parental relationship (paternity), adoption, termination of parental rights, and juvenile dependency or delinquency.

[Rule 8.8 adopted effective 1/1/10]

8.9 COURT RECORDS RESEARCH

A. Research Requests. The fee for research requests shall be \$15 for each search of records or court files that take longer than 10 minutes. The fee is due and payable at the time of the request. If the requestor seeks information on more than one record or court file at one time, the Court presumes that the search will take longer than 10 minutes and a \$15 fee will be charged for the first two records and a \$5 fee will be charged for each additional record or court file.

If submitting research requests by mail, requestors must enclose a self-addressed stamped envelope with proper postage and a check made out to Marin County Superior Court. On the memo line, write “amount not to exceed \$35,” if the amount of the research is unknown, or the amount previously provided by the Court.

B. Clerk’s Declarations on Record Searches. Upon request, the Court will draft a Clerk’s Declaration on Court letterhead stating the disposition of a court case or a statement that no record was found. The fee for a Clerk’s Declaration is \$25 for each record included in the Declaration.

[Rule 8.9 adopted effective 1/1/14]

8.10 COPIES OF COURT RECORDS

A. Copies of Court Files. For copy jobs of 50 pages or fewer, the requestor must prepay for copies at \$0.50 per page. Copies may be made at the time of the request or mailed to the requestor within five (5) business days. For copy jobs of more than 50 pages, requestors must leave a deposit, in an amount determined by the Court, based upon the estimated number of copies. Copies shall be ready for pick up within ten (10) business days, along with a final tally of the number of pages copied and the remaining cost.

B. Copies of Court Dockets, Registers of Action and Minute Orders. Upon request, the Court will use its computer system to print dockets, registers of action, or minute orders. Copy fees of \$0.50 per page are due and payable at the time of printing. Once printed, the requestor shall purchase the printed document. The requestor may not view the printed document and decline to pay the copy fee.

C. Copies of Court Orders, Filed Documents, or Other Court Records for Governmental Agencies. Governmental agencies requesting copies of court orders, filed documents, or other court records shall include self-addressed stamped envelopes with postage sufficient to cover the cost of their copies.

[Rule 8.10 adopted effective 1/1/10]

8.11 ATTORNEYS FEES FOR COURT-APPOINTED COUNSEL

Attorneys appointed by the Court to represent parties shall submit billings for their services at least once per year and may not bill for services that span multiple years. This rule is applicable whether or not the Court, the County of Marin or the individual parties are responsible for paying for these legal services.

[Rule 8.11 adopted effective 7/1/15]

8.12 CHECK CASHING

A. Acceptance. The Clerk shall accept a personal check, cashier's check, or money order offered in payment of any fee, fine or bail deposit provided the following conditions are met:

1. The personal check, cashier's check, or money order is in U.S. dollars, with a dollar sign (\$) and the word "dollars" printed on it;
2. The amount of any such payment shall not exceed the face amount;
3. The check is not post-dated or stale-dated;
4. All instruments shall be made payable to the "Marin County Superior Court" or other similar designee (no two-party checks);
5. The numeric figures on the check shall agree with the amount written in words; and
6. The sum shall be payable in U.S. currency.

B. Post-Dated Checks. A post-dated check may be held by the Clerk until the date it becomes negotiable.

C. Refusal. Personal checks from persons known to have previously tendered worthless or "Not Sufficient Funds" checks to the Clerk or other persons shall be accepted at the discretion of the Court Executive Officer or designee.

D. Checks Tendered with Insufficient Funds. Pursuant to Penal Code section 4.76(a) persons making payment to the Court by personal or business check for criminal or traffic fines, fees or forfeitures must ensure that sufficient funds are available to honor these check transactions. If it is determined that there are insufficient funds in the payor's bank account, the Court may refer the dishonored check(s) to the Enhanced Court Collections Program for collection and/or to the District Attorney for enforcement. If attorneys licensed by the California State Bar pay filing fees by tendering checks on accounts with insufficient funds, the Court may notify the State Bar of such dishonored checks. See Business and Professions code section 6091.1.

E. Overpayments. When an amount paid to the Court exceeds the total amount due for any fine, fee or forfeiture, and the overpayment does not exceed ten dollars (\$10.00), the Court shall accept the overpayment and deposit those funds in local Court revenue. In recognition of the administrative costs related to refunding overpayments of \$10.00 or less, such overpayments will not be refunded to the payer.

[Rule 8.12 adopted effective 5/1/98; amended 7/1/14]

8.13 PAYMENT IN COINS

The Clerk shall not accept coins as payment of any bail, fee or fine in amounts exceeding: twenty-five cents consisting of pennies, nickels and dimes; and ten dollars consisting of dimes, quarters and half dollars.

[Rule 8.13 adopted effective 5/1/98; amended 7/1/15]

8.14 ORDERS TO DISBURSE FUNDS

All orders to disburse funds previously deposited with the Court shall clearly state the full name and mailing address of each payee and the exact amount to be paid to each. In the case of final disbursement of funds in interest-bearing deposits, the order shall designate who is to receive any interest remaining in the account after the disbursement has been made.

[Rule 8.14 adopted effective 5/1/98]

8.15 DIGITAL SIGNATURES

The Court will allow the use of a digital signature, which shall have the same force and effect as the use of a manual signature, if and only if it complies with all of the requirements of Government Code § 16.5.

[Rule 8.15 adopted effective 7/1/99]

8.16 JUDICIAL FAIRNESS COMMITTEE

Pursuant to the applicable Standards of Judicial Administration, the Court supports the establishment of a local committee to assist in maintaining a courtroom environment free of bias or the appearance of bias. In furtherance thereof, the Court has endorsed the Statement of Organization of the Marin County Judicial Fairness Committee approved and adopted jointly by the Boards of Directors of the Marin County Bar Association and the Marin County Women Lawyers.

[Rule 8.16 adopted effective 7/1/99]

8.17 JUROR QUALIFICATION AND SELECTION

A. Jury Commissioner. The Court Executive Officer is appointed as the Jury Commissioner and is designated as the "attaché" of the Court to perform all functions set forth in the Trial Jury Selection and Management Act (Code of Civil Procedure § 190 et seq.). Said functions may be performed by such Deputy Jury Commissioner as may be designated by the Court Executive Officer.

B. Source Lists. All persons selected for jury service shall be selected at random, from a source or sources inclusive of a representative cross section of the population of the area served by the court. Marin County Superior Court will use the list of registered voters and the Department of Motor Vehicle's list of licensed drivers and identification card holders.

These two source lists are combined for use in the computer; using predetermined matching criteria, the computer then compares the names on the two lists and eliminates any duplicates which results in a single merged file list. In addition, the following process will occur in order to create a master file list and to generate a master list.

1. *Elimination of Deceased and Disqualified Names.* The merged list will be compared to the most recent list of death certificates provided by the Local Registrar of Births and Deaths. Any duplicates will be automatically purged from the merged list

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by the computer. The names and service records of jurors who served during the past 24 months will also be prepared for input and then compared with those in the merged file. The computer will be programmed to skip the name of a citizen who has served within 24 months of the date for which names are drawn.

2. *National Change of Address System.* Once the master list file is created it will be compared to the United States postal National Change of Address (NCOA). This is a file containing 113+ million permanent change of address records. This will assist in eliminating additional inconsistencies and duplications in the master list and remove all those potential jurors no longer living in Marin County.

3. *Master List Generation.* After the source lists are combined, duplicates eliminated, and disqualified individuals purged, as set forth in this rule, a master list will be produced by using the complete randomization technique and shall be generated at least once each year.

C. Qualification and Summoning. Qualifying and summoning prospective jurors from the master list will be performed as one integrated process. This is also known as a “one-step process”. On a daily basis, one month prior to each jury term, the jury clerk will determine the number of potential jurors to summon, based on the usual summons yield and the anticipated calendar load. The correct number of names from the master list will be input and a summons/questionnaire will print for the individuals selected.

1. *Randomization – Method of Selection.* Before the selection process is begun each month, the master list will be updated. No new names will be added to the file, but deletions will be made on the list where required. The names of those persons whose deferred service date falls within the month for which selection is being made, and is more than thirty (30) days from their initial service date, will be added to the list of jurors for that date. The names of these jurors will be distinguished on the list from those selected at random.

The selection process, using the complete randomization technique, will be performed by the computer drawing names from the master list. This selection method implies that each name from the combined source list is assigned or already has associated with it a number which is matched to a computerized random number generator or to a random number table as a means of selecting a subset or sample.

2. *Specifications of Forms.* The qualification/summoning forms generated by the computer will include:

a. A summons and response form for juror use in reporting disqualification or requesting excuse by mail. The summons forms will instruct the prospective juror to telephone a special number or use the Court’s online juror system (http://www.marincourt.org/jury_services.htm) between the hours of 5:00 p.m. of the evening prior to his/her service date and 8:00 a.m. that morning, in order to find out if they need to report or not.

b. Information on jury duty including the date, time, and a map showing the location of the jury assembly room, telephone numbers to call, and a brief outline of his/her duties.

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All forms will elicit only information necessary to determine the qualification of the prospective juror and will not be made public until he/she has been summoned and has appeared at the courthouse.

3. *Delivery and Follow-up.* The specified summons and qualification forms will be sent by first-class mail. As provided by CCP § 209, any prospective trial juror who has been summoned for service, and who fails to attend upon the court as directed or to respond to the court or jury commissioner and to be excused from attendance, may be arrested and, following an order to show cause hearing, the court may find the prospective juror in contempt of court, punishable by fine, incarceration, or both, as otherwise provided by law.

D. Disqualification, Exemption, Excuse and Postponement Policy.

1. *Disqualification.* All persons are eligible and qualified to be prospective trial jurors with the exception of those described in Code of Civil Procedure § 203.

2. *Exemptions/Excuses.* In accordance with Code of Civil Procedure § 204, no eligible person shall be exempt from service as a trial juror by reason of occupation, race, color, religion, sex, national origin, or economic status, or for any other reason. No person shall be excused from service as a trial juror except for undue hardship, upon themselves or upon the public.

The authority for granting and denying requests for excuse is delegated to the Jury Commissioner by the Presiding Judge. The written excuse policy of the court will be followed at all times. The only grounds for excuse are extreme hardship and serious medical situations. Excuses may only be requested after a person has been summoned for jury duty. Requests for excuse may be made by telephone or by mail prior to reporting.

The Deputy Jury Commissioner may, upon written request, defer the service of a prospective juror for good cause, or may excuse prospective jurors from service altogether, if they are:

- a. Persons infirm due to age, illness or are mentally or physically disabled.
- b. Persons responsible for the actual and necessary care of sick or aged and infirm dependents, or parents with children requiring their personal care and attention during the day.
- c. Persons with excessive travel distance or lack of available transportation to the Court.
- d. Federal or state judicial officers and/or active-duty military personnel.

If it is determined that the excuse status of an individual may change, his/her name will be reentered on the master list. Any request for a permanent excuse or exemption due to medical or other reasons, requires approval and authorization by the Jury Commissioner or designee.

3. *Postponement.* A potential juror may request postponement of jury service for up to ninety (90) days. Postponements may be obtained by calling Jury Services or using the Court's online juror system (http://www.marincourt.org/jury_services.htm).

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E. Term of Service. The term of service is one trial/one day and is considered fulfilled when he or she has:

1. Served on one trial until discharged.
2. Been assigned to a trial department for jury selection and served until excused by the Deputy Jury Commissioner.
3. Attended court but was not assigned to a trial department for selection of a jury before the end of that day.
4. Served one day on call with same day notice to appear in court.

[Rule 8.17 adopted effective 5/1/98; amended 7/1/15]

8.18 COURT REPORTERS

A. General Provisions. Official and pro tempore court reporter services and compensation are described in § 68086 et seq. of the Government Code, and in other applicable statutes, CRC, and rules of this Court. All matters required by law to be reported at the Court's expense shall be reported. All other matters shall be reported at the request of the Court or the parties, subject to the availability of an official court reporter.

As required by law, court reporting services shall be provided at the Court's expense in all felony and juvenile matters and proceedings under the Lanterman-Petris-Short (LPS) Act. Court reporting services may also be provided at the request of the Court or the parties for certain types of civil proceedings. **For the purposes of this local rule, "civil" is defined as all matters other than criminal, juvenile and LPS (e.g. civil, family law, probate.)** These services, however, will be subject to the availability of a court reporter and the cost of court reporting services will typically be borne by the parties.

Generally, the Court will not provide court reporters for the following types of proceedings: case management and status conferences; ex parte applications or hearings; orders to show cause; civil harassment; infractions and small claims. Court reporters may be used in such proceedings, but they shall be obtained, and the expense shall be borne, by the party requesting a reporter. The party requesting a reporter shall file five (5) days' advance written notice to the clerk of his/her request to have a reporter present during any of these proceedings.

At the court's discretion, in settlement of unlimited civil cases, the terms thereof shall be placed on the record by a court reporter or shall be reduced to writing and signed by all necessary parties, and the fact of the settlements shall be entered into the Court's minutes.

B. Use of Electronic Recording. Pursuant to Government Code § 69957, electronic recording may be used in the following types of proceedings, when an official reporter is unavailable: infractions, misdemeanors, limited jurisdiction civil matters, limited jurisdiction civil appeals, infraction and misdemeanor appeals, and small claims trials de novo.

C. Court Reporting Services Requested By Parties In Civil Trials And Hearings. A party in any type of civil case must file a statement ten (10) days before the trial or hearing date indicating whether the party requests the presence of an official court reporter. The clerk shall notify a party having filed such a statement no later than five (5) days before the trial or hearing date if the services of an official reporter will not be available. Pursuant to CRC 2.956, if the services of an official court reporter are not available for a trial or hearing, a party may arrange for the presence of a certified shorthand reporter to serve as an official pro

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tempore reporter. It is the requesting party's responsibility to pay the pro tempore reporter's fee directly to the reporter for attendance at the proceedings but the expense may be recoverable as part of the costs, as provided by law. Per diem fees for official court reporters are listed in the Court's Uniform Filing Fee Schedule and are to be paid by the parties in all matters other than criminal, juvenile or LPS. If the court makes available an official reporter for the trial or hearing lasting longer than one hour, the per diem fee shall be advanced to the courtroom clerk before the commencement of each day's proceedings.

D. Reporting Notes of Certified Reporters Hired to Serve as Official Pro Tempore Reporters. Reporting notes of all certified shorthand reporters employed to report in this Court are the official records of the Court and shall be secured by the Court in accordance with Government Code § 69955. The notes may be lodged by email at reporter@marincourt.org or by submitting a CD to the Clerk of the Court within thirty (30) days of reporting. The notes shall be labeled with the date recorded, the Court department, and the name of the reporter.

[Rule 8.18 adopted effective 7/1/10; amended 1/1/18]

8.19 PUBLIC ACCESS TO JUDICIAL ADMINISTRATIVE RECORDS

Any request for a copy of or to inspect a judicial administrative record pursuant to CRC 10.500 must be made in writing. Such request may be delivered to Room 116 (Administration) between the hours of 8:00 a.m. and 4:00 p.m., emailed to administration@marincourt.org, or mailed to Marin County Superior Court, Administration (Room 116), P.O. Box 4988, San Rafael, CA 94913-4988.

[Rule 8.19 adopted effective 7/1/11]

8.20 TELEPHONIC APPEARANCES – CIVIL, FAMILY, PROBATE, AND APPELLATE DIVISIONS

A. Telephonic Appearances. Parties shall schedule their telephonic appearance through vCourt, a Court-run telephonic appearance system two (2) court days prior to a hearing. To register for a telephonic appearance, go to the Court's website and click on vCourt system to sign up. You cannot register for a telephonic appearance over the phone. There shall be a charge for each telephonic appearance, pursuant to California Rules of Court, Rule 3.670. There may be an additional charge for appearances scheduled less than two (2) court days prior to the scheduled hearing.

A party making a telephonic appearance shall: (a) eliminate to the greatest extent possible all ambient noise from the party's location; (b) speak directly into a telephone handset during the appearance; and (c) not utilize the "hold" button. Each time a party speaks, the party shall identify by name for the record and participate in the appearance with the same degree of courtesy and courtroom etiquette as a personal appearance would require.

B. Child Support Hearings Involving DCSS. For telephonic appearances in cases involving DCSS, the requesting party must submit to the Court a Request for Telephone Appearance form (FL-679) at least twelve (12) court days prior to the hearing pursuant to CRC 5.324. The Court will provide the requesting party with the telephone number and conference call passcode if the request is approved.

[Rule 8.20 adopted effective 1/1/18; amended 1/1/19]

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