

**RULE 731 FILING AND NOTICE**

**Rule 731.1 Civil ex parte applications**

All ex parte applications must be filed with the Court no later than 12:00 P.M. on the court day preceding the day of the scheduled hearing on the ex parte application. A party seeking an ex parte order must notify all parties no later than 10:00 A.M. on the court day before the ex parte appearance as provided by the California Rules of Court, Rule 3.1203. (Eff. July 1, 2011.)

Proposed Local Rules, eff 07-01-11

**CHAPTER 14**  
**COUNSEL/INVESTIGATOR/EXPERT FEES**

**RULE 1400 APPOINTED ATTORNEY SERVICE FEE SCHEDULES**

Attorneys appointed by the Court may not charge fees for their services in excess of the rates and limits set forth in the Appointed Services Fee Schedule, available on the Court's website [www.sb-court.org](http://www.sb-court.org) and from the Court Executive Office. (Eff. July 1, 2011.)

**RULE 1401 FEE SCHEDULE FOR APPOINTED CASES IN JUVENILE COURT**

1401a	Conference with juvenile, parents, probation officer, includes case preparation, detention hearing or prehearing.....	\$250.00
1401b	Disposition hearing, conference with juvenile, parents, probation officer.....	\$ 85.00
1401c	Jurisdictional one half day.....	\$195.00
	Trial.....	\$250.00 per day, \$150 per half day
1401d	Additional Court appearance/prior to adjudication of the case not for the convenience of the appointed attorney.....	\$50.00
1401e	Prima facie or contested dispositional (not to exceed one half day).....	\$130.00
1401f	Court appearance after adjudication (annual review, appearance review, change of placement).....	\$ 50.00

(Former Criminal Rules, Rule 1328, eff. January 1, 2002. Renumbered as Criminal Rules, Rule 1401, eff. January 1, 2004. As a Amended, eff. January 1, 2007. Deleted, eff. July 1, 2011.)

**RULE 1402 FEE SCHEDULE FOR APPOINTED CRIMINAL CASES-GENERAL**

**1402a Representation – Criminal Complaints**

- 1402a(1) — Arraignment on felony complaint, entry of initial plea, conference with defendant, discovery, all court appearances except per Rule 1402b(1) et seq., conferences with prosecutor, preliminary hearing or entry of 859a plea or misdemeanor plea, confirmation of 859a plea and sentencing ..... \$350.00
- 1402a(2) — Arraignment on misdemeanor complaint, entry of initial plea, all conferences with defendant and/or prosecutor and pre trials, discovery, readiness conferences and sentencing..... \$300.00
- 1402a(3) — Written motions and/or evidentiary hearings, collectively, on a complaint.....\$60.00 per hour not to exceed a maximum of \$180.00
- 1402a(4) — Trial on misdemeanor complaint.....\$250.00 per day, \$150.00 per half day
- 1402a(5) — Appointment to represent the same defendant in additional pending cases:  
Felony case.....\$150.00  
Misdemeanor case.....\$75.00  
Violation of Probation . Misdemeanor.....\$35.00  
Violation of Probation . Felony Complaint.....\$50.00
- 1402a(6) — Appointment to represent a witness .....\$60.00 per hour not to exceed a maximum of \$180.00
- 1402a(7) — Probation violation hearings – Misdemeanor.....\$35.00
- 1402(a)(8) — Probation violation hearings – Felony Complaint.....\$50.00
- 1402(a)(9) — Mileage on Felony Complaint cases may be paid at current Court approved rate in effect on the dates of service at the Court’s discretion, and only if case is transferred from District where attorney was appointed to another courthouse exceeding 30 miles one way from appointing District.

**1402b Representation – Criminal Information or Indictment**

- 1402b(1) — Arraignment on information or indictment, entry of plea, conference with defendant, discovery, conferences with prosecutor, review transcript of preliminary hearing, readiness conference, pre-trial calendar, change of plea and sentencing .....\$250.00 if new counsel,  
\$150.00 if same attorney was appointed on criminal complaint.  
Additional time reasonably expended by the existing attorney or new counsel shall be paid at the rate of \$60.00 per hour at the discretion of the Court.

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- ~~1402b(2) — Additional Court appearance not for the convenience of the appointed attorney..... \$50.00~~
- ~~1402b(3) — Preparation and appearances regarding Petition to Revoke Probation .....\$195.00~~
- ~~1402b(4) — Trial on information or indictment.....\$390.00 per day,  
.....\$195.00 per half day~~
- ~~1402b(5) — Motion under Penal Code Section 995 or 1538.5 and evidentiary motions. Any increase shall be at the discretion of the Court.....\$195.00~~
- ~~1402(b)(6) — Appointment to represent same defendant in additional pending criminal information/indictment cases.....\$150.00~~
- ~~1402(b)(7) — Probation violation hearings additional pending criminal information/indictment cases.....\$50.00~~
- ~~1402(b)(8) — Mileage on Felony information/indictment cases may be paid at current Court-approved rate in effect on the dates of service at the Court's discretion and only if case is transferred from district where attorney was appointed to another courthouse exceeding 30 miles one way from appointing District.~~
- ~~1402c(1) — Probation hearing, pronouncement of judgment and related post-trial motions .....\$50.00  
Additional time reasonably expended by attorney shall be paid at the rate of \$60.00 per hour for time at the discretion of the Court.~~
- ~~1402c(2) — Probation violation hearings..... \$50.00~~
- ~~1402d — Appointment to represent a witness .....\$60.00 per hour  
not to exceed a maximum of \$180.00~~

(Former Criminal Rules, Rule 1329, eff. January 1, 2003. Renumbered as Criminal Rules, Rule 1402, eff. January 1, 2004. Amended, eff. July 1, 2005. ~~As amended, eff. and July 1, 2006. Deleted, eff. July 1, 2011.~~)

**RULE 1403 FEE SCHEDULE FOR APPOINTED CRIMINAL CASES - COMPLEX FELONY**

Complex felony billing rates must have express written approval of the Court unless the case and attorney were listed on the District Attorney's list of death penalty and LWOP cases during the dates of service on the attorney's service claim and attorney was appointed to the case prior to September 1, 1997. Upon application of counsel, prior to pre-trial, the criminal calendar Judge may designate complex, non-special circumstance cases as complex felonies, ~~for which the following fee schedule will apply:~~ for purposes of the Appointed Services Fee Schedule.

1403a ~~Arraignment, entry of plea, conference with defendant, discovery, conferences with prosecutor, review transcript of preliminary hearing, readiness conference and pre-trial calendar....\$270.00~~  
~~Additional time reasonably expended by attorney shall be paid at the rate of \$65.00 per hour for time at the discretion of the Court.~~

1403a(1) ~~Motion under Penal Code Section 995 or 1538.5 and evidentiary motions.....\$65.00 per hour~~

1403a(2) ~~Additional Court appearance not for the convenience of the appointed attorney..... \$55.00~~

1403b ~~Trial.....\$450.00 per day, \$250.00 per half day~~

1403c ~~Probation hearing and pronouncement of judgment and related post-trial motions.....\$55.00~~

1403c(1) ~~Probation violation hearings.....\$50.00~~

1403c(2) ~~Appointment to represent same defendant in additional pending complex felony cases.....\$150.00~~

1403c(3) ~~Appointment to represent a witness.....\$65.00 per hour~~

1403c(4) ~~Probation violation hearings additional pending complex criminal cases.....\$55.00~~

1403c(5) ~~Preparation and appearances regarding Petition to Revoke Probation.....\$250.00~~

1403d ~~Mileage may be paid at current court approved rate in effect on the dates of service at the Court's discretion, and only if case is transferred from District courthouse where attorney was appointed to another District courthouse exceeding 30 miles one-way from appointing courthouse, and only for mileage in excess of 30 miles.~~

(Former Criminal Rules, Rule 1330, eff. January 1, 2003. Renumbered as Criminal Rules, Rule Amended, eff. July 1, 2011.)

*Proposed Local Rules, eff 07-01-11*

**RULE 1404 FEE SCHEDULE FOR APPOINTED APPEALS CASES**

- 1404a ——— Communications (including client/defendant, previous counsel)  
..... up to 3.5 hrs at \$60.00 per hour, maximum of \$210.00
- 1404b ——— Record Review.....60 pages per hour at \$60.00 per hour
- 1404c ——— Preparation of Proposed Statement on Appeal ..... \$60.00  
per hour
- 1404d ——— Motions  
Extension of time.....up to 0.5 hr at \$60.00 per hour, maximum of \$30.00  
——— Augment.....up to 1.5 hrs at \$60.00 per hour, maximum  
of \$90.00  
——— Other Motions.....Reasonable time at Court’s discretion at \$60.00 per hour
- 1404e ——— Appellant’s Opening Brief  
——— Statement of Facts.....up to 1/3 of record review time at \$60.00 per hour  
——— Briefed Issues  
Very Simple.....up to 2.5 hrs at \$60.00 per hour, maximum of \$150.00  
Simple.....up to 4 hours at \$60.00 per hour, maximum of \$240.00  
Simple/Average.....up to 6 hours at \$60.00 per hour, maximum of  
\$360.00  
Average.....up to 8 hours at \$60.00 per hour, maximum of \$480.00  
Average/Complex.....up to 11 hours at \$60.00 per hour, maximum of  
\$660.00  
Complex.....up to 13.5 hours at \$60.00 per hour, maximum of  
\$810.00  
  
Unbriefed Issues  
Simple.....up to 0.5 hours at \$60.00 per hour, maximum of \$30.00  
Average.....up to 2.5 hours at \$60.00 per hour, maximum of \$150.00  
Complex.....up to 5 hours at \$60.00 per hour, maximum of \$300.00
- 1404f ——— Reply Brief.....up to 1/3 of Appellant’s Opening Brief recommendation
- 1404g ——— Supplemental Brief.....Appellant’s Opening Brief issue standards
- 1404h ——— Review of Opposing Counsel Brief .....up to 2.5 hours at \$60.00 per hour,  
maximum of \$150.00  
.....0 hours if Wende

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- 1404i — Petitions  
Habeas.....up to 12 hours at \$60.00 per hour,  
maximum of \$720.00  
Petition for Rehearing.....up to 6 hours at \$60.00 per hour, maximum of \$360.00  
Petition for Review.....up to 10 hours at \$60.00 per hour,  
maximum of \$600.00  
Other Petitions.....Reasonable time at Court's discretion at \$60.00 per hour  
Review Response.....Reasonable time at the Court's discretion at \$60.00 per hour  
Reply to Response.....up to 1/3 of petition time at \$60.00 per hour
- 1404j — Oral Argument.....up to 7.5 hours at \$60.00 per hour, maximum of \$450.00
- 1404k — Review Opinion.....up to 1.5 hours at \$60.00, maximum of \$90.00, up to 0.2  
hours at \$60.00 per hour if Wende, maximum of \$12.00
- 1404l — Other Services  
Review Superior Court File....up to 2 hours at \$60.00 per hour, maximum of  
\$120.00  
Miscellaneous.....Reasonable time at Court's discretion at \$60.00 per hour
- 1404m — Expenses  
Photocopying.....Up to \$.10 per page (10¢/pg), original receipts  
or detailed itemization required  
Postage.....Actual, if reasonable at the Court's discretion—  
original receipts required  
Telephone.....Actual, if reasonable at the Court's discretion—  
copy of bill or phone log required
- Travel.....Attorney mileage may only be reimbursed if authorized in  
advance by the Court, at the current Court approved rate in effect on the dates of  
service. Mileage reimbursement will generally only be authorized for travel for  
interviews to properly prepare a brief.
- Computerized Research.....Ordinary research not compensable  
Paralegal/Law Clerk.....Services on Appellate cases must have  
specific prior Court approval to be reimbursed, and will be reimbursed up to a  
maximum rate of \$25.00 per hour. If approved, services must be fully itemized as  
to specific dates, hours, and activities.  
Expert Witnesses, Investigator, Translator.....Services must have  
specific prior Court approval to be reimbursed, and will be reimbursed at the  
same rate allowed for criminal case appointments, and the misdemeanor rate for  
investigators (\$17.50 per hour). If approved, services must be fully itemized as to  
specific dates, hours, and activities.

(Former Criminal Rules, Rule 1341, eff. January 1, 2003. Renumbered as Criminal Rules, Rule 1404, eff. January 1, 2004. As a Amended, eff. July 1, 2005. Deleted, eff. July 1, 2011.)

**RULE 1405 FEE SCHEDULE FOR APPOINTED CIVIL FAMILY LAW AND PROBATE/GUARDIANSHIP CASES**

**~~1405a Representation – Civil and Family Law Cases, Guardianship and Probate/Conservatorship Cases~~**

- ~~1405a(1) Appointment, entry of plea, conferences, includes case preparation and appearances.....\$300.00~~
- ~~1405a(2) Written motions and/or evidentiary hearings, collectively on a complaint .....\$60.00 per hour not to exceed maximum of \$180.00~~
- ~~1405a(3) Trial on civil or family law complaint.....\$250.00 per day, \$150.00 per half day~~
- ~~1405a(4) Additional Court appearance not for the convenience of appointed attorney. ....\$50.00~~
- ~~1405a(5) Preparation and appearances regarding stipulated agreements.....\$50.00~~
- ~~1405a(6) Hourly Rate for out of court preparation time reasonably expended at the Court's discretion.....\$60.00 per hour~~

~~Former Criminal Rules, Rule 1340, renumbered as Criminal Rules, Rule 1417, and amended, eff. January 1, 2003. Renumbered as Criminal Rules, Rule 1405, eff. January 1, 2004. Amended, July 1, 2004, January 1, 2005, and July 1, 2005. As amended, eff. and July 1, 2006. Deleted, eff. July 1, 2011.)~~

**RULE 1415 ORDINARY ATTORNEY SERVICE FEES**

The ~~fee provisions in Chapter 14~~ Appointed Services Fee Schedule will covers the usual and ordinary handling of an appointed case, including ordinary office expenses. However, expenses reasonably and necessarily incurred by appointed counsel, including costs of service and process, copies of documents and long-distance telephone calls, may be reimbursed at the discretion of the Court. ~~Counsel must provide the Court with~~ †The original receipts for any such expenses before must be attached to any request for reimbursement or payment. Requests not supported by original receipts will not be processed. Specific prior court approval must be obtained for ~~Any single expense item in excess of \$50.00 to be reimbursed.~~ Investigator and expert services must follow Rule 1451, et seq. comply with all applicable rules and the Appointed Services Fee Schedule.

If an attorney appointed for a civil, family law or guardianship case covered by ~~Rule 1405~~ Appointed Services Fee Schedule requests the Court to authorize travel related to the case, travel reimbursement must follow the Administrative Office of the Courts (AOC) Travel Rate Guidelines in effect at the time of authorization regarding allowable travel expenses. The AOC Travel Rate Guidelines are incorporated into this Rule by reference, and are available from the Court's Executive Office. Attorneys must submit a travel plan complying with the AOC Travel Rate Guidelines to the Court for review and obtain written approval prior to incurring expenses for travel.

(Former Criminal Rules, 1331, eff. July 1, 2000 and amended, eff. July 1, 2001. Renumbered as Criminal Rules, Rule 1415, and amended, eff. January 1, 2003. Amended, eff. January 1, 2004, and July 1, 2005. ~~As amended, eff. and July 1, 2006. As amended, eff. July 1, 2011.~~)

**1430 CONTRACT AND COMMON COUNTS DEFAULT ATTORNEY FEES**

~~When attorney's fees are allowed on a recovery on a promissory note, action on common counts or other contract providing for payment of a reasonable attorney's fees, the amount recovered, exclusive of interest, fees and costs, in addition to which make a further allowance for extraordinary services.~~

(a) Whenever the obligation sued upon provides for the recovery of a reasonable attorney fee, the fee in each default case may be fixed pursuant to the following schedule, but in no event shall the amount included by the clerk exceed the amount of attorney's fees prayed for:

25 percent of the first \$1,000 with minimum attorney's fees of \$75.00;

10% of the next % 14,000;

3 percent of the next \$35,000; and

1 percent of the contract or note amount over \$100,000.

(b) In any case where an attorney claims he or she is entitled to a fee in excess of any of the above amounts, the attorney may apply to the court therefor and present proof to support the claim. The court will determine the reasonable fee amount according to proof.

(c) In contested matters, the court will determine the reasonable attorney fees as proved by the prevailing party after trial in accordance with Code of Civil Procedure, section 1021 et seq., Civil Code, sections 1717 and 171.5, and the California Rules of Court, rule 3.1702.

(d) This rule is not applicable to actions for foreclosure of a mortgage or deed of trust or judicial determination of abandonment of a mobile home. (Eff. July 1, 1998. Amended, January 1, 2005, and January 1, 2007. As amended, eff. and January 1, 2011. As amended, eff. July 1, 2011.)

**RULE 1431 ACTION FOR JUDICIAL DECLARATION OF ABANDONMENT OF MOBILE HOME OR DEFAULT ACTION ON NOTE OR CONTRACT OR NOTE, EXCLUSIVE OF COSTS**

For the purposes of determining attorney's fees in an action for judicial determination of abandonment of a mobile home, the Court shall use the following schedule:

25 percent of the first \$1,000 in damages with minimum attorney's fees of \$ 75.00;  
10 percent of next \$14,000 in damages;  
3 percent of next \$35,000 in damages;  
2 percent of next \$50,000 in damages; and  
1 percent of the amount of damages over \$100,000.

~~When the clerk is authorized by statute to enter judgment by default in an action upon a contract or note providing for attorney's fees, the following schedule shall be used by the clerk in determining the amount of attorney's fees to be included in the judgment, but in no event shall the amount included by the clerk exceed the amount of attorney's fees prayed for.~~

~~25 percent of the first \$1,000 with minimum attorney's fees of \$ 75.00;  
10 percent of next \$14,000;  
3 percent of next \$35,000;  
2 percent of next \$50,000; and  
1 percent of the contract or note amount over \$100,000.~~

~~(Eff. July 1, 1998. As a Amended, eff. January 1, 2005. As amended, eff. July 1, 2011.)~~

**~~RULE 1432 CONTESTED ACTION ON NOTE OR CONTRACT, EXCLUSIVE OF COSTS~~**

~~At the discretion of the trial Judge and subject to proof. (Former Rule 1112, et seq., eff. May 27, 1982. Renumbered as Rules 1430, 1431 and 1432, eff. July 1, 1998. Deleted, eff. 1, 2011)~~

Proposed Local Rules, eff 07-01-11

**RULE 1451 APPOINTMENTS OF INVESTIGATORS OR OTHERS**

1451.1 All requests for Court-appointment of investigators, experts, or others at government expense shall comply with Rule 1441 regarding appointed defense fees.

1451.2 The Superior Court of California, County of San Bernardino shall have designated primary and alternate judges (“P.C. § 987.2 Judges”) for each Court Region (West Valley, East Valley, Desert) to monitor and authorize fees for ancillary defense funding at government expense under the provisions of Penal Code § 987.2 for non-capital cases. The primary and alternate judges shall be appointed by the Presiding Judge to serve as he/she desires, with initial terms of one (1) year. Alternate judges shall serve as primary judges during absences of the designated primary judge, and shall become the primary judge upon conclusion of the primary judge's term. When an alternate judge becomes the primary judge, a new alternate judge shall be designated. Applications for ancillary defense funding under Penal Code § 987.2 will be reviewed for reasonableness and appropriateness, and for compliance with the Court's *Procedures for Administration of 987.2 Penal Code Applications* and Local Rules regarding appointed services.

1451.3 Funding of ancillary defense expenditures for capital cases shall be processed pursuant to Local Rule of Court 1460.8 and the Court's *Procedures for Administration of 987.9 Penal Code Applications*. Motions for appointment of investigators, experts or others in capital cases involving indigent defendants will be made pursuant to the provisions of Penal Code Section 987.9 and Rule 1460.8.

1451.4 In non-capital cases not included under Section 987.9 and Rule 1460.8, motions for the appointment of investigators, experts or others to assist at the request of defense counsel or in propria persona (pro per) defendant must be supported by affidavit or supporting declaration of ultimate facts indicating that the case or circumstances of the case are of such a nature as to require, in the interest of justice, the services of an investigator, expert or other. Except for death penalty cases covered by Penal Code Section 987.9, all motions for appointment of investigators, experts or others for indigent defendants are to be presented to the designated P.C. § 987.2 Judge for the Court Region where the case is being heard. Such motions shall follow the Court's “Procedures for Administration of 987.2 Penal Code Applications” (available on the Court's website “[www.sbcounty.gov/courts](http://www.sbcounty.gov/courts)”) and must state the billing rate, which billing rate shall be consistent with the Court's Appointed Services Fee Schedule, and the maximum amount expected to be charged for the service of the investigator, expert or other, and must specify if special expenses, including the costs of other experts, travel other than mileage expenses, and any single expense item in excess of \$50.00, are to be authorized. Any request for expert fees must comply with ~~Rule 1460.3~~ the Appointed Services Fee Schedule, available on the Court's web site [www.sb-court.org](http://www.sb-court.org) and from the Court Executive Office.

1451.5 Investigator services, when appointed by the Court, should be limited to actual investigative work and related activities such as testifying. Appointed investigator services shall not include activities that would normally be performed by the attorney or attorney office staff, or in propria persona (pro per) defendant, such as sorting discovery and indexing discovery notebooks, redacting discovery, (exception for redacting if pro per defendant), ordering duplicates of photographs and tapes, preparing subpoenas and court orders, photocopying and

transporting or mailing materials, motions, orders and clothing (exception for mailing or transporting if pro per defendant). Extraordinary amounts of time attending attorneys in court are discouraged unless testimony is involved. For time on standby at court, the description of the service shall include a notation that the service was performed at the request of the Court or defense counsel. In-court time claimed by investigators must contain a brief statement for each day specifying why the investigator's presence in court was needed, or the time may be denied at the P.C. 987.2 Judge's discretion. Extraordinary amounts of time conferring with defense counsel or in propria persona (pro per) defendant are discouraged unless it involves the investigator's direct services.

1451.6 Requests by retained counsel for Court-appointment of investigators, experts or others at government expense shall comply with Rule 1441 regarding appointed defense fees, the Appointed Services Fee Schedule and funding for appointed investigative services shall be limited to an initial maximum authorization amount of \$600 ~~and 20 hours at \$30.00 per hour~~ ), plus mileage, for any given case, absent extraordinary circumstances and except as allowed for in Rule 1460.8. If the initial funding approval is exhausted and additional services are needed, counsel may subsequently apply to the designated P.C. §987.2 Judge for additional funding supported with a detailed listing of services already rendered and proposed to be performed.

1451.7 Requests by in propria persona (pro per) defendants for Court-appointment of investigator, expert or other at government expense shall comply with Rule 1441 regarding appointed defense fees and the Appointed Services Fee Schedule. Initial funding for appointed legal runner services shall be limited to a maximum of \$250, plus mileage, for any given case, except as allowed for in Rule 1460.8. If the initial funding approval is exhausted and additional services are needed, the defendant may subsequently apply to the designated P.C. § 987.2 Judge for additional funding supported with a detailed listing of services already rendered and proposed to be performed.

1451.8 Legal runner services, when appointed by the Court, are limited to photocopying, and transporting materials, orders and motions. Visitations and phone calls to West Valley Detention Center must be associated with an allowable billable activity, and will be subject to the discretion of the Court. Appointed legal runners are subject to a background check conducted by the San Bernardino County Sheriff. Appointed legal runners should contact the Court's Indigent Defense Program at (909) 798-8458 *in advance of services being performed* so that the legal runner may be fully informed of requirements and limitations pertaining to appointed legal runner services.

1451.9 Paralegal services must be performed under the direction and supervision of an active member of the State Bar of California consistent with the Business and Professions Code § 6450, et seq. The Court strongly discourages appointed paralegals from attending court proceedings. Appointments of paralegals shall generally be limited to capital cases. Paralegal service appointment order requests must specify the services to be performed by the paralegal under appointment, and must specify why the services cannot be performed by the attorney or attorney office staff.

1451.10 Mitigation specialists for death penalty cases, when appointed by order of the Court pursuant to Penal Code Section 987.9 and Rule 1460.8, should be limited to gathering of information specifically related to mitigation defense and coordinating the various aspects of investigators, experts and witnesses for the penalty (mitigation) phase, and to activities which

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would not normally be performed by an investigator or paralegal appointed for the case pursuant to this Rule.

1451.11 The provisions of this rule shall apply to all cases filed under Sections 601 and 602 of the Welfare and Institutions Code, except: (1) Motions shall be presented to the Presiding Judge of the Juvenile Court, or to such other judicial officers sitting in Juvenile Court as the Presiding Judge shall designate; and, (2) All references to defendants shall be deemed to refer to minors.

(Former Criminal Rule 1131, eff. May 27, 1982. Amended eff. April 1, 1985; July 1, 1988; Jan. 1, 1990; Jan. 1, 1991. Renumbered as Criminal Rules, Rule 1451 and amended July 1, 1998. Amended, July 1, 2000; July 1, 2000; January 1, 2001; January 1, 2002; January 1, 2003; January 1, 2004; July 1, 2004; January 1, 2005; July 1, 2005; July 1, 2006; ~~and~~ , January 1, 2010 ~~and~~ . ~~As amended, eff. and~~ July 1, 2010. As amended, eff. July 1, 2011.)

Proposed Local Rules, eff 07-01-11

**Rule 1460.2 Investigator, Mitigation Specialist, Paralegal and Legal Runner Fee Schedules**

Juvenile and Misdemeanor Investigator.....	\$30.00/hr.
Family Law and Guardianship Investigator.....	\$30.00/hr.
General Felony Investigator.....	\$30.00/hr.
P.C. §190.2 Capital/Life Without Possibility of Parole (LWOP) .....	\$35.00/hr.
Legal Runner.....	Prevailing minimum wage plus the amount equivalent to the applicable self-employment tax rate
Mitigation Specialists for death penalty cases.....	up to a maximum of \$40.00 per hour
Paralegal Services for death penalty cases.....	up to a maximum of \$25.00/hr.
Mileage .....	Current Court approved rate in effect for dates of service
Per diem (associated with authorized overnight travel)*.....	\$25.00/day

~~\*Excess charges greater than the \$25 allowance may be authorized at the Court's discretion under special circumstances. Original receipts are mandatory to obtain reimbursement over the allowable per diem rate. Alcohol related beverages will not be reimbursed.~~

Investigators, Mitigation Specialists, Paralegals and Legal Runners appointed by the Court may not charge fees for their services in excess of the rates and limits set forth in the Appointed Services Fee Schedule, available on the Court's website [www.sb-court.org](http://www.sb-court.org) and from the Court Executive Office.

(Former Appendix III, Rule 1460, eff. July 1, 1998. Renumbered as Criminal Rules, Rule 1460.2 and amended, eff. July 1, 2000. Amended January 1, 2002; July 1, 2002; January 1, 2004; July 1, 2005; July 1, 2006; and , January 1, 2009. ~~As amended, eff. and July 1, 2010. As amended, eff. July 1, 2011.)~~

**Rule 1460.3 Expert Fee Schedules**

Experts other than M.D.'s and Ph.D.'s or the equivalent will be compensated ~~up to a maximum of \$80.00 per hour, \$350.00 for half day of testimony and \$600.00 for a full day of testimony~~ at the rates and according to the limits set forth in the Appointed Services Fee Schedule, available on the Court's website [www.sb-court.org](http://www.sb-court.org) and from the Court Executive Office.

For subpoenaed testimony services, a copy of the subpoena must accompany the claim. Transcription services are deemed to be an expert service; compensation for transcription service shall be at the lowest commercially-available rate. ~~M.D.'s and Ph.D.'s or equivalent will be compensated up to a maximum of \$95.00 per hour unless otherwise covered under the Court's Appointed Services Fee Schedule or Rule 1460.7. For subpoenaed testimony services, a copy of the subpoena must accompany the claim. Expert mileage will be paid at the current Court-approved rate in effect for dates of service.~~

(Former Criminal Rule 1460.4, eff. July 1, 1998. Renumbered as Criminal Rules, Rule 1460.3 and amended, eff. July 1, 2000. Amended, January 1, 2002; July 1, 2001; January 1, 2003; January 1, 2004; January 1, 2005; July 1, 2005; and July 1, 2006. ~~As amended, eff. and July 1, 2010. As amended, eff. July 1, 2011.~~)

Proposed Local Rules, e1107-01

**Rule 1460.4 Appointed Psychiatric/Psychological Evaluation Services**

All claims for appointed psychiatric/psychological evaluation services shall be submitted in a timely manner. Claims shall be submitted on eCourt forms to the eCourt where the case is heard within 60 days of completion of the services rendered. Any claim submitted more than 60 days after completion of services on case will be subject to a penalty of ten percent (10%) of the claim amount per month, up to a maximum of twenty percent (20%), absent extenuating circumstances. The billing must be submitted on the proper eCourt form (Form 12-21283-356 for PC 1368/1369, W&I 3050/3051, and PC 288.1 evaluations; Form 13-17711-360 for PC 1026 and EC 1017 evaluations), and shall ~~be for~~ include all services provided to that point that have not been previously presented or paid. A Psychological/Psychiatric Letter of Appointment or file stamped copy of the Court order of appointment must accompany all claims for appointed evaluation services. Courthouse staff shall verify that an appropriate ~~Letter of Appointment or Court order~~ documentation of appointment is attached to the claim, and shall verify any in-eCourt time listed on the claim. Billings for EC § 1017 defense-requested confidential exam and reports must be signed off by defense counsel in the space provided prior to submittal to the Court ~~for payment~~.

(Eff. July 1, 2000. Amended, July 1, 2006. ~~As amended, eff. and~~ July 1, 2010. As amended, eff. July 1, 2011.)

Proposed Local Rules, eff. 7/1/2011

**Rule 1460.5 Appointed Psychiatric/Psychological Evaluation Service Fee Schedules**

~~Penal Code 288.1 sex offender evaluation and report (use Court form 12-21283-356; Court funds, unless Court declined to order report)~~

~~.....\$250.00~~

~~Evidence Code 1017 evaluation and report (use Court form 13-17711-360; County funds).....~~ \$350.00

~~Penal Code 1026 NGI plea or 1026.5 NGI extended commitment evaluation and report (use Court form 13-17711-360; Court funds) .....~~ \$300.00

~~Penal Code 1368/1369/1370.1 competence/developmental disability or Penal Code 1369(a)/1370.01 ii I involuntary administration of anti-psychotic medication evaluation and report (use Court form 12-21283-356; Court funds)~~

~~..... \$300.00 total,~~

~~unless court order of appointment specifically authorizes separate billing for two reports, and two separate reports were submitted to the Court.~~

~~W&I 3050/3051 Narcotic evaluation and report (use Court form 12-21283-356); Court funds, unless Court declined to order report).....~~ \$250.00

~~Juvenile Court appointed evaluation services paid at applicable current Probation Department rates.~~

~~Court appearances related to above exams and reports (payable by Court if testimony is for benefit of Court):~~

~~Full day.....~~ \$600.00

~~Half day.....~~ \$350.00

~~For subpoenaed testimony services, a copy of the subpoena must accompany the claim.~~

~~Mileage..... Current Court approved rate in effect for dates of service~~

Psychiatrists and Psychologists appointed by the Court may not charge fees for their services in excess of the rates set forth in the Appointed Attorney Service Fee Schedule, available on the Court's website [www.sb-court.org](http://www.sb-court.org) and from the Court Executive Office.

(Former Appendix III, Rule 1460, eff. July 1, 1998. Renumbered as Criminal Rule 1460.5, and amended, eff. July 1, 2000. Amended, January 1, 2004, July 1, 2004 and , January 1, 2005. As amended, eff. and July 1, 2006. As amended, eff. July 1, 2011.)

**Rule 1460.6 Prior Approval**

Prior express written approval of the Court is required for all investigator and expert services. Costs of services performed prior to the order of the Court, and costs beyond that provided for in the Court Order, will be denied. The Court's Appointed Services Fee Schedule rates are the maximum allowed for experts unless ~~an extraordinary billing rate receives specific~~ the prior express written approval of the Court for an extraordinary billing rate in obtained in advance of the expert's services. Copies of the Court's Appointed Services Fee Schedule may be obtained on the Court's website (~~www.sbcounty.gov/courts~~) [www.sb-court.org](http://www.sb-court.org) or from the Court's Indigent Defense Program at (909) 798-8458.

(Former Rule 1460.2, eff. July 1, 1998. Renumbered as Rule 1460.6 and amended, eff. July 1, 2000. Amended, July 1, 2001 ~~and~~ July 1, 2006. ~~As amended, eff. and~~ July 1, 2010. As amended, eff. July 1, 2011.)

Proposed Local Rules, eff 07-01-11

**Rule 1460.7 Extraordinary Expert Fees**

Upon prior approval of the Court, ~~after written request,~~ in cases where, because of complexities, the seriousness of the charge, or where novel medical examinations, extensive research and/or trial preparation are required, extraordinary expert fees may be allowed for work performed by doctors of medicine or doctors of philosophy at in excess of the rate of up to \$95.00 per hour. ~~If Board certified in specialty related to the case, fees of up to \$125.00 per hour, \$450.00 for half day of testimony and \$800.00 for full day of testimony may be authorized provided in the Appointed Services Fee Schedule~~

Requests for extraordinary expert billing rates which exceed the maximum rate specified in ~~this Rule~~ the Appointed Services Fee Schedule must be made by written motion with a detailed supporting declaration specifying the unique nature of the expert's service and stating why an extraordinary billing rate is justified, ~~and receives prior approval of the Court.~~ To ensure that the rate proposed is the best rate available, the defense must obtain quotes from at least three (3) experts who can provide the same service, unless the attorney certifies that the expert specialty is so unique that no other providers are reasonably available. Copies of the quotes or the attorney's certification must be filed with the motion for approval of extraordinary fees.

It is the duty of counsel to endeavor to negotiate the lowest hourly rate ~~the expert will work for recognizing that~~ for the expert's services are a charge to the government. If extraordinary fees are authorized, billings must provide sufficient specificity with regard to services performed to support the bill for payment, with dates and times of service itemized.

Any order for payment and/or reimbursement of extraordinary expert fees or fees in excess of ~~the fee schedule set forth in these Rules~~ Appointed Services Fee Schedule requires the prior authorization of the designated P.C. § 987.2 Judge.

(Former Rule 1460.3, eff. July 1, 1998. Renumbered as Rule 1460.7, eff. July 1, 2000. Amended, eff. July 1, 2001; January 1, 2002; January 1, 2003; ~~and~~ , July 1, 2004; ~~and~~ , July 1, 2009. ~~As amended, eff. and~~ July 1, 2010. As amended, eff. July 1, 2011.)

**RULE 1510 CHANGE OF MEDIATOR CHILD CUSTODY RECOMMENDING COUNSELOR OR EVALUATOR**

A Requests for change of ~~mediator~~ child custody recommending counselor or evaluator shall be addressed to the Director of Family Court Services. If the request for change is not satisfactorily resolved, it may be brought to the attention of the Presiding Judge of the Family Law Division of the District in which the case is being heard.

Mediators: The request for a change of ~~mediator~~ child custody recommending counselor shall be made prior to the beginning of the ~~mediation~~ child custody recommending session. The request will be granted only upon a substantial showing that the ~~mediator~~ child custody recommending counselor is prejudiced against one of the parties or counsel; or is unable to perform his or her duties in a fair and impartial manner.

Evaluators: The request for a change of evaluator shall be made within five (5) days of the attorney/or party in propria persona receiving written notification of the evaluator assigned to the case. Changes will not be granted absent a substantial showing that the evaluator is prejudiced against one of the parties or counsel or is otherwise unable to render a fair and impartial evaluation.

An ~~E~~evaluators may petition the ~~e~~Court to withdraw from a case, for good cause. The petition shall be made in writing, directed to the judicial officer to whom the case has been assigned; with copies to counsel or parties. A hearing shall be scheduled, if requested by counsel or parties or as deemed necessary by the judicial officer. The evaluator need not be present at the hearing unless directed by the court. No peremptory challenges of an evaluator are allowed.

Complaints: Complaints about the services of ~~mediators~~ child custody recommending counselors and evaluators shall be addressed to the Director of Family Court Services. If the complaint is not satisfactorily resolved, it may be addressed to the Presiding Judge of the Family Law Division of the District in which the case is being heard. (Eff. July 1, 1998. Amended January 1, 1999. ~~As amended, eff. and~~ July 1, 2003. As amended, eff. July 1, 2011.)

**RULE 1511 MEDIATION**

**Rule 1511.1 ~~Mediation~~ Child Custody Recommending Counseling Procedures**

The parties' attorneys do not participate in ~~Family Court Services mediation~~ child custody recommending counseling. If the parties reach an agreement during ~~mediation~~ child custody recommending counseling, it will be memorialized in writing and submitted to them or their attorneys before the OSC hearing. If the parties and their attorneys approve of the parties' agreement, they will submit the agreement to the eCourt for the eCourt's approval and adoption as an order.

If the parties are unable to resolve issues of custody or visitation by ~~mediation~~ child custody recommending counseling, the ~~Family Court Services mediator~~ child custody recommending counselor will submit a written recommendation and reasons for the recommendation to the parties and/or ~~parties~~ their attorneys and the court. The eCourt will consider the recommendation at the time of the OSC hearing. At the hearing, the ~~mediator~~ child custody recommending counselor may be called as a witness by either party, subject to cross examination ~~by the other party~~. (Former Family Law Rule 1510.1, eff July 1, 1998, amended, eff. July 1, 1999, ~~amended eff.~~ and January 1, 2003. Renumbered as Family Law Rule 1511.1, eff July 1, 2003. As amended, eff. July 1, 2011.)

Proposed Local Rules, eff. July 1, 2011

**Rule 1511.2 Ex Parte Communication**

If both parties are represented by attorneys and the attorneys want to confer with the ~~mediator~~ child custody recommending counselor prior to the ~~mediation~~ child custody recommending counseling conference, they may schedule a meeting at a time that is agreeable to the ~~mediator~~ child custody recommending counselor. The ~~mediator~~ child custody recommending counselor will not meet with one attorney unless the opposing attorney is present in person or by telephone. If one attorney refuses or is unwilling to meet with the ~~mediator~~ child custody recommending counselor, the other attorney may meet with the ~~mediator~~ child custody recommending counselor only by court order.

The mediator child custody recommending counselor may have ex parte contact with either attorney or party at any time during the mediation child custody recommending counseling and/or while preparing the recommendation for the limited purpose of obtaining necessary information. Neither party nor attorney may contact the mediator child custody recommending counselor, except upon request of the mediator child custody recommending counselor, unless the other party or attorney is present in person or by phone. (Former Family Law Rule 1510.2, eff. January 1, 2003. Renumbered as Family Law Rule 1511.2, eff. July 1, 2003. As amended, eff. July 1, 2011.)

Proposed Local Rules, eff. July 1, 2011