

California Rules of Court Governing Temporary Judges

Rule 2.810. Temporary judges appointed by the trial courts

(a) Scope of rules

Rules 2.810-2.819 apply to attorneys who serve as court-appointed temporary judges in the trial courts. The rules do not apply to subordinate judicial officers or to attorneys designated by the courts to serve as temporary judges at the parties' request.

(Subd (a) amended effective January 1, 2009; previously amended effective January 1, 2007.)

(b) Definition of "court-appointed temporary judge"

A "court-appointed temporary judge" means an attorney who has satisfied the requirements for appointment under rule 2.812 and has been appointed by the court to serve as a temporary judge in that court.

(Subd (b) amended effective January 1, 2007.)

(c) Appointment of attorneys as temporary judges

Trial courts may appoint an attorney as a temporary judge only if the attorney has satisfied the requirements of rule 2.812.

(Subd (c) amended effective January 1, 2007.)

(d) Exception for extraordinary circumstances

A presiding judge may appoint an attorney who is qualified under 2.812(a), but who has not satisfied the other requirements of that rule, only in case of extraordinary circumstances. Any appointment under this subdivision based on extraordinary circumstances must be made before the attorney serves as a temporary judge, must be recorded for reporting purposes under rule 10.742(c)(3), and must not last more than 10 court days in a three-year period.

(Subd (d) amended effective January 1, 2007.)

Rule 2.810 amended and renumbered effective January 1, 2007; adopted as rule 243.11 effective July 1, 2006.

Rule 2.811. Court appointment of temporary judges

(a) Purpose of court appointment

The purpose of court appointment of attorneys as temporary judges is to assist the public by providing the court with a panel of trained, qualified, and experienced attorneys who

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may serve as temporary judges at the discretion of the court if the court needs judicial assistance that it cannot provide using its full-time judicial officers.

(b) Appointment and service discretionary

Court-appointed attorneys are appointed and serve as temporary judges solely at the discretion of the presiding judge.

(c) No employment relationship

Court appointment and service of an attorney as a temporary judge do not establish an employment relationship between the court and the attorney.

(d) Responsibility of the presiding judge for appointments

The appointment of attorneys to serve as temporary judges is the responsibility of the presiding judge, who may designate another judge or committee of judges to perform this responsibility. In carrying out this responsibility, the presiding judge is assisted by a Temporary Judge Administrator as prescribed by rule 10.743.

(Subd (d) amended effective January 1, 2007.)

Rule 2.811 amended and renumbered effective January 1, 2007; adopted as rule 243.12 effective July 1, 2006.

Rule 2.812. Requirements for court appointment of an attorney to serve as a temporary judge

(a) Experience required for appointment and service

The presiding judge may not appoint an attorney to serve as a temporary judge unless the attorney has been admitted to practice as a member of the State Bar of California for at least 10 years before the appointment. However, for good cause, the presiding judge may permit an attorney who has been admitted to practice for at least 5 years to serve as a temporary judge.

(b) Conditions for appointment by the court

The presiding judge may appoint an attorney to serve as a temporary judge only if the attorney:

- (1) Is a member in good standing of the State Bar and has no disciplinary action pending;
- (2) Has not pled guilty or no contest to a felony, or has not been convicted of a felony that has not been reversed;

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- (3) Has satisfied the education and training requirements in (c);
- (4) Has satisfied all other general conditions that the court may establish for appointment of an attorney as a temporary judge in that court; and
- (5) Has satisfied any additional conditions that the court may require for an attorney to be appointed as a temporary judge for a particular assignment or type of case in that court.

(c) Education and training requirements

The presiding judge may appoint an attorney to serve as a temporary judge only if the following minimum training requirements are satisfied:

(1) Mandatory training on bench conduct and demeanor

Before appointment, the attorney must have attended and successfully completed, within the previous three years, a course of at least 3 hours duration on the subjects identified in rule 2.813(a) approved by the court in which the attorney will serve. This course must be taken in person and be taught by a qualified judicial.

(2) Mandatory training in ethics

Before appointment, the attorney must have attended and successfully completed, within the previous three years, a course of at least 3 hours duration on the subjects identified in rule 2.813(b) approved by the court in which the attorney will serve. This course may be taken by any means approved by the court, including in-person, by broadcast with participation, or online.

(3) Substantive training

Before appointment, the attorney must have attended and successfully completed, within the previous three years, a course on the substantive law in each subject area in which the attorney will serve as a temporary judge. These courses may be taken by any means approved by the court, including in-person, by broadcast with participation, or online. The substantive courses have the following minimum requirements:

(A) Small claims

An attorney serving as a temporary judge in small claims cases must have attended and successfully completed, within the previous three years, a course of at least 3 hours' duration on the subjects identified in rule 2.813(c) approved by the court in which the attorney will serve.

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(B) *Traffic*

An attorney serving as a temporary judge in traffic cases must have attended and completed, within the previous three years, a course of at least 3 hours' duration on the subjects identified in rule 2.813(d) approved by the court in which the attorney will serve.

(C) *Other subject areas*

If the court assigns attorneys to serve as temporary judges in other substantive areas such as civil law, family law, juvenile law, unlawful detainers, or case management, the court must determine what additional training is required and what additional courses are required before an attorney may serve as a temporary judge in each of those subject areas. The training required in each area must be of at least 3 hours duration. The court may also require that an attorney possess additional years of practical experience in each substantive area before being assigned to serve as a temporary judge in that subject area.

(D) *Settlement*

An attorney need not be a temporary judge to assist the court in settlement conferences. However, an attorney assisting the court with settlement conferences who performs any judicial function, such as entering a settlement on the record under Code of Civil Procedure section 664.6, must be a qualified temporary judge who has satisfied the training requirements under (c)(1) and (c)(2) of this rule.

(E) The substantive training requirements in (3)(A)-(C) do not apply to courts in which temporary judges are used fewer than 10 times altogether in a calendar year.

(Subd (c) amended effective January 1, 2009; previously amended effective January 1, 2007.)

(d) Requirements for retired judicial officers

Commencing five years after the retired judicial officer last served in a judicial position either as a full-time judicial officer or as an assigned judge, a retired judicial officer serving as a temporary judge must satisfy all the education and training requirements of this rule. However, a retired judicial officer serving as a temporary judge in a small claims case must satisfy all the requirements of Code of Civil Procedure section 116.240(b) and the rules in this chapter before serving in the case.

(Subd (d) adopted effective January 1, 2009.)

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(e) Additional requirements

The presiding judge in each court should establish additional experience and training requirements for temporary judges beyond the minimum requirements provided in this rule if it is feasible for the court to do so

(Subd (e) relettered effective January 1, 2009; adopted as subd (d) effective January 1, 2006.)

(f) Records of attendance

A court that uses temporary judges must maintain records verifying that each attorney who serves as a temporary judge in that court has attended and successfully completed the courses required under this rule.

(Subd (f) relettered effective January 1, 2009; adopted as subd (e) effective January 1, 2006.)

(g) Application and appointment

To serve as a temporary judge, an attorney must complete the application required under rule 10.744, must satisfy the requirements prescribed in this rule, and must satisfy such other requirements as the court appointing the attorney in its discretion may determine are appropriate.

(Subd (g) relettered effective January 1, 2009; adopted as subd (f) effective January 1, 2006.)

Rule 2.812 amended effective January 1, 2009; adopted as rule 243.13 effective July 1, 2006; previously amended and renumbered effective January 1, 2007.

Advisory Committee Comment

The goal of this rule is to ensure that attorneys who serve as court-appointed temporary judges are qualified and properly trained.

Subdivision (a). If a court determines that there is good cause under (a) to appoint an attorney with less than 10 years of practice as a temporary judge, the attorney must still satisfy the other requirements of the rule before being appointed.

Subdivision (b). "Good standing" means that the attorney is currently eligible to practice law in the State of California. An attorney in good standing may be either an active or a voluntarily inactive member of the State Bar. The rule does not require that an attorney be an active member of the State Bar to serve as a court-appointed temporary judge. Voluntarily inactive members may be appointed as temporary judges if the court decides to appoint them.

Subdivision (c). A court may use attorneys who are not temporary judges to assist in the settlement of cases. For example, attorneys may work under the presiding judge or individual judges and may assist them in settling cases. However, these attorneys may not perform any judicial functions such as entering a settlement on the record under Code of Civil Procedure section 664.6. Settlement attorneys who are not temporary judges are not required to satisfy the requirements of these rules, but must satisfy any requirements established by the court for attorneys who assist in the settlement of cases.

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Rule 2.813. Contents of training programs

(a) Bench conduct

Before the court may appoint an attorney to serve as a temporary judge in any type of case, the attorney must have received training under rule 2.812(c)(1) in the following subjects:

- (1) Bench conduct, demeanor, and decorum;
- (2) Access, fairness, and elimination of bias; and
- (3) Adjudicating cases involving self-represented parties.

(Subd (a) amended effective January 1, 2007.)

(b) Ethics

Before the court may appoint an attorney to serve as a temporary judge in any type of case, the attorney must have received ethics training under rule 2.812(c)(2) in the following subjects:

- (1) Judicial ethics generally;
- (2) Conflicts;
- (3) Disclosures, disqualifications, and limitations on appearances; and
- (4) Ex parte communications.

(Subd (b) amended effective January 1, 2007.)

(c) Small claims

Before the court may appoint an attorney to serve as a temporary judge in small claims cases, the attorney must have received training under rule 2.812(c)(3)(A) in the following subjects:

- (1) Small claims procedures and practices;
- (2) Consumer sales;
- (3) Vehicular sales, leasing, and repairs;
- (4) Credit and financing transactions;

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- (5) Professional and occupational licensing;
- (6) Tenant rent deposit law;
- (7) Contract, warranty, tort, and negotiable instruments law; and
- (8) Other subjects deemed appropriate by the presiding judge based on local needs and conditions.

In addition, an attorney serving as a temporary judge in small claims cases must be familiar with the publications identified in Code of Civil Procedure section 116.930.

(Subd (c) amended effective January 1, 2007.)

(d) Traffic

Before the court may appoint an attorney to serve as a temporary judge in traffic cases, the attorney must have received training under rule 2.812(c)(3)(B) in the following subjects:

- (1) Traffic court procedures and practices;
- (2) Correctable violations;
- (3) Discovery;
- (4) Driver licensing;
- (5) Failure to appear;
- (6) Mandatory insurance;
- (7) Notice to appear citation forms;
- (8) Red-light enforcement;
- (9) Sentencing and court-ordered traffic school;
- (10) Speed enforcement;
- (11) Settlement of the record;
- (12) Uniform bail and penalty schedules;
- (13) Vehicle registration and licensing; and

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- (14) Other subjects deemed appropriate by the presiding judge based on local needs and conditions.

(Subd (d) amended effective January 1, 2007.)

Rule 2.813 amended and renumbered effective January 1, 2007; adopted as rule 243.14 effective July 1, 2006.

Advisory Committee Comment

The purpose of this rule is to ensure that all court-appointed temporary judges have proper training in bench conduct and demeanor, ethics, and each substantive area in which they adjudicate cases. Each court is responsible for approving the training and instructional materials for the temporary judges appointed by that court. The training in bench conduct and demeanor must be in person, but in other areas each court may determine the approved method or methods by which the training is provided. The methods may include in-person courses, broadcasts with participation, and online courses. Courts may offer MCLE credit for courses that they provide and may approve MCLE courses provided by others as satisfying the substantive training requirements under this rule. Courts may work together with other courts, or may cooperate on a regional basis, to develop and provide training programs for court-appointed temporary judges under this rule.

Rule 2.814. Appointment of temporary judge

An attorney may serve as a temporary judge for the court only after the court has issued an order appointing him or her to serve. Before serving, the attorney must subscribe the oath of office and must certify that he or she is aware of and will comply with applicable provisions of canon 6 of the Code of Judicial Ethics and the California Rules of Court.

Rule 2.814 renumbered effective January 1, 2007; adopted as rule 243.15 effective July 1, 2006.

Rule 2.815. Continuing education

(a) Continuing education required

Each attorney appointed as a temporary judge must attend and successfully complete every three years a course on bench conduct and demeanor, an ethics course, and a course in each substantive area in which the attorney will serve as a temporary judge. The courses must cover the same subjects and be of the same duration as the courses prescribed in rule 2.812(c). These courses must be approved by the court that appoints the attorney.

(Subd (a) amended effective January 1, 2007.)

(b) Records of attendance

A court that uses temporary judges must maintain records verifying that each attorney who serves as a temporary judge in that court has attended and successfully completed the courses required under this rule.

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Rule 2.815 amended and renumbered effective January 1, 2007; adopted as rule 243.17 effective July 1, 2006.

Rule 2.816. Stipulation to court-appointed temporary judge

(a) Application

This rule governs a stipulation for a matter to be heard by a temporary judge when the court has appointed and assigned an attorney to serve as a temporary judge in that court.

(Subd (a) adopted effective July 1, 2006.)

(b) Contents of notice

Before the swearing in of the first witness at a small claims hearing, before the entry of a plea by the defendant at a traffic arraignment, or before the commencement of any other proceeding, the court must give notice to each party that:

- (1) A temporary judge will be hearing the matters for that calendar;
- (2) The temporary judge is a qualified member of the State Bar and the name of the temporary judge is provided; and
- (3) The party has a right to have the matter heard before a judge, commissioner, or referee of the court.

(Subd (b) amended and relettered effective July 1, 2006; adopted as subd (a) effective January 1, 2001.)

(c) Form of notice

The court may give the notice in (b) by either of the following methods:

- (1) A conspicuous sign posted inside or just outside the courtroom, accompanied by oral notification or notification by videotape or audiotape by a court officer on the day of the hearing; or
- (2) A written notice provided to each party.

(Subd (c) amended and relettered effective July 1, 2006; adopted as subd (b) effective January 1, 2001.)

(d) Methods of stipulation

After notice has been given under (a) and (b), a party stipulates to a court-appointed temporary judge by either of the following:

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- (1) The party is deemed to have stipulated to the attorney serving as a temporary judge if the party fails to object to the matter being heard by the temporary judge before the temporary judge begins the proceeding; or
- (2) The party signs a written stipulation agreeing that the matter may be heard by the temporary judge.

(Subd (d) amended effective January 1, 2007; adopted effective July 1, 2006.)

(e) Application or motion to withdraw stipulation

An application or motion to withdraw a stipulation for the appointment of a temporary judge must be supported by a declaration of facts establishing good cause for permitting the party to withdraw the stipulation. In addition:

- (1) The application or motion must be heard by the presiding judge or a judge designated by the presiding judge.
- (2) A declaration that a ruling by a temporary judge is based on an error of fact or law does not establish good cause for withdrawing a stipulation.
- (3) The application or motion must be served and filed, and the moving party must mail or deliver a copy to the presiding judge.
- (4) If the application or motion for withdrawing the stipulation is based on grounds for the disqualification of, or limitation of the appearance by, the temporary judge first learned or arising after the temporary judge has made one or more rulings, but before the temporary judge has completed judicial action in the proceeding, the temporary judge, unless the disqualification or termination is waived, must disqualify himself or herself. But in the absence of good cause, the rulings the temporary judge has made up to that time must not be set aside by the judicial officer or temporary judge who replaces the temporary judge.

(Subd (e) amended effective January 1, 2007; adopted effective July 1, 2006.)

Rule 2.816 amended and renumbered effective January 1, 2007; adopted as rule 1727 effective January 1, 2001; previously amended and renumbered as rule 243.18 effective July 1, 2006.

Rule 2.817. Disclosures to the parties

A temporary judge must make all disclosures required under the Code of Judicial Ethics.

Rule 2.817 renumbered effective January 1, 2007; adopted as rule 243.19 effective July 1, 2006.

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Rule 2.818. Disqualifications and limitations

(a) Code of Judicial Ethics

A temporary judge must disqualify himself or herself as a temporary judge in proceedings as provided under the Code of Judicial Ethics.

(Subd (a) lettered effective July 1, 2006; adopted as unlettered subd effective July 1, 2006.)

(b) Limitations on service

In addition to being disqualified as provided in (a), an attorney may not serve as a court-appointed temporary judge:

- (1) If the attorney, in any type of case, is appearing on the same day in the same courthouse as an attorney or as a party;
- (2) If the attorney, in the same type of case, is presently a party to any action or proceeding in the court; or
- (3) If, in a family law or unlawful detainer case, one party is self-represented and the other party is represented by an attorney or is an attorney.

For good cause, the presiding judge may waive the limitations established in this subdivision.

(Subd (b) adopted effective July 1, 2006.)

(c) Waiver of disqualifications or limitations

- (1) After a temporary judge who has determined himself or herself to be disqualified under the Code of Judicial Ethics or prohibited from serving under (b) has disclosed the basis for his or her disqualification or limitation on the record, the parties and their attorneys may agree to waive the disqualification or limitation and the temporary judge may accept the waiver. The temporary judge must not seek to induce a waiver and must avoid any effort to discover which attorneys or parties favored or opposed a waiver. The waiver must be in writing, must recite the basis for the disqualification or limitation, and must state that it was knowingly made. The waiver is effective only when signed by all parties and their attorneys and filed in the record.
- (2) No waiver is permitted where the basis for the disqualification is any of the following:
 - (A) The temporary judge has a personal bias or prejudice concerning a party;

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(B) The temporary judge has served as an attorney in the matter in controversy; or

(C) The temporary judge has been a material witness in the controversy.

(Subd (c) adopted effective July 1, 2006).

(d) Late discovery of grounds for disqualification or limitation

In the event that grounds for disqualification or limitation are first learned of or arise after the temporary judge has made one or more rulings in a proceeding, but before the temporary judge has completed judicial action in the proceeding, the temporary judge, unless the disqualification or limitation is waived, must disqualify himself or herself. But in the absence of good cause, the rulings the temporary judge has made up to that time must not be set aside by the judicial officer or temporary judge who replaces the temporary judge.

(Subd (d) amended effective January 1, 2007; adopted effective July 1, 2006.)

(e) Notification of the court

Whenever a temporary judge determines himself or herself to be disqualified or limited from serving, the temporary judge must notify the presiding judge or the judge designated by the presiding judge of his or her withdrawal and must not further participate in the proceeding, unless his or her disqualification or limitation is waived by the parties as provided in (c).

(Subd (e) adopted effective July 1, 2006.)

(f) Requests for disqualifications

A party may request that a temporary judge withdraw on the ground that he or she is disqualified or limited from serving. If a temporary judge who should disqualify himself or herself or who is limited from serving in a case fails to withdraw, a party may apply to the presiding judge under rule 2.816(e) of the California Rules of Court for a withdrawal of the stipulation. The presiding judge or the judge designated by the presiding judge must determine whether good cause exists for granting withdrawal of the stipulation.

(Subd (f) amended effective January 1, 2007; previously adopted effective July 1, 2006.)

Rule 2.818 amended and renumbered effective January 1, 2007; adopted as rule 243.20 effective July 1, 2006; previously amended effective July 1, 2006.

Advisory Committee Comment

Subdivision (a) indicates that the rules concerning the disqualification of temporary judges are provided in the Code of Judicial Ethics. Subdivision (b) establishes additional limitations that prohibit attorneys from serving as court-appointed temporary judges under certain specified circumstances. Under subdivisions (c)-(e), the

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provisions of Code of Civil Procedure section 170.3 on waiver of disqualifications, the effect of late discovery of the grounds of disqualification, and notification of disqualification of judicial officers are made applicable to temporary judges. Under subdivision (f), requests for disqualification are handled as withdrawals of the stipulation to a temporary judge and are ruled on by the presiding judge. This procedure is different from that for seeking the disqualification of a judge under Code of Civil Procedure section 170.3.

Rule 2.819. Continuing duty to disclose and disqualify

A temporary judge has a continuing duty to make disclosures, to disqualify himself or herself, and to limit his or her service as provided under the Code of Judicial Ethics.

Rule 2.819 renumbered effective January 1, 2007; adopted as rule 243.21 effective July 1, 2006.

Rule 2.830. Temporary judges requested by the parties

(a) Application

Rules 2.830-2.834 apply to attorneys designated as temporary judges under article VI, section 21 of the California Constitution at the request of the parties rather than by prior appointment of the court, including privately compensated temporary judges and attorneys who serve as temporary judges pro bono at the request of the parties.

(Subd (a) amended effective January 1, 2007.)

(b) Definition

"Privately compensated" means that the temporary judge is paid by the parties.

(c) Limitation

These rules do not apply to subordinate judicial officers or to attorneys who are appointed by the court to serve as temporary judges for the court.

Rule 2.830 amended and renumbered effective January 1, 2007; adopted as rule 243.30 effective July 1, 2006.

Rule 2.831. Temporary judge - stipulation, order, oath, assignment, disclosure, and disqualification

(a) Stipulation

When the parties request that an attorney be designated by the court to serve as a temporary judge on a case, the stipulation of the parties that a case may be tried by a temporary judge must be in writing and must state the name and office address of the member of the State Bar agreed on. The stipulation must be submitted for approval to the presiding judge or the judge designated by the presiding judge.

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(Subd (a) amended effective July 1, 2006; previously amended and relettered effective July 1, 1993; previously amended effective January 1, 2001, and July 1, 2001.)

(b) Order, oath, and certification

The order designating the temporary judge must be signed by the presiding judge or the presiding judge's designee and refer to the stipulation. The stipulation and order must then be filed. The temporary judge must take and subscribe the oath of office and certify that he or she is aware of and will comply with applicable provisions of canon 6 of the Code of Judicial Ethics and the California Rules of Court.

(Subd (b) amended effective July 1, 2006; previously amended and relettered effective July 1, 1993; previously amended effective July 1, 2001.)

(c) When the temporary judge may proceed

The temporary judge may proceed with the hearing, trial, and determination of the cause after the stipulation, order, oath, and certification have been filed.

(Subd (c) amended and relettered effective July 1, 2006; formerly adopted as subd (b).)

(d) Disclosure to the parties

In addition to any other disclosure required by law, no later than five days after designation as a temporary judge or, if the temporary judge is not aware of his or her designation or of a matter subject to disclosure at that time, as soon as practicable thereafter, a temporary judge must disclose to the parties any matter subject to disclosure under the Code of Judicial Ethics.

(Subd (d) amended effective July 1, 2006; adopted as subd (c) effective July 1, 2001; previously amended and relettered effective July 1, 2006.)

(e) Disqualification

In addition to any other disqualification required by law, a temporary judge requested by the parties and designated by the court under this rule must disqualify himself or herself as provided under the Code of Judicial Ethics.

(Subd (e) amended and relettered effective July 1, 2006; adopted as subd (c) effective July 1, 1993; previously amended and relettered as subd (d) effective July 1, 2001.)

(f) Motion to withdraw stipulation

A motion to withdraw a stipulation for the appointment of a temporary judge must be supported by a declaration of facts establishing good cause for permitting the party to withdraw the stipulation, and must be heard by the presiding judge or a judge designated

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by the presiding judge. A declaration that a ruling is based on error of fact or law does not establish good cause for withdrawing a stipulation. Notice of the motion must be served and filed, and the moving party must mail or deliver a copy to the temporary judge. If the motion to withdraw the stipulation is based on grounds for the disqualification of the temporary judge first learned or arising after the temporary judge has made one or more rulings, but before the temporary judge has completed judicial action in the proceeding, the provisions of rule 2.816(e)(4) apply. If a motion to withdraw a stipulation is granted, the presiding judge must assign the case for hearing or trial as promptly as possible.

(Subd (f) amended effective January 1, 2007; adopted as subd (f) effective July 1, 1993; previously amended and relettered as subd (g) effective July 1, 2001, and as subd (f) effective July 1, 2006.)

Rule 2.831 amended and renumbered effective January 1, 2007; adopted as rule 244 effective January 1, 1999; previously amended effective April 1, 1962, July 1, 1981, July 1, 1987, July 1, 1993, July 1, 1995, January 1, 2001, and July 1, 2001; previously amended and renumbered as rule 243.31 effective July 1, 2006.

Rule 2.832. Compensation

A temporary judge selected by the parties may not be compensated by the parties unless the parties agree in writing on a rate of compensation that they will pay.

Rule 2.832 renumbered effective January 1, 2007; adopted as rule 243.32 effective July 1, 2006.

Rule 2.833. Notices, use of court facilities, and order for hearing site

(a) Posting of notice regarding proceeding before privately compensated judge

For all matters pending before privately compensated temporary judges, the clerk must post a notice in the courthouse indicating the case name and number as well as the telephone number of a person to contact to arrange for attendance at any proceeding that would be open to the public if held in a courthouse.

(b) Use of court facilities, court personnel, and summoned jurors

A party who has elected to use the services of a privately compensated judge is deemed to have elected to proceed outside the courtroom. Court facilities, court personnel, and summoned jurors may not be used in proceedings pending before a privately compensated judge except on a finding by the presiding judge that their use would further the interests of justice.

(c) Order the appropriate hearing site

The presiding judge, on request of any person or on the judge's own motion, may order that a case before a privately compensated temporary judge must be heard at a site easily

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accessible to the public and appropriate for seating those who have made known their plan to attend hearings. The request must be made by letter with reasons stated and must be accompanied by a declaration that a copy of the request was mailed to each party, to the temporary judge, and to the clerk for placement in the file. The order may require that notice of trial or of other proceedings be given to the requesting person directly. The granting of an order for an accessible and appropriate hearing site is not a ground for withdrawal of a stipulation.

Rule 2.833 renumbered effective January 1, 2007; adopted as rule 243.33 effective July 1, 2006.

Rule 2.834. Motions or applications to be heard by the court

(a) Motion or application to seal records

A motion or application to seal records in a cause before a privately compensated temporary judge must be filed with the court and must be served on all parties, the temporary judge, and any person or organization that has made known their intention to attend the hearing. The motion or application must be heard by the trial court judge to whom the case is assigned or, if the case has not been assigned, by the presiding judge. Rules 2.550-2.551 on sealed records apply to motions or applications filed under this rule.

(Subd (a) amended effective January 1, 2007.)

(b) Motion for leave to file complaint for intervention

A motion for leave to file a complaint for intervention in a cause before a privately compensated temporary judge must be filed with the court and served on all parties and the temporary judge. The motion must be heard by the trial court judge to whom the case is assigned or, if the case has not been assigned, by the presiding judge. If intervention is allowed, the case must be returned to the trial court docket unless all parties stipulate in the manner prescribed in rule 2.831(a) to proceed before the temporary judge.

(Subd (b) amended effective January 1, 2007.)

Rule 2.834 amended and renumbered effective January 1, 2007; adopted as rule 243.34 effective July 1, 2006.

Rule 10.740. Responsibilities of the trial courts for temporary judge programs

Each trial court that uses temporary judges must develop, institute, and operate - by itself or in collaboration with another court or courts - a program to recruit, select, train, and evaluate attorneys qualified to serve as temporary judges.

Rule 10.740 amended and renumbered effective January 1, 2007; adopted as rule 6.740 effective July 1, 2006.

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Rule 10.741. Duties and authority of the presiding judge

(a) General duties

The presiding judge is responsible for the recruitment, selection, training, appointment, supervision, assignment, performance, and evaluation of court-appointed temporary judges. In carrying out these responsibilities, the presiding judge is assisted by the Temporary Judge Administrator as provided in rule 10.743.

(Subd (a) amended effective January 1, 2007.)

(b) Authority to remove or discontinue

The presiding judge has the discretion to remove a court-appointed temporary judge or to discontinue using an attorney as a court-appointed temporary judge at any time.

Rule 10.741 amended and renumbered effective January 1, 2007; adopted as rule 6.741 effective July 1, 2006.

Rule 10.742. Use of attorneys as court-appointed temporary judges

(a) Responsibility of the presiding judge

The presiding judge of the trial court is responsible for determining whether that court needs to use attorneys as temporary judges and, if so, the specific purposes for which attorneys are to be appointed as temporary judges.

(b) Conditions for the use of court-appointed temporary judges

The presiding judge may appoint an attorney as a court-appointed temporary judge only if all the following circumstances apply:

- (1) The appointment of an attorney to serve as a temporary judge is necessary to fill a judicial need in that court;
- (2) The attorney serving as a temporary judge has been approved by the court where the attorney will serve under rule 2.810 et seq.;
- (3) The appointment of the attorney as a temporary judge does not result in any conflict of interest; and
- (4) There is no appearance of impropriety resulting from the appointment of the attorney to serve as a temporary judge.

(Subd (b) amended effective January 1, 2007.)

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(c) Record and report of uses

Each trial court that uses attorneys as temporary judges must record and report to the Administrative Office of the Courts on a quarterly basis information concerning its use of them. The report must state:

- (1) The number of attorneys used as temporary judges by that court each month;
- (2) The number and types of cases, and the amount of time, on which the temporary judges were used each month; and
- (3) Whether any of the appointments of temporary judges were made under the exception in rule 2.810(d) and, if so, the number of and reasons for these appointments.

(Subd (c) amended effective January 1, 2007.)

Rule 10.742 amended and renumbered effective January 1, 2007; adopted as rule 6.742 effective July 1, 2006.

Advisory Committee Comment

Subdivisions (a)-(b). These subdivisions provide that the presiding judge in each court is responsible for determining whether court-appointed temporary judges need to be used in that court, and these subdivisions furnish the criteria for determining when their use is proper. Under (b)(1), the use and appointment of court-appointed temporary judges must be based on judicial needs. Under (b)(3), an attorney serving as a temporary judge would have a conflict of interest if the disqualifying factors in the Code of Judicial Ethics exist. Under (b)(4), the test for the appearance of impropriety is whether a person aware of the facts might entertain a doubt that the judge would be able to act with integrity, impartiality, and competence. In addition to the disqualifying factors listed in the Code of Judicial Ethics, an appearance of impropriety would be generated if any of the limitations in family law, unlawful detainer, and other cases identified in the Code of Judicial Ethics are present.

Subdivision (c). Regular recording and reporting of information concerning each court's use of temporary judges assists the courts in monitoring and managing their use of temporary judges. This information is also important for establishing the need for additional judicial positions.

Rule 10.743. Administrator of temporary judges program

(a) Administrator

The presiding judge who appoints attorneys as temporary judges must designate a clerk, executive officer, or other court employee knowledgeable about temporary judges to serve as the Temporary Judge Administrator in that court.

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(b) Duties of administrator

Under the supervision of the presiding judge, the Temporary Judge Administrator is responsible for the management of the temporary judges program in the court. The administrator's duties include:

- (1) Receiving and processing applications from attorneys to serve as temporary judges with the court;
- (2) Verifying the information on the applications;
- (3) Assisting the presiding judge in the recruitment and selection of attorneys to serve as temporary judges;
- (4) Administering the court's program for the education and training of temporary judges;
- (5) Maintaining records of attendance and completion of required courses by all attorneys serving as temporary judges in the court;
- (6) Determining that attorneys have satisfied all the conditions required to be appointed as a temporary judge in that court, including continuing education requirements;
- (7) Maintaining a list of attorneys currently appointed and qualified to serve as temporary judges in the court;
- (8) Managing support services for temporary judges, such as providing mentoring programs and reference materials;
- (9) Receiving and processing complaints and other information concerning the performance of attorneys serving as temporary judges;
- (10) Assisting the presiding judge in identifying judicial needs that require the use of temporary judges and in addressing these needs; and
- (11) Maintaining records, gathering statistics, and preparing and transmitting quarterly reports on the court's use of temporary judges as required under rule 10.742(c).

(Subd (b) amended effective January 1, 2007.)

Rule 10.743 amended and renumbered effective January 1, 2007; adopted as rule 6.743 effective July 1, 2006.

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Advisory Committee Comment

The goal of this rule is to ensure the effective and efficient administration of the courts' use of temporary judges. The rule should be applied flexibly. In courts with large temporary judge programs, the court may want to designate a full-time administrator, and some of the administrator's duties may be delegated to other individuals. On the other hand, in courts that use only a few temporary judges, the Temporary Judge Administrator position may consume only part of the administrator's time and be combined with other duties. Also, courts that use only a small number of temporary judges may work with other courts, or may cooperate on a regional basis, to perform the functions and duties prescribed under this rule.

Rule 10.744. Application procedures to serve as a court-appointed temporary judge

(a) Application

Every attorney who applies for appointment as a temporary judge in a trial court must complete an application to serve as a temporary judge.

(b) Information required

The attorney must provide all applicable information requested on the application. This information must include:

- (1) The attorney's name and contact information as required by the court;
- (2) The attorney's State Bar number;
- (3) The date of the attorney's admission to the State Bar of California and the dates of his or her admissions to practice in any other state;
- (4) Length of membership in the State Bar of California and of practice in any other state;
- (5) Whether the attorney is in good standing with the State Bar of California and in good standing as an attorney in any other state where the attorney has been admitted to practice;
- (6) Whether the attorney has ever been disciplined, or is the subject of a pending disciplinary proceeding, by the State Bar of California or by any other state bar association or court of record; and, if so, an explanation of the circumstances;
- (7) The areas of specialization for which the attorney has been certified in California or in any other state;
- (8) The attorney's major area or areas of practice;
- (9) Whether the attorney holds himself or herself out publicly as representing exclusively one side in any of the areas of litigation in which the attorney practices;

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- (10) Whether the attorney represents one side in more than 90 percent of all cases in any areas of litigation in which the attorney specializes or concentrates his or her practice;
- (11) The location or locations in which the attorney principally practices;
- (12) How often the attorney appears in the court where he or she is applying to serve as a temporary judge;
- (13) A list of the attorney's previous service as a temporary judge in the court where the attorney is applying and in any other court;
- (14) Whether the attorney has ever been removed as a temporary judge by any court;
- (15) The types of cases on which the attorney is willing to serve as a temporary judge;
- (16) Whether the attorney has ever been convicted of a felony or misdemeanor, or is a defendant in any pending felony or misdemeanor proceeding, and, if so, a statement about the conviction or pending proceeding;
- (17) Whether the attorney has been a party in any legal proceeding and, if so, a brief description of the proceedings;
- (18) Information concerning any circumstances or conditions that would adversely affect or limit the attorney's ability to serve as a temporary judge;
- (19) Any facts concerning the attorney's background that may reflect positively or negatively on the attorney or that should be disclosed to the court; and
- (20) Such additional information as the court may require.

(c) Continuing duty to disclose

An attorney appointed by a court to serve as a temporary judge has a continuing duty to disclose to the court any material changes in facts or circumstances that affect his or her ability to serve as a temporary judge. The attorney must disclose the changes to the court before the next time the attorney is assigned to serve as a temporary judge.

(d) Review of application

The presiding judge, assisted by the Temporary Judge Administrator, must review all applications and determine whether each applicant is qualified, has satisfied the requirements of rule 2.812, and should be appointed as a temporary judge. The presiding judge may delegate this task to another judge or a committee of judges, assisted by the Temporary Judge Administrator. In appointing attorneys as temporary judges, the

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presiding judge may go beyond the minimum qualifications and standards required under the California Rules of Court. The decision whether to appoint, use, retrain, remove, or discontinue using any particular attorney as a temporary judge is at the sole discretion of the presiding judge.

(Subd (d) amended effective January 1, 2007.)

Rule 10.744 amended and renumbered effective January 1, 2007; adopted as rule 6.744 effective July 1, 2006.

Rule 10.745. Performance

(a) Review required

The court must review on a regular basis the performance of temporary judges appointed by that court.

(b) Monitoring performance

In monitoring and reviewing the performance of court-appointed temporary judges, the court may use direct observation, audiotaping of hearings, reports by court staff, comments from mentor judges, and such other means as may be helpful.

Rule 10.745 renumbered effective January 1, 2007; adopted as rule 6.745 effective July 1, 2006.

Rule 10.746. Complaints

Each court must have procedures for receiving, investigating, and resolving complaints against court-appointed temporary judges.

Rule 10.746 renumbered effective January 1, 2007; adopted as rule 6.746 effective July 1, 2006.