

POLICY OF THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

TITLE: **TEMPORARY JUDGES AND SETTLEMENT OFFICERS**

POLICY: Temporary judges (formerly called “judges pro tempore”) and settlement

officers serving in the Superior Court of California, County of Orange (“the Court”), must meet and comply with the provisions set forth herein. “Settlement officers,” as the term is used in this Policy, means any attorney authorized by the Court to assist in settlement conferences, whether or not the settlement officer performs judicial functions, such as entering a settlement on the record. For purposes of this policy, a lawyer who has fulfilled the requirements of the temporary judge policy and who presides over mandatory settlement conferences, is a temporary judge.

PURPOSE: This Policy will serve to provide uniform requirements for eligibility and selection, training, conduct, oversight, and removal of temporary judges and settlement officers.

PROCEDURE:

1. Eligibility. Each temporary judge and settlement officer serving the Court must meet the requirements of rules 2.812 - 2.815 of the California Rules of Court. Additionally, the Court requires the mandatory ethics training, as described in rule 2.812, be completed in-person by the temporary judge or settlement officer. For good cause, the Presiding Judge may waive the in-person requirement. In addition, each temporary judge and settlement officer must be an active member of the California State Bar. A retired judge who is enrolled as an active or inactive member of the California State Bar may serve as a temporary judge or settlement officer as long as the retired judge meets the eligibility requirements of California Rules of Court, rule 2.812.

2. Ethical Requirements. Each temporary judge and settlement officer must comply with the entirety of canon 6(D) of the California Code of Judicial Ethics. Additionally, no temporary judge will either discourage litigants from requesting that a matter be heard by a judicial officer or encourage litigants to stipulate to him/her as a temporary judge.

3. Disqualification. Each temporary judge and settlement officer must comply with canon 6(D)(3) - (5) of the California Code of Judicial Ethics, section 170.1 of the California Code of Civil Procedure and, except as noted below, rule 2.818 of the California Rules of Court. Additionally, a temporary judge will not hear cases where a judge, court commissioner, referee, or magistrate of this or any court is a party or a witness. Attorneys who are members of criminal prosecution or criminal

defense agencies including city attorneys and county counsel who prosecute criminal matters, or attorneys who are reserve police officers, may not sit as temporary judges in traffic matters.

Pursuant to Administrative Order 16/06, temporary judges and settlement officers in family law cases are exempt from rule 2.818(b)(3) of the California Rules of Court, and settlement officers who assist with settlement conferences, but who perform no judicial functions such as placing the settlement on the record, are exempt from rule 2.818(b)(1) and (b)(2).

Pursuant to Administrative Order 19/05, temporary judges in unlawful detainer cases are exempt from rule 2.818(b)(3) of the California Rules of Court.

4. Use of Title of “Temporary Judge,” “Judge Pro Tem,” and Similar Designations. Each temporary judge and settlement officer must comply with rule 7.1(a) of the California Rules of Professional Conduct, which prohibits an attorney from making “a false or misleading communication about the lawyer or the lawyer’s services,” and canon 6(D)(8)(c) of the California Code of Judicial Ethics, which forbids using the prestige of judicial office to advance “pecuniary or personal interests.” The title “temporary judge” can be used only while the attorney is sitting as a temporary judge, in answer to a question on a judicial or other application, or on a resume not intended for publication in any format. The use of the title is forbidden in attorney advertising, on business cards, in advertising for political office, as an “occupation” on ballots, ballot statements, and resumes, and in “informing” police officers who have stopped the attorney for a possible traffic violation, etc. Misuse of the title will result in an attorney being removed from the Court’s list of temporary judges and may be grounds for discipline by the State Bar of California pursuant to Rules of Professional Conduct, rule 2.4.1.

5. Administrative Matters. Temporary judges and settlement officers must arrive promptly. Judicial robes will be provided to temporary judges and must be worn while the temporary judge is on the bench. Temporary judges and settlement officers must sign a declaration at the time of each assignment attesting to the hours served as temporary judge or settlement officer. The Declaration of Temporary Judge Re: Hours Served will be provided by the courtroom clerk and should be returned to the clerk upon completion.

6. Post Hearing Matters. A temporary judge must remain available for any related legal matters subsequent to the original matter heard, such as settled statement hearings for appeals, motions for reconsideration, motions for new trial, motions to vacate, etc. Temporary judges should make an effort to avoid taking matters under submission. If, however, the need arises to take any matter under submission, the matter must be decided within 14 days. Traffic matters may not be taken under submission without a waiver of appearance from the defendant.

7. Notice to the Court of Criminal Charges, Disciplinary Action. Within 5 days of the filing of criminal charges in any jurisdiction or the initiation of State Bar disciplinary proceedings against an attorney who sits as a temporary judge or settlement officer, he/she must immediately inform the Presiding Judge of the Court in writing of

that action, as well as later inform the Presiding Judge in writing of the outcome of the criminal charges or State Bar disciplinary proceeding as soon as they are announced, notwithstanding that an appeal or petition for extraordinary relief has been filed.

8. Notice to Temporary Judge and Settlement Officers. This Policy is to be furnished to each active temporary judge and settlement officer, who will each be required to sign a statement that he/she has received the Policy and will abide by it. Failure to abide by this Policy may result in the attorney being removed from the Court's list of temporary judges and settlement officers and may be grounds for discipline by the State Bar of California.

9. Policy Scope. All temporary judges and settlement officers are required to comply with rules 2.810-2.819 of the California Rules of Court, unless specifically exempt as noted above, the entirety of canon 6(D) of the Code of Judicial Ethics, section 170.1 of the Code of Civil Procedure, and rule 1-400(D) of the California Rules of Professional Conduct. To the extent this Policy contains more stringent requirements than the Rules of Court, Code of Judicial Ethics, Code of Civil Procedure, or Rules of Professional Conduct, temporary judges are required to follow the more stringent requirements set forth in this Policy.

Adopted: June 7, 2004
Revised: March 7, 2006
Revised: January 2, 2007
Revised: May 5, 2009
Revised: March 5, 2019
Revised: June 4, 2019
Committee: Executive Committee