

# SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

## Summary of Proposed Addition to Title 7, Chapter 1, of the Local Rules

### Rules 7.20 through 7.50. re: Alternate Dispute Resolution Services in Probate Matters

The proposed addition of four rules to the court's Local Rules ("Rules") indicated below is part of the court's continuing effort to review, correct, and update its Rules as needed.

Proposed rules 7.20 through 7.50 are summarized below.

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#### SUMMARY

The proposed rules support the development of a probate mediation program that provides Alternative Dispute Resolution (ADR) services in certain probate matters that would typically be amenable to mediation, i.e., trusts, decedent estates, conservatorships, and guardianships, in whole or in part depending on the particular issue. The program will be modeled after the court's civil mediation program.

Below is the full text of proposed local rules 7.20 through 7.50 with additions noted in underline.

#### Title 7. Probate Rules

##### Chapter 1: General Provisions

#### Rule 7.20. Use of alternative dispute resolution processes encouraged

The court finds that it is in the best interests of all parties that they participate in alternatives to traditional litigation, such as arbitration, mediation, neutral evaluation, and voluntary settlement conferences. Therefore, the court may refer cases to an appropriate form of alternative dispute resolution (ADR) before they are set for trial, unless there is good cause to dispense with an alternative dispute resolution process.

#### Rule 7.30. Rules for alternative dispute resolution processes other than judicial arbitration.

(a) Selection of provider. The parties may choose any ADR provider they wish, whether or not that provider is on the list described in the following section of these rules.

(b) Good faith participation is required. All parties to an alternative dispute resolution process must participate in the process in good faith.

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(c) Personal appearance required. In conducting a session, the ADR provider should require the attendance of persons with full authority to resolve the dispute. The provider should only permit telephone appearances if good cause to waive personal appearance was shown in a timely manner prior to the session.

(d) Cost of the alternative dispute resolution process. Unless the ADR provider's fees and expenses have been ordered by the court, the parties and the provider must agree on the fees and expenses. The fees and expenses of the provider will be borne by the parties equally, unless they agree otherwise.

### **Rule 7.40. Alternative dispute resolution provider list.**

The court maintains a list of alternative dispute resolution providers to assist parties and counsel in obtaining access to experienced and affordable alternative dispute resolution services. The list includes providers in the areas of mediation, neutral case evaluation, private arbitration, and judicial arbitration. The list, including names, qualifications, services provided and fees charged, will be posted on the court's website and will be available in the office of the ADR program administrator.

### **Rule 7.50. ADR Administration Committee and complaint procedure**

The provisions of Local Rules 3.740 (The ADR Administration Committee) 3.750 (Complaint procedure) and 3.760 (Inquiries and complaints) are applicable.