



**Lawyer Referral Service  
Santa Clara County Bar Association  
Rules of Operation: Updated 2008**

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## Section I

### Purposes

The purposes of the Santa Clara County Bar Association (Association) Lawyer Referral (LRS) are to:

1. Establish panels of experienced attorneys who meet minimum qualifications and agree to participate in a program of training, services monitoring and effective resolution of client complaints;
2. Provide information about lawyers and the availability of legal services which will aid in the selection of a lawyer;
3. Inform the public where to seek legal services;
4. Provide general and legal information needed by the public; and
5. Provide the public with access to affordable legal services.

## Section II

### Geographical Service Areas

**Rule 1.** The LRS service area is Santa Clara County, except areas which may be excluded by reciprocal referral contracts, if any, between the Association and other certified referral services (Section XX – Contracts for Referrals).

## Section III

### General Eligibility

**Rule 1.** Except as may be required in the qualifications for a panel, no minimum number of years of law practice are required.

**Rule 2.** No character references are required.

**Rule 3.** All panel members must be members in good standing of the State Bar of California.

**Rule 4.** All panel members must maintain regular office hours at a specified office location within the county, provided that the LRS Committee (Committee) may waive this rule to the extent necessary to ensure an adequate number of members of a particular panel.

**Rule 5.** All panel members must maintain professional liability insurance with coverage amounts not less than, and deductible amounts not greater than, the amounts specified from time to time by the Committee.

**Rule 6.** No person may be a member of more than six panels at any time.

**Rule 7.** A panel member shall notify the Association of a change of mailing address in writing within 30 days.

## Section IV

### Application Requirements

**Rule 1.** All applicants for panel membership shall complete an application. The applicant authorizes the Association to seek independent verification of any information provided by him/her response.

**Rule 2.** The application shall require each applicant to:

- a. Certify that he/she supports the LRS and will consider handling all matters included in the panel or panels applied for;
- b. Certify that he/she has read and agrees to abide by these Rules of Operation (Rules).
- c. Agree to accept all referrals for each panel applied for except when the applicant is unable to do so because of other professional or personal obligations;
- d. Agree to submit each fee dispute arising out of an LRS referral to the Association's fee arbitration program;
- e. Waive any and all claims against the Association and its members and staff for loss or liability arising out of or related to the applicant's participation in the LRS;
- f. Indemnify and defend the Association and its members and staff with respect to any and all claims, loss and liability (including attorneys' fees) arising from or related to referrals made to the applicant by the LRS; and
- g. Comply with qualification procedures under these Rules as implemented by the Committee.

**Rule 3.** Upon the approval of an applicant's application for panel membership, the applicant shall remit to the Association the current annual membership fee for such panel.

**Rule 4.** To remain eligible for referrals, panel members must renew their panel membership each year by completing a panel membership renewal form and submitting it to the LRS with the current annual panel membership fee and a copy of the applicant's errors and omissions insurance declaration page showing the coverage required by these Rules. Panel members must also demonstrate that they meet the general eligibility requirements and qualifications for each panel for which they seek a renewal of membership.

## Section V

### Qualification Procedures

**Rule 1.** An applicant's written application and experience statement shall be initially reviewed by the LRS Administrator to determine compliance with all general eligibility rules and the qualifications for the panel or panels applied for.

**Rule 2.** Applicants whose applications and experience statements show compliance with general eligibility rules and applicable panel qualifications shall be admitted to the panel or panels applied for. Applicants showing compliance with general eligibility rules but failing to show compliance with the applicable panel qualifications shall be referred to the Committee to determine whether the applicant has demonstrated substantial compliance with applicable panel qualifications.

**Rule 3.** In determining substantial compliance with applicable panel qualification requirements, the Committee may require the applicant to furnish additional relevant information.

**Rule 4.** In determining substantial compliance with a applicable panel experience requirements, the Committee must find, in the absence of extraordinary circumstances, that the applicant has handled at least a minimum number of cases or matters deemed equivalent to those specified in these Rules in terms of providing experience, knowledge and training, within the time period specified in these Rules. The Committee may, in extraordinary cases, also consider equivalent experience acquired by the applicant before the applicant's admission to practice law.

**Rule 5.** Except as otherwise expressly provided in these Rules, determination of substantial compliance with applicable panel qualification requirements or equivalent experience shall be solely within the discretion of the Committee.

**Rule 6.** Applications described in the first sentence of Rule 2 of this section shall be approved within ten days of receipt by the LRS. Applications processed under the second sentence of Rule 2 above shall be approved or denied within a reasonable time, and the LRS Administrator shall promptly notify the applicant in writing of the Committee's decision. If the Committee finds that the applicant is not eligible and/or not qualified for a panel, the notice shall specify the pertinent eligibility requirements and/or qualifications, and the Committee may give the applicant an opportunity to furnish additional information. The applicant may appeal an adverse decision by notifying the LRS Administrator in writing within 30 days of the date of the notice of the Committee's decision. Such appeals shall be governed by Rule 9 Section XIV, (Administration).

## Section VI

### Panel Descriptions

**Rule 1.** The LRS shall refer clients to a lawyer who is a member of the appropriate subject matter panel. The panels are:

- a. **Adoptions:** Matters related to direct, agency, stepparent and adult adoption proceedings.
- b. **Business and Corporations:** Matters related to the formation, financing, and dissolution of businesses and charitable and fraternal entities and advice and preparation of documents regarding entity operations and relationships between entities and their members.
- c. **Business and Real Property Litigation:** Matters related to the enforcement and protection of business and real property rights.

- d. **Collection and Collection Defense**: Matters related to creditor collections and debtor defense not involving insolvency, bankruptcy or the construction industry.
- e. **Condemnation**: Matters related to the taking of real property by eminent domain.
- f. **Construction Industry Collections**: Matters related to enforcement of building contracts, mechanic's liens, stop notices, equitable liens, priorities, foreclosures, and government construction contracts.
- g. **Consumer Remedies**: Disputes between a retail sellers and buyers of goods or services.
- h. **Criminal Law**: Matters related to violations of penal statutes and ordinances.
- i. **Family Law**: Matters related to annulment or dissolution of marriage, legal separation, support enforcement, custody, name changes, marital agreements and family transactions.
- j. **Immigration and Citizenship**: Matters related to visas, labor certificates, deportation, exclusion and citizenship problems.
- k. **Income Tax**: Matters related to preparation of federal and state income tax returns, estimated tax returns, applications for income tax refunds and advice on income tax reporting and payment.
- l. **Insolvency and Bankruptcy**: Matters related to insolvency, unmanageable debts, and bankruptcy or wage earner petitions.
- m. **Juvenile Court**: Matters related to proceedings in Juvenile Court, regardless of nature, including criminal, delinquent and dependent child cases.
- n. **Labor Relations**: Matters related to unemployment insurance, California Labor Commission, employee retirement income, pensions, wrongful termination and employment discrimination.
- o. **Military Law**: Matters related to courts-martial, board actions, discharge up-gradings, military claims, military investigations, enlistment contract problems and selective service problems.
- P. **Intellectual Property**: Matters related to protection of or disputes involving inventions, proprietary ideas, and literary material, prosecution of patent applications, preparation of licenses, trademarks and copyrights.
- q. **Probate, Guardianship and Conservatorship**: Matters related to decedent's estate administration, joint tenancy and community property severance, estate tax returns, guardianships, conservatorships, and other Probate Code proceedings.

- r. **Real Estate Transactions:** Matters related to advice and preparation of real estate sales agreements, escrow and financing documents, leases, options, and related transactions.
- s. **Tort Claims:** Matters related to tort claims, including wrongful death, intentional torts, and negligence.
- t. **Unlawful Detainer and Evictions:** Matters related to real property possessory problems, both residential and commercial, including collection of rent where eviction is involved.
- u. **Wills, Trusts and Estate Planning:** Matters related to wills, trusts, gifts, estate tax, and planning for medical treatment decisions.
- v. **Workers' Compensation:** Matters related to claims for injuries from on-the-job accidents.
- w. **Miscellaneous:** Areas of practice not covered by another panel which cannot be more effectively handled by another agency.
- y. **Social Security Panel:** Social Security Disability or Supplemental Security Income Disability matters taken through the hearing level before an administrative law judge.
- z. **Insurance Law Panel:** Insurance coverage disputes.

**Rule 2.** The LRS Committee shall invite and consider suggestions for adding, deleting or modifying panels.

## Section VII

### Panel Qualifications

**Rule 1.** The minimum qualifications for members of panels (in addition to general eligibility requirements) shall be as follows:

- a. **Adoptions:** For a direct, stepparent or agency adoption, has handled least two of the type applied for.
- b. **Business and Corporations:** Within the last five years has personally responsible for advising five clients about choice of business entity, including consideration of personal liability and tax issues; has formed two corporations (including securities law compliance and advice regarding Buy-Sell Agreement issues) and one non-corporate business entity; and, has represented a party in a least one purchase and sale of a business. In addition, attorney must have been admitted to practice law in California for at least one year and have completed at least 1/3 of the MCLE reporting period requirement in business related courses within twelve (12) months preceding the date of this experience statement.

- c. **Business and Real Property Litigation:** Has prepared and tried at least two such cases to judgment; or has prepared and tried at least one such case to judgment and
  - (i) has handled at least two such cases through arbitration; and
  - (ii) has settled at least three such cases with the preparation of settlement agreements or stipulated judgments.
- d. **Collection and Collection Defense:** Has handled at least two such cases to judgment, each of which involved in excess of \$500 and supplemental proceedings to enforce a judgment.
- e. **Condemnation:** Has prepared and tried at least one condemnation case to jury verdict.
- f. **Construction Industry Collections:** Has obtained judgments foreclosing, or defeated, at least two mechanic's liens.

For government contract or Miller Act cases, has also handled at least two such cases.

- g. **Consumer Remedies:** 1) Has handled at least two trials (either court or jury) to judgment and has litigated to judgment at least one action on behalf of a consumer, or can demonstrate to the Committee appropriate experience, education or training in lieu of the second trial requirement.  
2) has either (a) served as counsel for a consumer in at least three cases, in addition to those listed in 1 above, involving any of the following procedures:
  - 1. a demand letter,
  - 2. a notice of rescission,
  - 3. negotiations with a seller and
  - 4. filing a lawsuit; or
 (b) worked at least one year in a government agency as an attorney dealing full time with consumer problems; and  
3) Is able to list ten consumer protection statutes and briefly describe their scope and application, at least three of which the applicant has a substantial working knowledge of.
- h. **Criminal Law:** 1) Within the last ten years, at least one criminal jury case to verdict in any jurisdiction, **and**  
2) Within the last three years, at least ten appearances in each jurisdiction, applied for, including at least three contested evidentiary hearings (such as PC sect. 995, PC sect. 1538.5, bail motions, or bench or jury trials), **and**  
3. Within the last year, attended at least five hours of continuing education in criminal law.

In lieu of one or more of the above requirements, the applicant may demonstrate equivalent knowledge of the subject matter and the judges, personnel and procedures of the court or courts applied for.

**Or** is a Certified Specialist, Criminal Law, California Board of Legal Specialization.

- i. **Family Law:** Has handled at least three contested court hearings submitted for decision in family law matters where the other party was represented by counsel, prepared at least three negotiated settlement agreements and one settlement conference or pretrial statement and attended at least six hours of continuing legal education in family law within the 12 months preceding the date of the application;

**Or** in lieu of the foregoing, is a Certified Specialist, Family Law, California Board of Legal Specialization.

- j. **Immigration and Citizenship:** Has had at least two years experience handling immigration and nationality matters as either (1) a private practitioner, (2) a government lawyer, (3) an officer with the U.S. Immigration and Naturalization Service (INS) (4) a certifying officer of the alien labor certification unit of the U.S. Department of Labor, (5) an immigration judge or member of the Board of Immigration Appeals of the Executive Office for Immigration Review, or (6) an accredited representative of an organization recognized by the INS under 8 CFR Section 292.

Completion of a law school course in Immigration and Nationality Law of at least one quarter or 12 hours of continuing professional education courses in the field may be substituted for one year of the required two years of experience.

Has handled at least five cases from initiation to conclusion in the following special areas of immigration practice, no more than three of which may be in the same area:

1. **Labor Certification:** through issuance of an immigrant visa or adjustment of status.
2. **Permanent Residence:** through issuance of an immigrant visa or adjustment of status.
3. **Non-Immigrant Visas:** through issuance of a non-immigrant visa or change of status under any/or of the following sections of the Immigration and Nationality Act: 101(a), 15 (e), 15(f), 15(h), 15(k), and 15(l).
4. **Exclusion and Deportation:** through a regular hearing before an immigration judge or a deferred inspection or waiver proceeding before an INS officer.
5. **Citizenship and Nationality:** through conclusion of a naturalization or certificate of citizenship proceeding.
6. **Asylum and Refugees:** through conclusion of administrative proceedings for political asylum.

**Or** in lieu of the foregoing, is a Certified Specialist, Immigration Law, California Board of Legal Specialization.

And certifies that the applicant has ready access to qualified interpreters and translators.



- k. **Income Tax:** For preparation of income tax returns, estimated tax returns and applications for tax refunds, has prepared and filed at least three federal and state income tax returns for clients.

For all other income tax matters, has rendered a written opinion on a significant tax question in at least three matters, has an LLM in Taxation, has obtained at least two rulings from the national office of the Internal Revenue Service, or shows that he/she limits his/her practice to tax and tax proceedings before the Appellate Division of the IRS.

**Or** in lieu of all of the foregoing is a Certified Specialist, Taxation Law, State Board of Legal Specialization.

- l. **Insolvency and Bankruptcy:**

**Chapters 7/13 Sub Panel:** Has handled at least (12) cases within the last three years. Of the 12 cases, no fewer than four were Chapter 13 cases. **AND** has handled at least two cases in which there have been objections to confirmation filed. Experience for these two cases may be obtained in representing either the debtor or an objecting creditor. **AND** has handled at least four other contested or litigated proceedings in the Bankruptcy Court, two of which must be relief from stay motions.

**Chapter 11 Sub Panel:** Has handled at least six Chapter 11 cases within the last three years. **AND** has taken at least three Chapter 11 case through approval of a disclosure statement. **AND** has taken at least one Chapter 11 through the balloting and confirmation process. **AND** has handled at least six relief from stay and/or cash collateral motions and/or stipulations for use of cash collateral.

**Creditors' Rights Sub Panel:** Has represented creditors in at least ten motions for relief from stay. **AND** has handled at least six adversary proceedings, including objections to discharge or confirmation. Active participation in Chapter 11 and Chapter 13 cases, including representation of creditors in objections to confirmations and disclosure statement in Chapter 11 proceedings, objections to confirmation and valuation in Chapter 13 proceedings, claims litigation, and representing creditors as defendants in adversary proceedings.

**Education Requirement:** Has taken and/or presented at least three hours of continuing education in bankruptcy law and/or creditors' rights per year for the Chapters 7/13 and Creditors' Rights Sub Panels. Has taken and/or presented at least three hours of continuing education in bankruptcy law and/or commercial law per year for the Chapter 11 Sub Panel.

**OR,** in lieu of all of the foregoing, is a Certified Specialist, Bankruptcy Law, California Board of Legal Specialization.

- m. **Juvenile Court:** For Welfare and Institutions Code Section 602 cases, has handled at least five uncontested delinquency cases and three contested Juvenile Court cases through dispositional hearing and has completed at least six hours of continuing legal

education in juvenile delinquency law and an additional six hours of continuing legal education related to general criminal law.

For Welfare and Institutions Code Section 601 cases, has handled at least one contested juvenile delinquency hearing and one contested juvenile dependency case through the dispositional hearing and has completed at least 12 hours of continuing legal education in delinquency and dependency law.

For Welfare and Institutions Code Section 300 cases, has, within five years prior to the date of his/her application for panel membership or renewal of panel membership, handled at least five uncontested dependency cases through the 18-month hearing and three dependency trials, each of which lasted at least one-half day, and has completed three quality legal memoranda of points and authorities and/or appellate briefs.

**Education Requirement:** Attended and/or presented at least 12 hours of continuing legal education in juvenile law, including law and psychology issues and SB 243 and reasonable efforts training.

n. **Labor Relations:**

1. **Wages and Benefits Sub Panel:**

a. **Unemployment** - one contested hearing and taken and /or presented three hours of continuing legal education in unemployment compensation law.

b. **Labor Commission** - two contested hearings and taken and/or presented three hours of continuing legal education in the law governing wages and hours.

c. **ERISA** - five matters or one matter and attended or presented six hours of continuing legal education regarding ERISA.

d. **OSHA** - one matter and taken and/or presented three hours of continuing legal education regarding OSHA.

2. **Public Sector Employment Sub Panel:**

a. **Federal Employees** - three matters and taken and/or presented three hours of continuing legal education in the law governing the employment relations of the federal government and its employees.

b. **State Employees** - three matters and taken and/or presented three hours of continuing legal education in the law governing the relations between the State of California and its employees.

3. **Discrimination Sub Panel:** six matters and taken and/or presented six hours of continuing legal education in employment discrimination.

4. **Wrongful Termination Sub Panel:** six matters and taken and/or presented six hours of continuing legal education in wrongful termination law.

o. **Military Law:** Has had at least one year of experience as a judge advocate or has handled at least one of the following to conclusion:  
court-martial

board action  
discharge  
military claims  
military investigation  
enlistment dispute  
selective service problem

- p. **Miscellaneous Panel:** Has had two or more years of law practice.
- q. **Intellectual Property:** Is registered with the U. S. Patent and Trademark Office and has prosecuted through issuance at least four applications in one or more of the following areas: mechanical inventions, chemical inventions, electrical-electronic inventions, and/or trademarks. For license agreements, must have prepared through execution at least four such agreements.
- r. **Probate, Guardianship and Conservatorship:** Has handled at least five matters described in paragraphs (a) through (h) below, at least two of which were full probate administrations as described in paragraph (a) below:
- (a) Full probate administration (from petitioning for appointment of the personal representative through discharge of the personal representative);
  - (b) Spousal property petition (Probate Code Section 13650);
  - (c) Spousal transfer (Probate Code Section 13500);
  - (d) Affidavit for transfer of personal property (Probate Code Section 13100);
  - (e) Court order determining succession to property (Probate Code Section 13150);
  - (f) Affidavit procedure for real property (Probate Code Section 13200);
  - (g) Trust dissolution; and
  - (h) Administration of living trust on death of first spouse.

Has also handled at least three of the following:

- (a) Preparation and approval of formal accounting;
- (b) Confirmation of public or private sale of real property;
- (c) Preparation of federal estate tax returns;
- (d) Preparation of fiduciary income tax returns;
- (e) Will contest or other litigation by or against an estate and/or representative; and
- (f) Action under the Independent Administration of Estates Act requiring the giving of notice.

**For the Conservatorship and Guardianship Sub Panel:** Has, within the past three years, prepared two conservatorships and/or guardianships from petition for appointment through the first accounting.

- s. **Real Estate Transactions:** Handled at least two sales transactions involving loan assumptions and escrow instructions and prepared at least two leases with an option to extend or renew.

**For a commercial sale or lease:** At least one such of the transaction.

t. **Tort Claims:** Either (a) prepared and tried at least three tort cases to jury verdict, (b) prepared and tried at least two tort cases to jury verdict and attended and/or presented one post law school graduate course in trial advocacy or (c) has prepared and tried at least one tort case to jury verdict and complied with all of the following:

- (i) tried at least three non-jury, long cause cases to judgment;
- (ii) handled at least five tort cases through arbitration;
- (iii) settled at least ten tort cases prior to trial but after the complaint is filed;
- (iv) taken at least five depositions in tort cases, one of which was the deposition of a medical doctor; and
- (v) attended and/or presented at least nine hours of continuing education in one or more of the following areas: discovery, damages, law and medicine, pleading and procedures, evidence, or trial advocacy.

**For medical malpractice or attorney malpractice cases:** At least one of the trials satisfying the above - described experience requirements must have been a medical malpractice trial or an attorney malpractice trial.

u. **Unlawful Detainer:** Handled at least three unlawful detainer actions, at least one through judgment and transmittal of a writ of restitution to the sheriff.

**For commercial property:** At least one of such actions must have been a commercial unlawful detainer action.

v. **Wills, Trusts and Estate Planning:** Prepared five major estate planning documents which provide for the transfer of property upon the death of the testator or trustor(s), including interviewing the client and drafting and supervising the execution of the documents. At least two of the major estate planning documents shall be living trusts with "pour-over" wills, and at least one shall be a testamentary trust (for instance, a contingent trust for children or grandchildren) **Or**, in lieu of all of the foregoing is a Certified Specialist, Wills, Trusts and Estate Planning Law, State Board of Legal Specialization..

w. **Workers' Compensation:** Handled at least five industrial compensation cases through Appeals Board hearing, involving both temporary and permanent disability.

**Or** is a Certified Specialist, Workers' Compensation Law, California Board of Legal Specialization.

x. **Social Security:** Within the last four years, represented eight individuals in Social Security Disability or Supplemental Security Income Disability matters through a hearing before an administrative law judge and, within-24 months prior to the date of the application, attended and/or presented at least 12 hours of continuing legal education, including at least three hours in Social Security Law.

- y. **Insurance:** Within the last three years, represented ten clients in insurance coverage disputes and participated in at least three mediations and/or settlement conferences involving coverage disputes whether in underlying litigation or in an insurance coverage, declaratory relief or bad faith action.

In addition, has attended and/or presented at least 12 hours of continuing legal education in insurance law within the last three years.

For referrals in the following areas, applicant's practice must emphasize the area of insurance law to which the referral relates: medical insurance, auto insurance, ERISA issues, homeowner's insurance-property issues, homeowner's insurance-liability issues, business insurance-property issues, business insurance-liability issues and disability/life insurance issues.

**Rule 2.** Unless otherwise specified above, all experience requirements must have been satisfied within five years of the date of the application for panel membership; provided that the Committee may waive this requirement in cases involving extraordinary circumstances. Education and trial experience requirements shall apply upon re-application as well as initial application.

**Rule 3.** The Committee will periodically seek comments regarding panel eligibility requirements from appropriate sections of the Association.

## Section VIII

### Panel Member Guidelines

LRS is first and foremost a public service, designed to provide access for the public to qualified lawyers and to educate the public about the legal process. As an LRS panel member, you understand that clients referred to you might not otherwise have access to qualified lawyers, might only desire the free half-hour consultation, and might not retain you for further services. Nonetheless, your commitment to serving the public by providing access is important not only to the public but to the profession as well.

### Things the Attorney Should Do

#### Administrative Procedures

1. The LRS will try to make the appointment directly with the attorney. Try to be available to schedule appointments either personally or through your staff. You will be moved to the end of the list of panel attorneys if you decline a referral unless you are unavailable due to other commitments or have a conflict of interest.
2. Notify the LRS immediately if you have a conflict of interest.
3. Refer the prospective client back to the LRS if you are not retained by the client but the client intends to retain an attorney Rule 6, Section IX – (Handling Referrals).

4. Familiarize yourself with these Rules. Deviations from the Rules may lead to your suspension or removal.
5. Report suggestions and/or problems concerning the Service to the LRS Administrator.
6. Promptly report changes of address, telephone number or email address to the LRS Administrator in writing. Advise the LRS Administrator if you will be unavailable for referrals for a significant time.
7. Advise the LRS Administrator immediately of any changes in your professional liability insurance.
8. Return experience and insurance update requests promptly.

### **Client Relations**

1. Emphasize the public service aspect of the LRS through real service to LRS clients, rather than the mere appearance of service.
2. Discuss with client's the charges for consultation time beyond the first one-half hour.
3. Prepare a summary of the initial consultation, including advice given, whenever possible.
4. Submit a fee dispute with an LRS client to arbitration by the Association if the client so elects.
5. Enter into a written fee agreement covering additional services, if any.
6. Return the signed referral form immediately. You will be automatically suspended from all panels if you do not return a referral form within 15 days of the date of mailing of a second request by the LRS.
7. Except for Modest Means cases Section X – (Modest Means Panel) remit to the LRS 15% of all fees generated from further services rendered as a result of LRS referrals within 20 days of your receipt of the fees.

### **Things the Attorney Should Not Do**

1. Except in the case of the Miscellaneous panel (Section VI – (Panel Descriptions) do not either personally or through your staff attempt to determine the nature of a client's legal problem before you accept or reject an initial appointment with the client.
2. Do not refer an LRS client to another member of your firm or any other attorney for the initial consultation. If you are unavailable for the interview, notify the LRS Administrator.
3. Do not decline the initial consultation with an LRS client unless you are unavailable due to other commitments or have a conflict of interest.

4. Do not advise LRS clients that they have been referred to you because you are a "specialist in the field," unless you are certified as a specialist by the State Bar Board of Legal Specialization.

## **Section IX**

### **Handling Referrals (Panel Members)**

**Rule 1.** LRS clients shall be referred to individual panel attorneys (rather than the attorney's firm).

**Rule 2.** The attorney to whom an LRS client is referred shall personally conduct the initial consultation.

**Rule 3.** Panel attorneys must provide LRS clients with at least the same quality of service they provide to other clients.

**Rule 4.** A panel member shall not refuse to provide an initial consultation because he/she believes the client cannot afford a lawyer.

**Rule 5.** Each attorney to whom an LRS client is referred shall determine at the outset whether a conflict of interest exists and, if so, either obtain a valid waiver of the conflict or refer the client back to the LRS.

**Rule 6.** A panel attorney who is not retained by a particular LRS client but believes that another referral would be appropriate must refer the client back to the LRS.

## **Section X**

### **Modest Means Panel**

#### **Rule 1. Purposes**

- a. To assist the general public by providing a means whereby a person who cannot afford market rate attorneys' fees may be referred to a qualified member of the bar who has agreed to provide legal services at reduced fees.
- b. To make quality legal services available to persons of modest means.

#### **Rule 2. Panel Descriptions**

- a. The Modest Means Panel shall be composed of sub-panels of lawyers as follows:

**Consumer Law:** Matters related to contracts for purchase of goods, creditor collections and debtor defense, not involving insolvency or bankruptcy.

**Criminal Law:** Matters related to violations of penal statutes and ordinances.

**Family Law:** Matters related to proceedings involving nullity or dissolution of marriage, legal separation, support enforcement and/or modification, custody, change of name, marital settlement agreements, adoption, guardianship and related family transactions.

**Insolvency and Bankruptcy:** Matters related to debtor problems, insolvency, unmanageable debts, and bankruptcy or wage earner petitions.

**Landlord/Tenant:** Matters related to real property possession problems, both residential and commercial, including collection of rent where eviction is involved.

**Immigration:** Matters related to visas, labor certificates, deportation, exclusion and citizenship.

b. The Committee shall invite and consider suggestions for adding, deleting or modifying panels as the public's need for the same shall appear and as the Association's resources permit.

### **Rule 3. Panel Qualifications**

a. The Modest Means panels shall consist of service attorneys and mentor attorneys. A service attorney is the referral attorney who provides direct legal service to the Modest Means client. Mentor attorneys shall be assigned to assist service attorneys where the service attorneys do not meet the qualifications for the applicable panel in Section V of these Rules or where the service attorney requests a mentor attorney.

b. Service attorneys must meet the general eligibility requirements in Section III (General Eligibility) but need not satisfy the panel qualifications of Section VII (Panel Qualifications).

c. Mentor attorneys must meet the general eligibility requirements of Section VII (Panel Qualifications), above and the panel qualifications for the applicable substantive law panel under Section V, above.

### **Rule 4. Client Eligibility**

a. For an individual to qualify for a referral to a service attorney, he/she must complete a Modest Means Client Information Form, and his/her income must not exceed the applicable maximum level, as follows:

<u>Number in Family Household</u>	<u>Annual Gross Income</u>
1	\$30,590
2	\$34,960
3	\$39,330
4	\$43,700
5	\$52,440
6	\$60,720
7	\$69,000
8	\$75,900

b. In addition, the combined assets of all persons who are resident members of the applicant's family unit may not exceed the following asset ceiling (Modest Means Panel Asset Ceiling, Appendix I).

(1) The liquid asset ceiling is \$3,500 for an individual plus \$900 for each additional family member up to \$8000 maximum additional amount. Liquid assets include:

(a) Cash



- (b) Stocks
- (c) Bonds
- (d) Bank accounts
- (e) Annuities
- (f) Treasury bills
- (g) Life Insurance Policy Cash Value

(2) The non-liquid asset ceiling is \$15,000. Non-liquid assets include:

- (a) Real property equity exclusive of the homestead exemption
- (b) Equity in motor vehicles exclusive of the state exemption amount
- (c) Jewelry
- (d) Art
- (e) Heirlooms
- (f) Livestock
- (g) Work-related equipment and tools exclusive of the state exemption amount

c. The applicant shall provide documentation of his/her financial information and authorize the LRS Administrator to contact third persons to confirm the information provided.

#### **Rule 5. Attorneys' Fees**

a. Fees charged to Modest Means clients by service attorneys shall not exceed those set forth in the fee schedule set by the Committee from time to time. The present rates are listed in the (Statement of Reduced Rates, Appendix II).

b. A client who is eligible for referral to a service attorney when the referral is made shall be entitled to receive continued legal services at Modest Means rates until the referred matter is completed notwithstanding an increase in his/her income or assets.

## **Section XI**

### **Panel Member Fees**

**Rule 1.** An LRS panel member shall not charge an LRS client for the initial one-half hour consultation.

**Rule 2.** If a panel member expects to seek compensation for further services, he/she and the client shall enter into a fee agreement before the further services are rendered. The fee agreement shall conform to the applicable requirements of the California Business & Professions Code.

**Rule 3.** Panel members are not obligated to render services beyond the initial one-half hour consultation.

**Rule 4.** If a panel member undertakes to perform further services, he/she is encouraged to provide suitable financial arrangements for the fees and expenses associated with such services.

## Section XII

### Client Relations, Ethics and Monitoring

**Rule 1.** Committee members shall contact annually randomly selected panel members constituting at least ten percent of all panel members to determine problems, suggestions and concerns about the operation of the LRS and to offer advice on handling cases and clients.

**Rule 2.** When a written complaint against a panel member is received from a client, the LRS Administrator will notify the panel member of the complaint and ask him/her to respond to the complaint within 15 days. The LRS Administrator shall notify the client that the attorney has been asked to respond to the complaint. The Committee shall consider the complaint and determine the action, if any, to be taken at the Committee meeting following the expiration of the attorney's 15-day response period whether the attorney has responded or not. The LRS Administrator will notify the attorney and the client of the Committee's decision in writing within 15 days of the date of the decision.

**Rule 3.** The LRS Administrator shall report each verbal complaint by a client to Committee at the Committee's next regular meeting.

**Rule 4.** Each client must agree in writing prior to receiving a referral that the attorney to whom he/she is referred may disclose attorney-client confidential communications to the Committee in connection with the Committee's investigation of a complaint by the client.

**Rule 5.** The Committee shall review the complaints, if any, against each panel member annually in December to determine if the panel member should be removed in accordance with Section XIII (Resignations, Suspensions & Removal).

## Section XIII

### Resignations, Suspensions & Removal

**Rule 1.** A panel member may resign at any time upon written notice to the LRS.

**Rule 2.** A panel member shall be automatically suspended from a particular panel for as long as he/she fails to pay the annual fee for the panel and shall be automatically suspended from all panels if he/she fails to submit a required report within 15 days of a second request for the report. A panel member who is suspended for failure to submit a report shall be automatically reinstated upon submitting the report if he/she is otherwise eligible and in compliance with these Rules.

**Rule 3.** A panel member may be removed from all panels for up to three years for:

- (a) Failing to maintain continuous eligibility and qualification under these Rules;
- (b) Failing to handle LRS cases with professional competence and diligence;
- (c) Making a materially false statement to the LRS;
- (d) Violating the State Bar of California Rules of Professional Conduct;

- ( e ) Committing a crime involving moral turpitude;
- ( f ) Failing repeatedly to comply with these Rules;
- (g ) Being repeatedly discourteous to LRS clients or staff; or
- (h) Experiencing repeated problems with client relations.

**Rule 4.** Before a panel member may be removed under Rule 3 above, the LRS shall notify him/her in writing of the proposed removal and the period during which the member will be ineligible to serve on LRS panels as a result of, and the reason or reasons for, the proposed removal. The panel member shall have 30 days from the date of mailing of the notice to submit to the president of the Association a written request for a hearing. The member shall be summarily suspended from all panels pending the hearing if the chair of the Committee determines that such suspension is necessary to protect the public interest.

**Rule 5.** If the panel member requests a hearing before a review board, the hearing shall be governed by Rule 9, Section XIV (Administration).

**Rule 6.** A panel member who is removed from a panel pursuant to Rule 3 may apply to be reinstated after the expiration of the period specified in the notice of removal referred to in Rule 4, which period shall not be more than three years; provided, if the review board, after a hearing, specifies a different period (not more than three years), the member may apply after the expiration of the period specified by the review board. The member's application shall be made in accordance with Section IV (Application Requirements).

**Rule 7.** A panel member shall promptly notify the LRS in writing of the filing of disciplinary proceedings against the member at the State Bar Court. The filing of such a proceeding shall result in suspension of the member from all panels until the matter is resolved. The LRS shall promptly notify the panel member in writing that he/she has been suspended under this rule. It shall not notify clients of the suspension.

**Rule 8.** A panel member's obligations under these Rules with respect to referrals he/she receives from the LRS, including, for example, the duty to make reports, pay forwarding fees and submit fee disputes to arbitration, shall survive his/her resignation, suspension or removal.

## **Section XIV**

### **Administration**

**Rule 1.** The LRS is operated under these Rules as a public LRS by the Association through a standing committee of not less than seven members, at least three of whom shall be eligible for membership in the Barrister's Section. Not more than one-half of the Committee may be panel members.

**Rule 2.** The Committee shall regularly review these Rules and present recommendations for changes to the Board of Trustees.

**Rule 3.** The Committee shall supervise the finances of the LRS and present an annual financial report and recommended budget to the Board of Trustees.

**Rule 4.** The Committee shall make recommendations to the Board of Trustees regarding liability insurance.

**Rule 5.** The LRS Administrator shall manage the LRS pursuant to these Rules and the advice of the Committee.

**Rule 6.** All notices, requests, demands or other communications (Notices) shall be in writing and shall be sufficiently given for all purposes as follows:

- a. When personally delivered to the recipient, upon delivery.
- b. When sent by first class mail, postage paid, to the address of the recipient determined in accordance with this rule, three days after deposit in a United States Postal Service office or mailbox.
- c. When sent by certified mail, return receipt requested, postage paid, upon receipt if delivery is confirmed by return receipt.
- d. When delivered by an overnight delivery service, charges paid, upon delivery if delivery is confirmed by the delivery service.
- e. When sent by facsimile to the intended recipient, upon receipt provided that receipt is confirmed by the recipient's facsimile machine.
- f. When sent by electronic mail, upon transmission unless the sender receives a programmed return message indicating that (i) the intended recipient was not recognized or (ii) the transmission was not completed.

The mailing address of the Association and the president and all employees of the Association for the purposes of this rule shall be the address of the principal office of the Association. The mailing address for a person seeking a referral, a person applying to be a panel member, a panel member or a suspended or removed panel member shall be the address of such person as shown in the records of the Association.

**Rule 7.** The Committee shall maintain a standing committee on these Rules of Operation.

**Rule 8.** A Committee member who misses three Committee meetings during a calendar year without notifying the LRS Administrator shall be automatically removed from the Committee but shall be eligible to re-join the Committee the following year or thereafter.

**Rule 9.** A decision of the Committee may be appealed to a three-member review board appointed by the president of the Association provided that the appellant notifies the president of the Association of the appeal within 30 days of receiving notice of the decision. The president shall appoint the review board within 30 days of receiving the notice of appeal. The review board shall conduct a hearing on the appealed matter within 45 days of its appointment. It shall give the appellant and the Committee written notice of the time and place of the hearing at least 20 days prior to the hearing date and

render its decision within 15 days after the hearing is concluded, unless the time for the decision is extended with the appellant's and the Committee's consents.

## **Section XV**

### **Forms and Records**

**Rule 1.** The Committee shall adopt and maintain forms to operate the LRS, including, but not limited to, the following:

- A Lawyer Referral (LRS) Application
- A Case Status Report
- A Receipts Report
- A Referrals Record
- An Experience Update Report
- An Insurance Expiration Report
- A Statement of Activity
- A Mentor Attorney Agreement
- A Modest Means Mentor/Attorney Assignment
- A Lawyer Referral LRS Questionnaire
- A Modest Means Panel Questionnaire
- A Modest Means Financial Worksheet
- A Modest Means Client Representation Agreement (flat fee)
- A Modest Means Client Representation Agreement (hourly rate)
- A Modest Means Attorney Application

**Rule 2.** All Committee records and reports except Committee and Appeals Board minutes shall be open to inspection by panel members and Association members but otherwise be confidential.

**Rule 3.** The Committee shall maintain its records and reports in a manner which will enable it to furnish statistical data, certification renewal applications and reports to the State Bar and to furnish appropriate information to the Board of Trustees and other organizations as authorized by the Board of Trustees or its designee.

## **Section XVI**

### **Maintenance of Panel Membership Lists**

**Rule 1.** The LRS shall make referrals to panel attorneys on a rotating basis.

**Rule 2.** Panel databases shall include panel attorney names, office addresses, facsimile and telephone numbers, email address, office hours (including evening and weekend hours, if any), foreign languages spoken, and such other information as the Committee may require.

## **Section XVII**

### **Referral Procedures (Office)**

**Rule 1.** The LRS shall not discriminate on the basis of race, color, gender, age, religious creed, national origin, ancestry, sexual orientation, disability, medical condition, marital status, political

affiliation, or veteran status. By paying an administrative fee a person may request a referral to a panel member.

**Rule 2.** LRS staff shall preliminarily determine the nature of the client's problem and select the appropriate panel.

**Rule 3.** If, after consultation with the client and the LRS Administrator, LRS staff is unable to determine which panel the client should be referred to, the determination shall be made by a member of the Committee designated by the Committee chair.

**Rule 4.** LRS staff shall promptly try to arrange an appointment with the next panel member in rotation unless the client's inability to travel, the inconvenience of the attorney's office location, language requirements or appointment problems require otherwise, in which case, the appointment shall be arranged with the next panel member in rotation.

**Rule 5.** If a panel member declines a referral, the declined referral shall be treated as an actual referral for the purpose of determining the rotation for future referrals unless the member is unable to accept the referral because of a conflict of interest or the client's desire to meet (a) during non-business hours or (b) sooner than the second business day after the referral request is made.

**Rule 6.** Except in the case of the Miscellaneous Panel (Section VI – Panel Descriptions), in making a referral the LRS staff person shall not discuss the details of the prospective client's problem with the selected panel member or the panel member's office personnel until after the appointment is made.

**Rule 7.** Notwithstanding the foregoing, the LRS staff may consider the location of the court in which the matter being referred will be heard and the proximity of panel members' offices to such court in selecting panel members for referrals of criminal matters.

**Rule 8.** Upon making an appointment with a panel member, LRS staff shall promptly inform the client of the appointment time and the name, address and telephone number of the panel member selected.

**Rule 9.** Subject to the prohibition against discrimination in Rule 1 of this section, the LRS may refuse anyone a referral.

**Rule 10.** The LRS may make one or more subsequent referrals for a client for the same legal problem. Unless waived by the LRS Administrator because of unusual circumstances, the staff shall charge a full administrative fee for each referral.

## **Section XVIII**

### **Lawyer Referral Charges**

**Rule 1.** The LRS charges clients a \$25 administrative fee for each referral.

**Rule 2.** Panel members shall pay the Association an annual membership fee based on the number of panels to which they belong. The fee for Association members is \$114 for one panel and \$50 for each additional panel. The fee for panel members who are not members of the Association is \$275

for one panel and \$75 for each additional panel. A person who joins a panel after June 30 of a particular year will be charged one-half of the regular fee for that panel for that year.

**Rule 3.** The Committee shall review panel fees periodically.

**Rule 4.** Except for Modest Means cases (Section X – Modest Means Panel), each panel member shall pay the LRS a forwarding fee equal to 15% of the fees (not costs) received with respect to each legal matter referred by the LRS. The forwarding fee with respect to a particular fee or installment thereof shall be paid within 20 days of the date the fee or installment is received. Forwarding fees not received within 20 days of the member's receipt of the related legal fee or installment shall bear interest at the highest rate allowed by law.

**Rule 5.** A panel member shall not increase an LRS client's charges for legal services beyond those which the client would otherwise be charged by the panel member or decrease the quantity or quality of legal services which the client would receive, if the client were not an LRS client.

## Section XIX

### Promotion

**Rule 1.** The Committee shall maintain an adequate publicity program to inform the public in the geographical area served of the availability of the referral service.

**Rule 2.** The Committee shall conduct a general public information program on legal subjects appropriate to the needs of non-lawyers.

**Rule 3.** The Committee may employ public relations representatives, and there may be an LRS subcommittee charged with overseeing public relations programs and reporting to the Committee regarding such programs.

**Rule 4.** The Committee may use any and all available advertising media to publicize the LRS, emphasizing media designed to reach persons who are unlikely to know an attorney or to recognize a problem.

**Rule 5.** Publicity must be in good taste and conform to the requirements of the Rules and Regulations of the State Bar pertaining to Lawyer Referral Services.

**Rule 6.** Promotions shall not praise individual panel members, compare the LRS with any other lawyer referral service, or represent that LRS panel members are specialists or experts.

## Section XX

### Contracts for Referrals

**Rule 1.** The Committee shall be authorized to negotiate with the Public Defender's Office, the Legal Aid Society and other social or legal service agencies for contracts to handle requests for legal service. Such contracts may be entered into only with the approval of the Board of Trustees.

**Rule 2.** The Association may enter into reciprocal referral arrangements with other qualified referral services in Santa Clara County, subject to the Board of Trustees' approval.

# **Appendix I**

## **Modest Means Panel Asset Ceilings**

### Policy Considerations:

In establishing these guidelines incorporating asset ceilings, The Modest Means Panel has considered the following factors:

1. The rate of unemployment has driven “new” people into poverty:
2. While the high cost of living affects the entire population, the poor pay a disproportionately higher price for goods and services than people of greater means;
3. The lack of mass transportation in Santa Clara County requires access to an automobile to secure employment and other basic needs;
4. Special flexibility in applying asset ceilings should be used when the applicant is disabled, institutionalized, elderly or handicapped.
5. The inability of a significant segment of our society to afford full-priced legal services.

### Asset Ceilings:

In addition to income, the available liquid and non-liquid assets of all persons who are resident members of the applicant’s family unit, shall be considered in determining eligibility. The value of such assets, after exclusions, shall be one of the factors utilized in determining the eligibility of applicants under the maximum income level. Available assets which do not exceed the asset ceilings need not be considered.

The Modest Means Panel liquid asset ceiling is \$3500 aggregate/household for an individual and an additional \$900 for each additional family member, to a maximum of five additional family members. Examples of liquid assets to be considered are cash, stocks, bonds, bank accounts and other money on deposit ( certificates of deposit, IRA’s, money market certificates ), annuities, treasury bills, and other commercial paper.

The Modest Means Panel non-liquid asset ceiling is \$15,000/household. Examples of non-liquid assets to be considered include equity value of real property including the applicant’s’ principal residence over and above the State homestead exemption; equity value of deed of trust’ equity value of motor vehicles in excess of that exempted under these policies, jewelry, works of art, heirlooms, livestock, and work-related equipment and tools not exempted under these policies.

### Asset Ceilings:

### Exclusions and Waivers:

None of the following shall be included as liquid or non liquid assets:



- (1.) One motor vehicle, the equity value of which does not exceed \$5,000.
- (2). Additional motor vehicles, only if:
  - (a) reasonable and necessary for employment of the applicant or member of the applicant's household.
  - (b) reasonable and necessary for medically related transportation of the applicant or member of the applicant's household.
  - (c) modified for operation by or for transportation of a handicapped person.
- (3) Personal and household effects.
- (4) Trusts established and used exclusively for education or medical expenses.
- (5) Reasonable equity in work-related equipment which is essential to the employment or self-employment of an applicant or a member of the family unit, so long as the owner is attempting to produce income consistent with its fair market value.
- (6) The cash value of life insurance policies in excess of \$4,000 for an individual living alone or \$8,000 for a family/household
- (7) One burial plot per household member
- (8) Any other non-liquid assets excluded under the Food Stamps, AFDC, SSI, or County General Assistance Program.

## Appendix II

### Statement of Reduced Rates For Modest Means Clients

Family Law	\$100/hr
Consumer Law	\$ 65/hr
Landlord/Tenant Law	\$ 65/hr
Bankruptcy Law	
Creditors	\$ 85/hr
Debtors	\$ 400. ( flat fee )

#### Juvenile Law Panel

**Hourly Rate:** \$75 Per Hour (including appeals and dependency cases)

**All Misdemeanor Flat Rates:**    \$450  
     \$500 Trial Day  
     \$250 Per Session

**Felony Flat Rates:**

All non P.C. 1192.7 & WI 707 (b) charged as felonies	\$650 \$600 \$300	Pre Trial Trial Day Per Session
P.C. 1192.7 & WI 707 (b) charges other than murder which do not go to fitness hearing	\$800 \$600 \$300	Pre Trial Trial Day Per Session
P.C. 1192.7 & WI 707 (b) charges that go to fitness hearing other than murder	\$1000 \$700 \$350	Pre Trial Trial Day Per Session
Murder Cases which do not go to fitness hearing	\$1000 \$700 \$350	Pre Trial Trial Day Per Session
Murder Cases which go to fitness hearing	\$1200 \$750 \$375	Pre Trial Trial Day Per Session
777 Petitions	\$500 \$600 \$300	Pre Trial Trial Day Per Session

## Immigration Law Panel

**Hourly Rate:**        \$75

Note: A “+” sign has been placed where a minimum flat rate is charged, but additional hourly fees are charged after a certain amount of work is done on each case.

### Flat Rates

#### Non-Immigrant Visas

Change of Status to B-1 / B-2 Visa		\$250
Extension of B-1 / B-2 Visa		\$175-250
Change of Status to F-1 Visa		\$250
Reinstatement of F-1 Visa		\$250-500
H-1 Visa ( may want to limit to non-profit petitioner )		\$425-625
K-1 Visa Petition and Adjustment of Status		\$750
L-1 Visa ( may want to limit to non-profit petitioner )		\$500-1000
Change of Status of J-1 Visa		\$250
Extension of J-1 Visa		\$175-250
J-1 Waivers:		
No objection waiver		\$175-500
Government interest waiver		\$500+
Hardship / persecution waiver		\$500+
Q Visa		\$425+
R Visa		\$425+

#### Immigration Visas

##### Labor certification and Legal Permanent

Residence		\$1500
Notice of Findings	Additional	\$250

##### Family - Based Immigration

Principal Applicant		\$600-700
Accompanying Spouse	Additional	\$175-250
Accompanying Child	Additional	\$ 50-175

##### Removal of Conditional Residence

Joint Petition		\$250-375
Waiver (death)		\$250-375
If interview required	Additional	\$175+

##### Asylum

Application		\$750-1000+
Order to Show Cause ( OSC ) Hearing ( Summary Master Calendar )		\$300+
OSC Hearing ( Regular Calendar )		Hourly

<b>Suspension of Deportation</b>	
Application	\$750-1000+
OSC Hearing ( Summary Master Calendar )	\$300+
OSC Hearing ( Regular Calendar )	Hourly
<b>Deportation and Exclusion Hearings</b>	
OSC Hearing ( Summary Master Calendar )	\$300+
OSC Hearing ( Regular Calendar )	Hourly
<b>Miscellaneous</b>	
Advance Parole	\$175
Re-entry Permit	\$175
Deferred Inspection	\$375+
I-90:	
Forms only	\$75
Attorney Appearance	Hourly
I-765	\$75
I-601 waiver	\$250-1000
I-212 waiver	\$250-1000

**Appeals**

BALCA	\$1500+
BIA	\$1250+
AAU	\$750+
Motion to reopen / reconsider	\$375+

**Citizenship**

N-400	\$375-500
N-600	\$300-500

**Flat Fee Representation Agreement  
(Criminal Cases)**

**LEGAL SERVICES TO BE PROVIDED:**

\_\_\_\_\_ (you) and \_\_\_\_\_ (I) agree  
that I will be your attorney to provide representation in the following  
matter(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

**Attorney Fees:**

**r Misdemeanor Case Fees**

The basic fee for attorney's services in this case will be \$\_\_\_\_\_. This basic fee shall be a non-refundable retainer and covers representation necessary to process the case up to the time of trial, that is, the basic fee includes any negotiations on the day of trial. This fee shall also cover any initial sentencing proceeding but does not cover post-sentence proceedings, probation revocation or other probation disputes.

In the event the Complaint is amended to add prior convictions or a felony charge, a new fee agreement will be required to be negotiated.

Should this matter proceed to trial, there will be an additional fee of \$\_\_\_\_\_ per trial day. For the purposes of computing a trial day, any time under three hours shall be billed at one-half of the trial day rate. Any time over three hours shall be considered one full trial day for the purposes of the fee.

**r Felony Case Fees**

The basic fee for attorney's services in this case will be \$\_\_\_\_\_. This basic fee shall be a non-refundable retainer and covers representation necessary to process the case up through the preliminary examination. This fee shall also cover any initial sentencing proceeding for pleas entered prior to the preliminary examination but does not cover post-sentence proceedings, probation revocation or other probation disputes.

Should there be a holding order following a preliminary examination, waiver of preliminary examination or the filing of an Indictment, there will be an additional fee of \$\_\_\_\_\_. This additional fee covers representation necessary to process the case up to the time of trial, that is the additional fee includes any negotiations on the day of trial. This fee shall also cover any initial sentencing proceeding for pleas entered prior to trial but does not cover post-sentence proceedings, probation revocation or other probation disputes.

Should this matter proceed to trial, there will be an additional fee of \$\_\_\_\_\_ per trial day. For the purposes of computing a trial day, any time under three hours shall be billed at one-

**Appendix II (cont.)**

half of the trial day rate. Any time over three hours shall be considered one full trial day for the purposes of the fee.

**Additional Terms and Conditions - All Cases**

\$\_\_\_\_\_ is required to be paid before attorney will become attorney of record.

This fee does not include any legal services for any civil actions or any matters, which occur after the conclusion of the case such as any post-sentencing proceedings, modification, writ, appeal, expungement, or the return of property and a separate agreement for such representation is required. This fee also does not include any interlocutory writ or appeal and a separate agreement for such representation is required.

You understand that at the conclusion of my services all unpaid charges will become due and payable. You also understand . . . [no further revisions proposed to remainder of agreement]

## Criminal Law Panel Legal Fee Schedule

**[Note:** *In addition to an across-the-board 15% increase in fees, the categories of cases are expanded and better defined. In recognition of the increased work involved, allegations of priors or other enhancements are used to "bump" a case up to a higher category. Terms are defined in the notes that follow]*

### Misdemeanor Cases<sup>a</sup>

#### Standard Misdemeanor Case

Definition: Cases where the most serious crime charged is a misdemeanor and there are no priors or other enhancements alleged and the case is not otherwise complex<sup>b</sup>.

Basic Fee: \$520.00 [450.00 + 15% (67.50) = 517.50]

Trial Fee: \$575.00 per trial day<sup>c</sup> [500.00 + 15% (75.00) = 575.00]

#### Complex Misdemeanor Case

Definition: Cases where the most serious crime charged is a misdemeanor and there are priors or other enhancements alleged or the case is otherwise complex<sup>b</sup>.

Basic Fee: \$750.00 [650.00 + 15% (97.50) = 747.50]

Trial Fee: \$575.00 per trial day<sup>c</sup> [500.00 + 15% (75.00) = 575.00]

### Felony Cases<sup>a</sup>

#### Standard Felony Case

Definition: Cases where the most serious crime charged is a non-"serious" felony and there are no priors or other enhancements alleged and the case is not otherwise complex<sup>b</sup>. A "serious" felony is any offense listed in Penal Code Section 1192.7. Extradition cases are included in this category.

Basic Fee: \$865.00 [750.00 + 15% (112.50) = 862.50]

Additional Fee After PX: \$865.00<sup>d</sup> [750.00 + 15% (112.50) = 862.50]

Trial Fee: \$865.00 per trial day<sup>c</sup> [750.00 + 15% (112.50) = 862.50]

#### Mid-Level Felony Case

Definition: Cases where the most serious charge is a non-"serious" felony and there are priors or other enhancements alleged or the case is otherwise complex; or the case falls into one of the types listed below and no priors

or other enhancements are alleged and the case is not otherwise complex<sup>b</sup>:

- (1) felony domestic violence case,
- (2) felony sex case where registration would be required if convicted,
- (3) drug case, other than simple possession.

A "serious" felony is any offense listed in Penal Code Section 1192.7. Violation of felony probation cases are included in this category. Fees for cases otherwise falling into this category but the maximum exposure is equal or greater than 20 years should be set at the "Maximum Exposure" level.

Basic Fee:	\$1,150.00	[1,000.00 + 15% (150.00) = 1,150.00]
Additional Fee After PX:	\$865.00 <sup>d</sup>	[750.00 + 15% (112.50) = 862.50]
Trial Fee:	\$865.00 per trial day <sup>c</sup>	[750.00 + 15% (112.50) = 862.50]

### **Serious Felony Case**

Definition: Cases where the most serious crime charged is a "serious" felony and there are no priors or other enhancements alleged and the case is not otherwise complex; or the case falls into one of the types listed below and priors or other enhancements are alleged or the case is otherwise complex<sup>b</sup>:

- (1) felony domestic violence case,
- (2) felony sex case where registration would be required if convicted,
- (3) drug case, other than simple possession.

A "serious" felony is any offense listed in Penal Code Section 1192.7. Fees for cases otherwise falling into this category but the maximum exposure is equal or greater than 20 years should be set at the "Maximum Exposure" level.

Basic Fee:	\$1,725.00	[1,500.00 + 15% (225.00) = 1,725.00]
Additional Fee After PX:	\$865.00 <sup>d</sup>	[750.00 + 15% (112.50) = 862.50]
Trial Fee:	\$865.00 per trial day <sup>c</sup>	[750.00 + 15% (112.50) = 862.50]

### **Aggravated Serious Felony Case<sup>e</sup>**

Definition: Cases where the most serious crime charged is a "serious" felony and there are priors or other enhancements alleged or the case is otherwise complex<sup>b</sup>. A "serious" felony is any offense listed in Penal Code Section 1192.7. Fees for cases otherwise falling into this category but the maximum

exposure is equal or greater than 20 years should be set at the "Maximum Exposure" level.

Basic Fee: \$2,300.00

Additional  
Fee After PX: \$900.00<sup>d</sup>

Trial Fee: \$900.00 per trial day<sup>c</sup>

**Maximum Exposure Case<sup>e</sup>**

Definition: Cases where the maximum exposure is equal to or greater than 20 years.

Basic Fee: \$3,500.00

Additional

Fee After PX: \$2,500.00<sup>d</sup>

Trial Fee: \$900.00 per trial day<sup>c</sup>

**Appeals**

Hourly Fee: \$100.00

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**Notes:**

<sup>a</sup> It is anticipated that, except for appeals, only flat fees will be used for criminal cases. The fees set forth in this schedule include pretrial motions and in limine motions.

<sup>b</sup> A number of factors may make a case "complex"; for example, more than three co-defendants, more than the usual amount of discovery for the type of case it is, etc. If a case is complex, use the fee for the next higher case category.

<sup>c</sup> For the purposes of computing a trial day, any time under three hours shall be billed at one-half of the trial day rate. Any time over three hours shall be considered one full trial day for the purposes of the fee.

<sup>d</sup> When cases are received after the preliminary examination, not more than the basic fee and 1/2 the additional fee, not both the basic fee and the full additional fee, can be charged.

<sup>e</sup> A new category.