THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF NEVADA

# RULES OF COURT

Effective July 1, 2022


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# CHAPTER 1

# GENERAL RULES

## RULE 1.00 APPLICATION OF RULES FOR THE UNIFIED COURT

The Local Rules of Court apply to the Superior Court of the State of California, County of Nevada.
(Amended July 1, 2016.)

## RULE 1.01 EFFECTIVE DATE

These rules are effective as of January 1, 1997, except for those rules stated to have another effective or amended date.
(Effective January 1, 1997.)

## RULE 1.02 EFFECTIVE RULES AND CITATION OF RULES

These rules shall be known as Local Rules for Superior Court of the State of California, County of Nevada. They shall be cited as "NCSC Local Rule (rule number)."
(Amended July 1, 2016.)

## RULE 1.03 CONSTRUCTION AND REVISION OF RULES

These rules shall be liberally construed to serve the proper and efficient administration of the business and affairs of this court and to promote and facilitate the administration of justice by the Superior Court of the State of California, County of Nevada.

To the extent these rules directly conflict with any California Rule of Court, the provision(s) of the California Rule(s) of Court shall prevail.

These rules may be amended or repealed and new rules may be added, by majority vote of the judges. Rules and subdivision headings do not in any manner affect the scope, meaning or intent of any of the provisions of these rules.
(Amended July 1, 2016.)

## RULE 1.04 DEFINITIONS OF WORDS USED IN THESE RULES

A. The definitions set forth in the rules heretofore or hereafter adopted by the Judicial Council of the State of California for the Superior Courts shall apply with equal force, and for all purposes, to these "Local Rules", unless the context or subject matter herein otherwise requires.

B. The word "court" shall mean the unified Superior Court of the State of California, County of Nevada, and shall include and apply to all branches of the court and to any judge or commissioner who is a duly appointed or elected member of this court and to

any judge or commissioner who shall have been assigned by the Chairperson of the Judicial Council of the State of California to serve, and is serving, as a judge of this court, including any retired judge who is so assigned and is serving, or to any judge sitting pro tempore by appointment of the judges of the Superior Court.
(Amended July 1, 2003.)

## RULE 1.05 DESCRIPTION OF COURTS IN PLEADINGS

The caption to be used for all pleadings in the unified courts shall state "Superior Court of the State of California, County of Nevada". Signatures by a judge or commissioner of any order or judgment shall state "Judge/Commissioner of the Superior Court" or "Judicial Officer."
(Amended July 1, 2003.)

## RULE 1.06 SUBMISSION OF PLEADINGS FOR FILING

A. Electronic filing (eFiling) is mandatory in the areas listed in Section 1 below. The submission of documents through electronic filing is permitted in all case types. Documents filed via electronic submission are subject to all of the conditions set forth in Code of Civil Procedure Section 1010.6(b) and any requirements set forth in CRC Rule 2.250 et seq. (Trial Court Rules, Division 3, Chapter 2). The procedure for submitting documents electronically is as follows:
    1. Use of eFiling is mandatory effective July 1st, 2022. Pursuant to CCP Section 1010.6(d)(4) and CRC Rule 2.253(b)(1), self-represented parties are exempt from any mandatory electronic filing requirements, but are encouraged to electronically file documents. This Section may be waived on a case-by-case basis upon a judicial finding of good cause.
    2. No direct electronic transmission (such as email or fax) to the court of any document for filing is allowed. Electronic filing of documents must be done through (1) an authorized Electronic Filing Service Provider (2) via portal accounts or (3) via system integration. The court may expand the list of approved Electronic Filing Service Providers and/or the method of submission via electronic filing at any time by updating the information on the court's website.
    3. Any document received electronically by the court between 12:00:00 a.m. and 11:59:59 p.m. on any court day must be deemed filed, if accepted, on that court day. Any document that is received electronically on a non-court day must be deemed filed, if accepted, on the next court day. This rule concerns only the method and effective date of filing. Any document that is electronically filed must still satisfy all other legal filing deadlines and requirements, including, but not limited to, case specific orders of the court and all applicable service of process requirements.
    4. By filing a document electronically, the party or user agrees to accept electronic service [eService], from the court, at the electronic service

address provided. A user may consent to accept electronic service [eService] from the court through their electronic filing service provider, or by filing a consent form. This agreement applies to all future correspondence or notices from the court to the party who is affirming consent to electronic service. Consent is granted by law for the particular case in which electronic filing was used.

5. There may be a fee charged by the Electronic Filing Service Provider (EFSP) or Electronic Filing Manager (EFM). These fees are waived for government entities and any litigant who has received a fee waiver. There are no fees for filings in criminal cases. Please contact the specific providers directly for further information.
6. Confidential or sealed records must be electronically served through encrypted methods to ensure that the documents are not improperly disclosed. Redaction of confidential and personal information is the sole responsibility of counsel and related parties. The Clerk will not review documents for compliance.
7. EFiled documents must be submitted in PDF (Portable Document Format), text-searchable format, and viewable on any standard PDF Viewer.
    i. All documents that exceed 10 pages and contain multiple exhibits/sections must be bookmarked. Bookmark titles shall match the corresponding section/exhibit. The use of hyperlinks is strongly encouraged. For instructions on bookmarking, visit the court's website.
    ii. For original documents required to be filed in paper, an electronic courtesy copy must be submitted. The original must be filed within 10 business days pursuant to California Rule of Court 2.252. For a current list of original documents required, visit the court's website.
    iii. A judicial officer may direct parties to submit a printed courtesy copy of a filing within a time period set by the court. A printed courtesy copy (along with proof of electronic submission) must have a cover letter that states "COURTESY COPY - JUDGE [Last Name]."
8. As an exception, certain documents cannot be electronically filed with the court, and must be submitted in paper format. For a current list of exceptions to electronic filing, visit the court's website.

B. Where eFiling is not mandated, original paper documents submitted for filing must contain two pre-punched holes centered 2½ inches apart at the top of the form and be stapled or bound. The clerk will endorse up to two copies submitted at the same time as the original and return them if a self-addressed, stamped envelope is provided. Any document to be conformed which is submitted without an addressed envelope with sufficient postage will be deposited into a drop box maintained at the clerk's office for the branch and department (criminal or civil)

in which the document was filed. Such documents ~~will~~ may be purged every 30 days if not picked up prior to that time from entry or filing of such document.

Where eFiling is not mandated, pursuant to California Rule of Court 2.300 et seq. the court accepts documents for fax filing only through a fax filing agency as provided for in Rule 2.303. The court does not accept direct fax filing under Rule 2.304. Documents filed by a fax filing agency must be filed only in the court where the proceeding is venued, e.g. either the Nevada City court or the Truckee court.
(Amended July 1, 2022.)

**RULE 1.07 LOCAL FORMS**

The local forms currently utilized by the court are attached to these rules in Appendix II. These forms are subject to revision, elimination or replacement without the necessity of further amendment to these rules. The use of any form attached to these rules is permissive, unless these rules require or indicate the use of the form is mandatory. Notwithstanding, if the Judicial Council later adopts a form for mandatory use that would serve the same purpose as a local mandatory form, then the Judicial Council form shall be used instead of the local form.
(Effective July 1, 2003.)

**RULE 1.08 COURT REPORTERS**

A. Pursuant to California Rule of Court 2.956, the Court does not provide court reporters for the following calendars:

Case Management Conferences
Civil Harassment
Civil Law & Motion
Uncontested
Unlawful Detainer
All Family Law Matters
Civil Trials
Infractions
Probate
Probate Guardianship
Domestic Violence Hearings

B. Any litigant who wishes to obtain a record of a hearing for any of the above matters must arrange for the presence of a court reporter at his or her expense. Staff reporters may be available by calling the Supervising Court Reporter. If no staff reporter is available, a list of independent reporters and reporting firms may be provided for the litigants' use in arranging their own coverage. Fees will also be charged for the use of staff reporters in the above-mentioned calendars.
(Amended July 1, 2014.)

## RULE 1.08.1 ELECTRONIC RECORDING

Pursuant to Government Code section 69957, if an official reporter or an official reporter pro tempore is unavailable to report an action or proceeding in a court, subject to the availability of approved equipment and equipment monitors, the court may order that, in a limited civil case, or a misdemeanor or infraction case, the action or proceeding be electronically recorded, including all the testimony, the objections made, the ruling of the court, the exceptions taken, all arraignments, pleas, and sentences of defendants in criminal cases, the arguments of the attorneys to the jury, and all statements and remarks made and oral instructions given by the judge. A transcript derived from an electronic recording may be utilized whenever a transcript of court proceedings is required. Transcripts derived from electronic recordings shall include a designation of "inaudible" or "unintelligible" for those portions of the recording that contain no audible sound or are not discernible. The electronic recording device and appurtenant equipment shall be of a type approved by the Judicial Council for courtroom use.
(Added July 1, 2022.)

## RULE 1.09 COURT FILE RETRIEVAL AND RECORDS RESEARCH FEES

A. The Judges of the Superior Court of California, County of Nevada have approved the imposition of fees for extraordinary retrieval of court files and court records research in accordance with California Rule of Court 10.815 and Government Code Sections 70627 and 70631, respectively. These fees are effective on June 1, 2010.

B. Court File Retrieval: Attorneys, parties, proprietary records research vendors and members of the public may request up to six (6) court files per day for viewing. If available and not in use by the Court, these files will be available for viewing the business day following the date of the request. To request more than six (6) court files located at the courthouse to be viewed at one time, a $15.00 retrieval fee per every six additional files requested will be due and payable at the time the request is made.

C. Court Records Research: The fee for research requests shall be $15.00 for each search of records or court files that take longer than ten (10) minutes. The fee is due and payable at the time of the request. If the requestor seeks information on more than one record or court file at one time, the Court presumes that the search will take longer than 10 minutes and a $15.00 fee will be charged for the first two records and a $5.00 fee will be charged for each additional record or court file.

D. If submitting research requests by mail, requestors must enclose a self-addressed stamped envelope with proper postage and a check made out to Superior Court of Nevada County. Write in the amount previously provided by the Court or on the memo line write "amount not to exceed $35.00," if the amount of the research is unknown.
(Amended July 1, 2014.)

## RULE 1.10 COURTROOM DRESS AND DECORUM POLICY

Proper attire and decorum are necessary to preserve the dignity and integrity of the judicial process.

1. Attorneys and court personnel shall be dressed in business attire. Other individuals in the courtroom shall be dressed in either business or casual dress. Bare midriffs are not allowed. Shoes must be worn. Hats are not permitted (except when worn for religious purposes). Glasses with darkened lenses are not permitted (except when worn for medical reasons). The court may also prohibit, in a courtroom, the wearing or displaying of clothing, tattoos, or other items that could reasonably be considered to intimidate witnesses or others present, or to undermine the dignity and integrity of the judicial process.

2. Persons who are not dressed in proper attire, as determined by the judicial officer, will be required to either remove or adjust the inappropriate clothing or to leave the courthouse and return at the date and time specified by the court.

3. No one may create any disturbance in the courtroom while court is in session.

4. All persons (including counsel) in a courtroom must turn off all cell phones and electronic devices and store them out of plain view. A party or counsel may request leave of court to utilize cell phones and electronic devices in the courtroom.

5. Eating, drinking, smoking, gum chewing and tobacco are prohibited in any courtroom. Water may be provided at counsel table for the benefit of those participants during court proceedings including jurors, witnesses, counsel and litigants.

6. Communication with inmates is prohibited.
(Effective July 1, 2016.)

## RULE 1.11 ELECTRONIC CASE FILE

Effective July 1, 2022, the electronic case file is the official record for all case types, pursuant to Government Code section 68150.
(Added July 1, 2022.)

# CHAPTER 2

# ADMINISTRATIVE MATTERS

## RULE 2.00 UNIFICATION OF SUPERIOR AND MUNICIPAL COURTS

Pursuant to a unification agreement dated September 22, 1995, the Nevada County Municipal and Superior Courts unified their operation, processing of cases, and administration to increase efficiency and reduce costs. With the passage of Proposition 220 on June 2, 1998, the judges of Nevada County unanimously voted on June 5, 1998 to unify Nevada County Municipal and Superior Courts into one court entitled Superior Court of the State of California, County of Nevada, effective July 1, 1998.
(Amended July 1, 2003.)

## RULE 2.01 COURT ORGANIZATION

The administrative policy of the court system is established by the judiciary in conjunction with the court's management team. The court is administered under policy direction of the judges through lines of administrative authority. All judges participate in court policy-making by means of regularly scheduled meetings consisting of the entire membership of the judiciary. The daily administration of the court is conducted by the duly elected presiding judge and the appointed court executive officer.

The Finance Committee is comprised of the Presiding Judge, the Asst. Presiding Judge, and one additional judicial officer. The Committee reviews all items related to budget, personnel plan, and compensation before consideration by the entire judiciary. The Finance Committee generally does not make any decisions alone, but do provide recommendations to the entire judiciary.
(Amended January 1, 2017.)

## RULE 2.02 PRESIDING JUDGE; DUTIES THEREOF; ASSISTANT PRESIDING JUDGE

A presiding judge shall be elected by majority vote of the judges to serve a term of two (2) years, unless the majority of judges vote to change the term of future presiding judge assignments . At such meeting, the judges shall additionally elect, in the same fashion as the presiding judge is elected, an assistant presiding judge who shall assist the presiding judge and act as the presiding judge in the event of the absence of the presiding judge With the assistance of the court executive officer, the presiding judge's general responsibilities and duties are those described in California Trial Court Administration Rule 10.603. The presiding judge may appoint a criminal presiding judge to coordinate the activities of all departments performing a criminal law assignment.
(Amended January 1, 2008.)

## RULE 2.03 COURT EXECUTIVE OFFICER

The non-judicial management and administrative functions of the courts shall be directed by a court executive officer who shall be selected by and serve at the pleasure of the judges of the court. Acting under the direction of the presiding judge, the court executive officer's general responsibilities and duties are those described in California Trial Court Administrative Rule 10.610.
(Amended January 1, 2008.)

## RULE 2.04 (Repealed)
(Repealed January 1, 2008.)

## RULE 2.05 DIVISION OF COURT FOR FILING AND ADJUDICATION

A. Five judges regularly sit in the Nevada City branch and one judge regularly sits in the Truckee branch. Specific judicial assignments may rotate as directed by the Presiding Judge. A commissioner serves both the Nevada City branch and the Truckee branch.

B. Except as provided by Rule 2.05(A), the presiding judge shall, subject to the advice of the other judges, assign judges to the civil-probate, criminal and family law departments on a rotational basis adhering to Rules of Court and Judicial Administration Standards regarding length of assignments for family and juvenile law.

C. Except as provided for in Paragraph D, filing of cases shall be governed by the venue criteria of the Code of Civil Procedure and Penal Code and the remainder of this Paragraph C. Any case that would be venued in Nevada County and arises from an occurrence or residence in Truckee shall be filed in Truckee. All other cases properly venued in Nevada County shall be filed in Nevada City. "Truckee", as used herein, includes all areas of Eastern Nevada County, east of the intersection of Interstate 80 and State Highway 20. The presiding judge may, from time to time, transfer cases to and from the Truckee Branch to meet the business demands of the court.

D. Nevada County citations issued in the Interstate 80 corridor shall be filed in the Truckee Branch Court and those issued in the Highway 20 corridor shall be filed in the Nevada City Court.
(Amended July 1, 2014.)

## RULE 2.06 LOCATION AND SCHEDULE OF COURT SESSIONS

Sessions of the court shall be held in the courtrooms provided at the Nevada County Courthouse, 201 Church Street, Nevada City, California, or at the Nevada County Courthouse, 10075 Levon Avenue, Truckee, California. In addition, the court may conduct sessions at any appropriate location within the County of Nevada at the direction of the judicial officer presiding at such hearing.
(Amended January 1, 2000.)

## RULE 2.07 DEPARTMENTS

The Superior Court of the State of California, County of Nevada consists of seven departments. Matters assigned to a given judicial officer/department can be heard in one of eight courtrooms; judicial officers may sit in different courtrooms at different times. (Amended January 1, 2006.)

## RULE 2.08 JUDICIAL ASSIGNMENTS

For election ballot purposes, judges of court are elected to specific departments. Although each judge has been elected to a department, the judges rotate assignments, with the exception of the judge assigned to the Truckee Branch. Accordingly, during the term of an assignment, a judge may be assigned to a department other than that elected to. (Amended January 1, 2008.)

## RULE 2.09 APPLICATIONS FOR EX PARTE ORDERS

Except as otherwise specifically provided by the rules, applications for ex parte orders shall be presented as follows:

A. Civil-Probate. Civil or probate applications involving injunctive relief, extraordinary writs, provisional remedies and all other civil or probate orders including orders shortening time (other than in family law matters) shall be presented to the assigned civil-probate judge. Notice shall be given pursuant to California Rule of Court 3.1203. Said ex parte applications shall be presented as set out below.

1. In the Nevada City Court, a party seeking an application shall reserve a date and a hearing time with the appropriate judicial assistant before filing an application; applications shall be filed by 4:00 p.m. the day before the hearing on the ex parte application.

2. In the Truckee Branch Court, a party seeking an application shall reserve a date and a 1:30 p.m. hearing time with the appropriate civil clerk before filing an application; applications shall be filed by 4:00 p.m. the day before the hearing on the ex parte application.

B. Criminal. Applications involving criminal matters shall be presented to the assigned criminal law judge. New matters not involving any pending case shall also be presented to the assigned criminal law judge. If a case has not been assigned to a particular judge the application shall be presented to the Clerk's Office, Suite 7, for consideration by an available judge for Nevada City court cases and to the Clerk's Office in Truckee for Truckee court cases.

C. Family Law-Juvenile Law. Applications involving juvenile court and family law matters shall be presented as set forth in Rule 5.01.

D. Appellate Department. Applications involving matters pending before the Appellate Department shall be presented to the presiding judge of the Appellate Department.

E. Truckee Branch. All applications regarding files pending or transferred to the Truckee Branch shall be presented to the judge of the Truckee Branch. Contact the clerk in the Truckee Branch to determine when applications should be filed.

F. Unavailability or disqualification. If the judge to whom an application should be presented under this rule is unavailable (i.e., not physically present) or is disqualified, or in cases of emergency, the application is to be presented to the presiding judge, the assistant presiding judge, or any other non-disqualified judge of the court, in the foregoing order of preference.

G. The manner of giving notice of the ex parte application may include notice by cellular phone text messaging.
(Amended July 1, 2016.)

**RULE 2.10 JUDICIAL VACATIONS**

The presiding judge shall administer judicial vacations as provide in California Rule of Court 10.603(c)(2). A day of vacation for judges in the Superior Court of the State of California, County of Nevada is defined as any full-day absence or absence greater than four hours requiring calendar coverage by another judicial officer. This rule does not apply to absences for reasons of illness or authorized education programs, workshops, committees or community outreach programs.
(Amended January 1, 2008.)

**RULE 2.11 NON-ACCEPTANCE OF NOTICES OF UNAVAILABILITY**

The Superior Court of the State of California, County of Nevada, will not accept for filing notices of unavailability.
(Added July 1, 2010.)

**RULE 2.12 ELISORS**

Where one of the parties fails to execute a document necessary to carry out a court order, the Clerk of the Superior Court, or the Clerk's authorized representative or designee, may be appointed as elisor to sign the document. When applying for an appointment of an elisor, the application and proposed order must designate "The Clerk of the Court or Designee" as the elisor and indicate for whom the elisor is being appointed and in what capacity they are to sign the document. An application for appointment of an elisor may be made ex parte or by emergency request in family law. The application must not set forth a specific court employee. The order must expressly identify the document(s) being signed and a copy of the document(s) must be attached to the proposed order. The

original document, presented for signature by the elisor must match the copy of the document attached to the proposed order. The order shall clearly identify the documents: A deed must state the type of deed (i.e. grant deed, interspousal transfer deed, et cetera). Escrow documents must be listed separately (i.e. Escrow Instruction Dated, Disclosure Regarding Real Estate Agency Relationship, Hazard Report, et cetera). The sample copy shall be highlighted in the location(s) where the elisor is to sign his/her name. Beneath the signature line(s) on the sample copy the moving party shall print the language being requested to identify the elisor's signature. The declaration supporting the application must include specific facts establishing the necessity for the appointment of an elisor. If the Court grants the application of an elisor, the moving party shall contact Court Administration to arrange for a time for the actual signing of the documents. The appointed elisor has up to three (3) court days to complete the actual signing of the documents. Any exceptions to the three day period shall be addressed on a case-by-case basis by the Court. If the elisor is signing documents requiring notarization, the applicant must arrange for a notary public to be present when the elisor signs the documents.
(Added July 1, 2022.)

# CHAPTER 3

# JURY SERVICE

## RULE 3.00 JURY COMMISSIONER

The court executive officer, is the ex officio jury commissioner. With the approval of the presiding judge and executive committee, the court executive officer shall appoint a deputy jury commissioner.
(Amended July 1, 2003.)

## RULE 3.01 JURY SERVICE

A. Duty of citizenship. Jury service, unless excused by law, is a responsibility of citizenship. The court and its staff should employ all necessary and appropriate means to assure that citizens fulfill this important civic responsibility.

B. Prior jury service. A prospective juror who has served on a grand or trial jury or was summoned and appeared for jury service in any state or federal court during the twelve previous months shall be excused from jury service on a request. The jury commissioner, in his or her discretion, may establish a longer period of repose.

C. Examples of valid reasons for a prospective juror to be deferred. Upon written request, the jury commissioner is empowered to postpone the jury service of a person for a period to not exceed ninety (90) days for the following reasons:

1. A temporary illness; i.e., flu;

2. A scheduled vacation with involves prepaid commitments, or cannot be otherwise conveniently rescheduled;

3. An important business demand of a nonrecurring nature that cannot be conveniently rescheduled;

4. A work hardship, i.e., there is no one available to take the place of that particular employee at the present time and, as a result, the business would suffer severe financial or business hardship;

5. Child care responsibilities;

6. A full-time student for who jury service would jeopardize his/her academic program;

7. Any other legitimate temporary hardship not expressly defined that in the opinion of the jury commissioner would justify temporary deferment of jury services.

All persons whose jury service has been postponed shall be called to jury service when the reason for the postponement no longer exists.
(Amended July 1, 2003.)

**RULE 3.02 JURY SELECTION**

A. Pursuant to Code of Civil Procedure section 198.5, except as otherwise provided herein, trial jury venires for the Truckee Branch of the Superior Court relating to residence or occurrence in said branch shall be drawn from the residents of and prospective jurors residing in the territory of the Truckee Branch. Except as otherwise provided herein, trial jury venires for the Nevada City Branch of the Superior Court relating to residence or occurrence in said branch shall be drawn from the residents of the territory of the Nevada City Branch.

B. Nothing in this rule precludes the court, in its discretion, from ordering a countywide venire in the interest of justice.

C. The territory of the Truckee Branch as used herein includes all areas of Eastern Nevada County, east of the intersection of Interstate 80 and State Highway 20. The territory of the Nevada City Branch as defined here shall include all other areas of Nevada County.
(Added January 1, 2008.)

# CHAPTER 4

# CIVIL PROCEDURE

**RULE 4.00 (Repealed)**
(Repealed January 1, 2000.)

**RULE 4.00.1 (Repealed)**
(Repealed January 1, 2000.)

**RULE 4.00.2 DIFFERENTIATING CASES TO ACHIEVE GOALS**
The court utilizes the case evaluation factors in California Rule of Court 3.715 in differentiating cases to achieve its case management goals pursuant to California Rule of Court 3.714.
(Amended January 1, 2008.)

**RULE 4.00.3 (Repealed)**
(Repealed July 1, 2003.)

**RULE 4.00.4 (Repealed)**
(Repealed July 1, 2003.)

**RULE 4.00.5 CATEGORY DESIGNATION AND CHANGE OF DESIGNATION**

All actions shall be deemed Plan 1 cases at the time they are filed. Upon good cause shown, the court at any time may enter an order changing the designation of a case to Plan 2 or 3 or it may exempt a general civil case from the case disposition time goals contained in California Rule of Court 3.714. This change of designation may be made:

A. Upon noticed motion to be heard on the law and motion calendar;

B. Upon the court's own motion.
(Amended January 1, 2008.)

**RULE 4.00.6 (Repealed)**
(Repealed July 1, 2003.)

**RULE 4.00.7 (Repealed)**
(Repealed July 1, 2003.)

**RULE 4.00.8 CASE MANAGEMENT CONFERENCE**

Reference is made to the provisions of California Rules of Court 3.720 - 3.730.

A. Date of conference. Except for short cause cases, a case management conference shall be scheduled and held in all cases approximately 120 days after the filing of the complaint. The court sets and files a notice of case management conference at the time the complaint is filed. Plaintiff shall serve the notice of case management conference, the case management information sheet with attached blank copy of the case management statement, and the court's alternate dispute resolution sheet and attached stipulation form at the time the complaint is served. The parties may thereafter stipulate in writing to and the court may order that the conference be set at an earlier date. At any time the court may schedule a case management conference on its own motion.

B. Mandatory appearance or telephone conference. In Nevada City, parties may appear personally or remotely for case management conferences, as provided by CCP section 367.75 and California Rule of Court 3.672. In Truckee, parties only appear remotely for case management conferences. The court may on its own motion change the type of case management conference specified in the original notice. The court will review files for the case management conference and determine if appearances at the conference are necessary. If it is determined a conference is not necessary, a case management order is issued and the parties are advised that an appearance is not required. At the present time, such orders are posted to the court's website (http://nccourt.net/) prior to the scheduled hearing. The policy of posting CMC notes and orders is subject to change without further notice or amendment of these rules.

C. Case at issue. The case shall be at issue at the time of the conference absent a showing of extraordinary circumstances.

D. Counsel/party participation. Counsel for each party and each self-represented party appearing in the action who is required by the case management order described in subdivision (B) shall attend the case management conference pursuant to the terms of the notice and should be familiar with the case and be fully prepared to discuss all matters stated in the case management order. Counsel designated as trial counsel shall personally attend the case management conference. Counsel or a self-represented party who fails to attend the conference and fails to participate effectively in the conference shall be subject to the imposition of sanctions.

E. Designation of trial counsel. Trial counsel and, except for good cause, back up trial counsel must be specified at the first case management conference. If such counsel are not specified or designated trial counsel does not appear, relief from the scheduled trial date may not be obtained based upon the ground that counsel is engaged in trial elsewhere.

F. Subjects to be considered at case management conference. In any case management conference or review the parties must address, if applicable, and the court may take appropriate action with respect to, the factors set out in California Rule of Court 3.724.

G. Case management orders. In addition to an order setting a schedule for subsequent proceedings and otherwise providing for management of the case, the case management order shall include such provisions as may be appropriate, including those provisions set forth in California Rule of Court 3.724, 3.727 and 3.728(1) – (13).

H. Proofs of service. Proofs of service of complaints and cross-complaints must be filed at least fifteen (15) calendar days before the case management conference.

I. Case management conference statement. At least fifteen (15) calendar days before the scheduled case management conference, each party shall file with the court and serve on all other parties a completed case management conference statement.

J. Jury Fees. Pursuant to Code of Civil Procedure section 631, jury fees shall be paid on or before the date scheduled for the initial case management conference. Failure to timely deposit jury fee results in a statutory waiver of trial by jury.
(Amended July 1, 2022.)

**RULE 4.00.9 SHORT CAUSE CASES**

Pursuant to CRC 3.735(a), a short cause case is a civil case in which the time estimated for trial by all parties or the court is five hours or less. All other civil cases are long cause cases. In order to provide more efficient calendar management, short cause cases are divided into two categories: limited short cause collection cases and all other short cause cases.

A. Limited short cause collection cases. See California Rule of Court 3.740.

B. Other short cause cases. Short cause cases other than limited short cause collection cases shall be assigned a case management conference date. If the parties by stipulation, or the court on its own motion, have not scheduled a case management conference sooner than 120 days following the filing of the complaint, the case will be called for case management conference in the same fashion as a long cause matter. If the parties stipulate or the court on its own motion sets a case management conference before 120 days, the court will conduct a case management conference in the same fashion as a long cause matter. In any event, the court may, despite the short cause nature of the case, order that the case be subject to a settlement conference, pretrial conference, or alternative dispute resolution. Further, the court may, upon a review of the case management conference statement, vacate the order for case management conference and set the matter directly for trial on the short cause calendar.

If the parties stipulate to a short cause trial date prior to the case management conference, the parties shall submit their stipulation to the clerk who will then send out a notice of trial. Any scheduled case management conference shall be dropped, absent a court order otherwise. No at issue memoranda are to be filed.
(Amended January 1, 2008.)

## RULE 4.00.10 ARBITRATION; ALTERNATIVE DISPUTE RESOLUTION; SANCTIONS

A. Election of plaintiff under California Rules of Court 3.811 and 3.812. Plaintiffs are encouraged to elect to arbitrate in appropriate cases prior to the case management conference. The election, along with case management conference statements of each party, must be filed at least fifteen (15) calendar days before the case management conference. See California Rule of Court 3.812(b).

B. Stipulation to Arbitrate. Parties may stipulate to arbitration in appropriate cases prior to the case management conference. A written stipulation to arbitrate will be deemed to be without a limit as to the amount of the award unless it expressly states otherwise.

C. Mandatory Arbitration Under Rule 3.811(a)((2)(3) and (5) Pursuant to California Rule of Court 3.811(a)(2)(3) and (5) the court may, despite the lack of a stipulation, order that appropriate cases be submitted to judicial arbitration.

D. Request for Trial. If any party has, within a timely fashion, requested that trial be set following arbitration pursuant to Rule 3.826 the court shall preside over any mandatory settlement conference, pretrial and trial dates originally set at the case management conference.

E. Alternative Dispute Resolution. Pursuant to Code of Civil Procedure Section 1775.2, the court hereby adopts Title 11.6 of Code of Civil Procedure Sections 1775 et seq. and therefore provides for the submittal of matters to mediation as an alternative to judicial arbitration for cases that are statutorily eligible for judicial arbitration pursuant to Code of Civil Procedure Section 1141.11 or 1141.12. Pursuant to Code of Civil Procedure Section 1141.11(c), any limited civil case in which a jury trial is requested shall be submitted to arbitration.

F. Sanctions. The court may impose sanctions for the willful failure to meaningfully participate in arbitration proceedings, including but not limited to arbitrator's fees, attorney's fees and costs, upon a motion brought by a party or the court. Willful failure to meaningfully participate in arbitration includes but is not limited to:

1. Non-appearance at the time set for hearing of any person necessary to proceed to a meaningful conclusion. Phone calls to the arbitrator at the time set for hearing shall not constitute an appearance.

2. Failure to offer any evidence or rebuttal.

3. Submission of a motion to continue the arbitration hearing less than ten (10) days before the scheduled hearing unless good cause is shown.

4. Failure to complete arbitration within the time fixed therefor.

In the event of a failure to meaningfully participate, the arbitrator may present a declaration to the court requesting sanctions against the offending party or attorney. The declaration shall be lodged with the court's arbitration administrator and an order to show cause may be issued and set for hearing.

G. Sanctions in Mediation Conducted in Lieu of Judicial Arbitration. When the parties elect to participate in mediation in lieu of judicial arbitration, the court may impose sanctions for the willful failure to meaningful participate in mediation proceedings, including but not limited to mediator's fees, attorney's fees and costs, upon a motion brought by a party or the court. Willful failure to meaningfully participate in mediation includes but is not limited to:

1. Non-appearance at the time set for hearing of any person necessary to proceed to a meaningful conclusion. Phone calls to the mediator at the time set for mediation shall not constitute an appearance.

2. Requests to continue the mediation less than ten (10) days before the scheduled mediation unless good cause is shown.

3. Failure to complete mediation within the time fixed therefor.

(Amended July 1, 2014.)

**RULE 4.00.11 DIRECT CALENDARING OF CIVIL CASES**

A. Except for probate matters, minor's compromises and collection cases subject to Local Rule 4.00.9(A) and otherwise stated herein, all limited and unlimited cases heard in the civil department shall be subject to assignment to a named judicial officer for all purposes at the time a case management conference order sets the matter for trial.

B. If a case management conference is not held in any given civil case, or in any given civil case deemed appropriate by the court, an all-purpose assignment may be made at any time in the proceeding as long as substantial matters need to be processed in addition to trial.

C. Time limits for peremptory challenges under Code of Civil Procedure section 170.6 shall comply with Code of Civil Procedure section 170.6(a)(2).
(Amended July 1, 2012.)

**RULE 4.01 (Repealed)**
(Repealed January 1, 2000.)

**RULE 4.02 ALL LONG CAUSE CIVIL TRIALS WILL BE SET FOR A JUDICIALLY SUPERVISED MANDATORY SETTLEMENT CONFERENCE BEFORE A REGULARLY ASSIGNED JUDGE OR DESIGNATED JUDGE**

Any long cause case, and any short cause case at the discretion of the court, shall be set for a judicially supervised mandatory settlement conference before a regularly assigned judge or designated judge pro tem.

Except as provide in Local Rule 4.02.1, the parties, not later than five (5) court days prior to the scheduled conference, shall serve and file a settlement conference statement with the clerk of the court. Such settlement conference statements shall comply with Rule 4.02.1.

The conference shall be attended by the attorney who will conduct the trial for each of the parties and by any unrepresented parties. All parties shall attend the conference, together with adjusters, corporate officers or other designated persons with authority to negotiate in good faith and reach settlements. Telephone standby is not permitted without prior approval of the presiding judge or judge assigned to conduct the mandatory settlement conference. Any party that files a request for a telephonic appearance at an MSC for an adjuster or principal must do so at least 10 court days prior to the scheduled MSC, and must accompany any such filing with that party's MSC statement that must include that party's latest settlement demand or offer.

Each party attending a settlement conference shall have a thorough knowledge of the evidence and shall be prepared to discuss the facts and law pertaining to both liability and damages. In a personal injury or wrongful death case, each attorney shall bring to the conference a copy of each medical report that pertains to the case.

If a settlement is effected where the case settles at any time prior to the mandatory settlement conference, a dismissal or stipulated judgment shall immediately be filed with the clerk of the court.
(Amended January 1, 2019)

## RULE 4.02.1 SETTLEMENT CONFERENCE STATEMENTS

The first page of each settlement conference statement shall specify, immediately below the number of the case, (1) the date and time of the settlement conference, and (2) the trial date. Settlement conference statements are to be filed no later than ten (10) court days before the conference. Each settlement conference statement shall include a full and complete statement of the following information to the extent known or contended: (Paragraph numbering of statements shall coincide with the following)

1. The attorney or party who is submitting the statement and the party counsel represents.

2. Lead counsel and the represented party for all other parties in the case.

3. Statement of the facts, including any background information necessary to understand the case.

4. Any factual stipulations reached by the parties.

5. Contested issues of fact, including detail of claimed damages or defenses.

6. Contested issues of law.

7. A good faith settlement demand and an itemization of economic and non-economic damages by each plaintiff and a good faith offer of settlement by each defendant.

8. The limits of any available insurance coverage.

9. Statement as to whether or not the case has been through arbitration. (Attach a copy of any arbitrator's award or opinion.)

10. Statement as to any special problems relating to settlement.

Principals and decision makers for clients and any insurance carriers must attend any scheduled MSC in person unless excused by order of the court issued in advance of the MSC. Any party that files a request for telephonic appearance at an MSC by any principal, decision maker, or adjuster must submit their request no less than 10 court days prior to the MSC, and must submit with their request their MSC statement.
(Amended January 1, 2019)

**RULE 4.03 PRETRIAL CONFERENCE**

At the case management conference, or pursuant to other court order, the court shall schedule a pretrial conference to be held within two weeks of the first day of trial, or as otherwise ordered by the court. Unless otherwise ordered, at least five (5) court days before the pretrial conference, the parties shall serve and file the following:

1. Exhibit lists;

2. Witness lists;

3. Proposed jury instructions;

4. Proposed written voir dire, questions for the trial judge;

5. Proposed special verdicts;

6. Any stipulations on factual or legal issues; and

7. A joint non-argumentative statement of the case (two paragraphs maximum) to be read to prospective jurors.

The pretrial conference shall be conducted by the assigned trial judge. Parties shall file and serve trial preparation motions, opposition and replies, including motions in limine and dispositive motions, not including motions for summary judgment, in accordance with the time limits contained in Code of Civil Procedure Section 1005 so that the motions may be heard on the day of the pretrial conference (Nevada City Court), or on the law and motion calendar (Truckee Branch), or as the court may otherwise direct. All motions in limine shall be contained in one document with consecutively numbered paragraphs for each motion. Separate motions in limine are not to be filed for each motion.

Additional rules for civil jury trials may be promulgated by the trial judge from time to time and distributed to the parties at the pre-trial conference or at any other appropriate time.
(Amended January 1, 2008.)

**RULE 4.04 CONTINUANCES**

No mandatory settlement conference, civil pre-trial conference, or trial may be continued except upon noticed motion in unlimited civil matters. The parties may also present an ex parte application, requesting a continuance based upon the written stipulation of all parties. Stipulations to continue the trial date must include mutually acceptable future trial dates agreed upon by all parties. No continuance will be granted absent an affirmative showing of good cause. A trial conflict may not be deemed good cause for a continuance unless the conflict arose after the trial date was set and the conflict could not have reasonably been avoided.
(Added July 1, 2017.)

**RULE 4.04.1 (Repealed)**
(Repealed January 1, 2000.)

**RULE 4.04.2 (Repealed)**
(Repealed January 1, 2000.)

**RULE 4.05 (Repealed)**
(Repealed July 1, 2014.)

**RULE 4.05.1 (Repealed)**
(Repealed January 1, 2000.)

**RULE 4.05.2 (Repealed)**
(Repealed January 1, 2000.)

## RULE 4.05.3 TENTATIVE RULINGS; OBLIGATIONS OF COUNSEL; HEARING OF LAW AND MOTION BY TEMPORARY JUDGE

A. Tentative Rulings. On the afternoon of the court day before each regularly scheduled law and motion calendar, a tentative ruling will be posted on the court's website (http://nccourt.net/). If a party does not have internet access, tentative rulings can be obtained by contacting the clerk's office. At the present time, the Nevada City number is (530) 362-4309 and the Truckee number is (530) 362-4309.

The tentative ruling shall become the final ruling of the court if the court has not directed oral argument in its tentative ruling and notice of intent to appear has not been given whereby a party desiring to be heard advises all other parties and the court of a request for a hearing. Notification of intent to appear shall be made by contacting the clerk's office at a number designated by the court in the tentative ruling or by emailing OA@nccourt.net not later than 4:00 p.m. the court day preceding the hearing and it shall include confirmation that all other parties have been notified of the intent to appear. At the present time, the Nevada City number is (530) 362-4309 and the Truckee number is (530) 362-4309. Neither the Notice of Motion nor an arrangement for telephonic appearance will satisfy the requirement to give notice to the other party and the court.

When a request for hearing is made or an appearance is required by the court, limited argument will be allowed, not to exceed five (5) minutes per side, unless the court determines additional argument time is needed.

B. Hearing of Law and Motion by Temporary Judge. The court's research attorney may sit as a temporary judge on the stipulation of all parties or their counsel. Notification of use of said temporary judge shall be contained in tentative rulings issued for sessions to be heard by said temporary judge. Any party who does not wish to stipulate to the temporary judge must notify the other parties and then notify the court's law and motion/probate judicial assistant at (530) 362-4309 by 4:00 p.m. the day before the hearing. If all parties stipulate to the temporary judge but wish to argue at the hearing, they must notify the law and motion/probate judicial assistant and the other parties by 4:00 p.m. the day before the hearing. The failure to object by 4:00 p.m. the day before the hearing shall be deemed a stipulation that the research attorney may hear the matter as a temporary judge.
(Amended July 1, 2022.)

## RULE 4.05.4 (Repealed)
(Amended January 1, 2000.)

## RULE 4.05.5 COPIES OF NON-CALIFORNIA AUTHORITIES

The court does not require copies of non-California authorities as set forth in California Rule of Court 3.1113(i). If the court needs a copy of a non-California authority, the court will contact the party who cited the authority.
(Added July 1, 2012.)

**RULE 4.06 (Repealed)**
(Repealed July 1, 2014.)

**RULE 4.07 ATTORNEY'S FEES IN CIVIL ACTIONS OR PROCEEDINGS ON PROMISSORY NOTES, CONTRACTS AND UNLAWFUL DETAINERS**

A. The following attorney's fees shall, under normal circumstances, be awarded in actions on promissory notes, contracts providing for the payment of attorney's fees, and foreclosures:

1. Defaults.

Twenty-five percent (25%) of the first one thousand dollars ($1,000) awarded as damages, but not less than $150.00;

Twenty percent (20%) of the next four thousand dollars ($4,000);

Fifteen percent (15%) of the next five thousand dollars ($5,000);

Ten percent (10%) of the next ten thousand dollars ($10,000);

Five percent (5%) of the next thirty thousand dollars ($30,000); and

Two percent (2%) of the amount over $50,000.

This award is exclusive of costs and interest. If a clerk's judgment is obtained, the clerk shall include attorney's fees computed pursuant to this rule, not to exceed the amount prayed for.

2. Contested actions**.**

Unless the contract provides otherwise, reasonable attorney's fees shall be awarded in contested matters. In any contested action, the party seeking attorney's fees shall comply with California Rules of Court 3.1700 (prejudgment costs) and 3.1702 (attorney's fees).

B. Unlawful detainer actions. In actions for unlawful detainer in the limited courts, where default has been entered because defendant did not file a response or where defendant has filed a response but the matter proceeds as an uncontested matter at trial, an attorney's fees award shall not exceed eight hundred dollars ($800), unless the prevailing party demonstrates good cause.
(Added July 1, 2014.)

## RULE 4.08 SANCTIONS

If any counsel, party, person or entity subject to these local rules fails to comply with any part thereof, the court on motion of a party or on its own motion, may strike out all or any part of any pleading of that party, or dismiss the action or proceeding or any part thereof, or enter a judgment by default against that party, or impose other penalties of a lesser nature as otherwise provided by law, and in conjunction with imposition of these penalties or in addition to them, may order that the offending party, attorney or entity pay reasonable attorney's fees and costs to the court and to other participants.
(Added January 1, 2008.)

## RULE 4.09 CONTINUANCES OF CIVIL TRIALS AND SETTLEMENT CONFERENCES

No mandatory settlement conference, civil trial conference or trial of any civil case will be continued except upon noticed motion or upon an ex parte application based upon the stipulation of all parties. No continuance, whether upon noticed motion or ex parte application based upon a stipulation, shall be granted unless an affirmative showing of good cause is made, as provided in CRC 3.1332. No continuance of trial by stipulation shall be granted unless all parties also agree in writing to a mutually acceptable future trial date(s), and provide those dates to the Court at the time of the ex parte hearing. A trial conflict not noted in a timely filed Case Management Conference Statement shall not be deemed good cause unless such conflict arose after the trial date was set and could not reasonably have been avoided.
(Added July 1, 2012.)

## RULE 4.10 LARGE-SIZED EXHIBITS USED AT TRIAL

If counsel or a self-represented party utilizes large-sized exhibits at trial, counsel or the self-represented party shall submit an 8 ½ x 11 inch copy of such exhibit to the clerk. At the conclusion of trial, the clerk will return the large-sized exhibit and keep the copy for the record.
(Added July 1, 2012.)

## RULE 4.11 DEBTOR'S EXAMINATION

If the judgment debtor fails to appear at the debtor's examination after having been properly served, a bench warrant shall issue forthwith.
(Added July 1, 2012.)

## RULE 4.12 ORDERS AFTER HEARING AND PROPOSED ORDERS

A. Pursuant to CRC 3.1312, the order after hearing shall recite the court's order verbatim, but the tentative ruling procedures shall not be included in the order after hearing.

B. In addition to the requirements of CRC 3.1312, the parties to a law and motion matter shall make a good faith attempt to resolve any dispute as to the form of an order after hearing. Counsel preparing the order after hearing shall secure the approval of opposing counsel as to the form of the order after hearing within ten (10) days of submitting the same for approval. Any unreasonable failure to approve the form of an order may subject the opposing party to sanctions in accordance with these rules. The order signed by the Court shall be served on all parties within five (5) days of receipt of the order signed by the Court.

C. The court does not accept proposed orders in advance of hearings except for proposed orders relating to ex parte hearings, proposed orders set forth on mandatory Judicial Council forms, and proposed order relating to evidentiary objections.
(Added July 1, 2014.)

## RULE 4.13 CIVIL HARASSMENT, ELDER ABUSE, AND WORKPLACE VIOLENCE RESTRAINING ORDERS

Notice and Delivery of Applications for Civil Harassment, Elder Abuse, and Workplace Violence Temporary Restraining Orders, including copies of all documents to be submitted must be noticed to the opposing party or attorney by 10:00 a.m. the day before the application is scheduled to be reviewed by the assigned judicial officer unless accompanied by a declaration setting forth good cause as to the reasons why notice has not been given. This notice requirement can be waived by the court if (1) notice is impossible, or (2) notice would frustrate the very purpose of the order, or (3) immediate and irreparable harm could be suffered if notice were given. The pleadings shall be presented to the Civil Division Clerk's Office by 4:00 p.m. the court day prior to the scheduled review of the pleadings.

Opposition papers may be presented to the Civil Division Clerk's Office by 4:00 p.m. the court day prior to the scheduled review of the pleadings. A copy of any such opposition papers shall also be served on the opposing party on the court day prior to the scheduled review of the pleadings.

Judicial review of the requests for temporary orders shall be conducted Monday through Friday beginning at 8:30 a.m. by a judicial officer designated by the presiding judge. Generally, oral argument is not taken and the requests are handled solely upon written application without a court hearing.
(Added July 1, 2022.)

## RULE 4.14 SMALL CLAIMS

Cases in which there is no proof of service filed with the Clerk of the Court after two continuances due to lack of proof of service having been filed may be dismissed without prejudice.
(Added July 1, 2022.)

## RULE 4.15 ASSIGNMENT OF ACTIONS

A. All civil cases of any type (excluding family law matters as defined in Rule 5.00) which are filed in, pending in or transferred to the Nevada City court, are assigned for all purposes to the judge whose regular assignment is in Department 6.

B. Reassignment. These cases and related proceedings may be reassigned as necessary, or as appropriate to the timely and orderly conduct of the court's business.
(Added July 1, 2022.)

# CHAPTER 5

# FAMILY LAW

## RULE 5.00 ACTIONS; ASSIGNMENT OF ACTIONS

A. "Family Law Matters", as used herein, are those actions and proceedings related to families, domestic partnerships, or children arising under or related to the Family Code (and the Probate Code in the case of guardianships of the person of a minor), including, without limiting the foregoing, adoptions, petitions to emancipate a minor (other than a dependent or ward of the juvenile court) and contempt proceedings. Title IV-D matters are those family law matters in which a local child support agency is providing services to establish, modify or enforce support obligations.

B. Nevada City Court. All family law matters which are filed in or transferred to the Nevada City court are assigned to the judge assigned to the Family Law Department, except for Title IV-D matters described in Family Code Section 4241.

C. Truckee Branch. All family law matters which are filed in or transferred to the Truckee Branch are assigned to the judge whose assignment is the Truckee Branch.

D. IV-D Matters. All Title IV-D matters described in Family Code Section 4241 are assigned to a commissioner, subject to California Rules of Court Rule 5.305.

E. Reassignment. Family Law actions and related proceedings may be reassigned as necessary, or as appropriate to the timely and orderly conduct of the court's business. (Amended January 1, 2008.)

## RULE 5.01 EX PARTE ORDERS AND ORDERS SHORTENING TIME

A. Ex parte applications. For the purposes of this rule, ex parte applications are those requests made for a court order, without formal written notice to the other parties, where a noticed hearing would normally be required, and include applications for orders shortening time.

B. Presentation. Applications for ex parte orders and proposed temporary orders must be presented to the court clerk by 4:00 p.m. on the court date preceding the requested hearing date. Applications received after 4:00 p.m. will be calendared not earlier than the second court day following receipt by the clerk. The clerk must present the application to the appropriate judicial officer assigned to the case. The procedure for presentation and hearing in the Truckee Division may differ from time to time. Parties and/or counsel should check with the Truckee Division court clerk concerning presentation and hearing.

C. Conditions of issuance. Ordinarily, an ex parte order will not be issued unless one of the following conditions exists:

1. Notice was given to the adverse party as required by California Rules of Court Rule 3.1203 and 3.1204;

2. It clearly appears in the affidavit or declaration that giving notice would frustrate the purpose of the proposed order;

3. The applicant will suffer immediate and irreparable injury before the adverse party can be heard in opposition;

4. It appears by affidavit or declaration that no significant burden or inconvenience will result to the adverse party; or

5. In the case of a protective order, it clearly appears from the affidavit or declaration that issuance of an order without notice is necessary to prevent the occurrence or recurrence of domestic violence, child abuse, child abduction, or abuse of an elder or dependent adult.

D. Declaration of notice. An application for an ex parte order or an order shortening time must be accompanied by a written affidavit or declaration informing the judge if the opposing party is represented by an attorney and explaining that notice to the other party was given as required by these rules, the manner and content of the notice given, or if not given, stating the reason notice has not been given. Such affidavit or declaration is required by a responding party seeking affirmative relief on a previously set hearing. Local form Declaration Re: Notice Upon Ex Parte Application and Orders may be used for this purpose. This rule applies whether or not the other party has appeared or is represented by an attorney. Ex parte applications concerning discovery must comply with California Rule of Court 3.1200-3.1207. Ex parte applications concerning appointment of a temporary guardian must comply with California Rule of Court 7.52.

E. Declaration re order shortening time. Prior to requesting an order shortening time, the applicant must meet and confer with the opposing party in an effort to resolve any scheduling issues. If the opposing party has not been contacted or has not agreed, the supporting affidavit or declaration must state the applicant's efforts to resolve the scheduling issue, or why they should be excused, and why the hearing should be set on the proposed date without the consent of the opposing party. As a general rule, an affidavit or declaration in support of an order shortening time must set forth facts showing emergency circumstances unless it is solely for the purpose of a responding party to obtain affirmative relief on a hearing date previously set by the opposing party.

F. Sufficiency of declarations. An ex parte order shall be issued only if the application is accompanied by an affidavit or declaration adequate to support its issuance under Family Code Section 6300, CRC 5.151, and/or Code of Civil Procedure Section 527. If the affidavit or declaration does not contain a sufficient factual basis for a

particular order, it will not be granted. The court shall not permit oral augmentation of affidavits or declarations at the time of the ex parte hearing. The court may permit written augmentation in its discretion, with due consideration to the avoidance of prejudice to any responding party.

G. Facts to be contained in applications for specific relief. Applications for specified relief must be supported by the following information:

1. An application for ex parte orders for temporary custody must include, among other things, which party has physical custody, details as to how, when, where, and under what circumstances the party obtained physical care or control of the child(ren), and other facts (not conclusions or statements of belief) showing the best interests of the child(ren).

2. An application for an ex parte order to change custody of any minor child(ren) must be supported by an affidavit or declaration showing by clear, specific allegations that the health and welfare of the child(ren) require the immediate change of custody, and stating why an order shortening time would not be reasonable. The affidavit or declaration must also set forth, in brief, the specifics of the manner in which the child(ren) will be cared for pending hearing. (Family Code Section 3064.)

3. An application for an ex parte protective order excluding either party from the family residence, or the residence of the other, must be supported by an affidavit or declaration showing an assault or threatened assault and emotional or physical harm, as required under Family Code Section 6321, specifying in detail the time and place of any past act or acts of alleged misconduct or harm, and stating why an order shortening time would not be reasonable. At the hearing, the court may order temporary exclusion from the family residence upon a sufficient showing of an assault or threatened assault and physical or emotional harm.

4. An application for a protective order which additionally contains financial requests (i.e., child support, spousal support, payment of bills) shall be accompanied by an Income and Expense Declaration completed as provided in Rule 5.11(B).

5. For ex parte applications for wage assignments and writs of execution, see Rule 5.02, below.

H. Availability of copies. A party seeking an ex parte order must leave sufficient copies of the moving papers with the court clerk so that a copy is available for pickup by the opposing party prior to the ex parte hearing. When notifying the opposing party of the ex parte hearing, the applicant must also inform the opposing party that a copy of the moving papers will be available for pick up at the office of the court clerk.
(Amended July 1, 2017.)

## RULE 5.02 EX PARTE APPLICATIONS FOR WAGE ASSIGNMENTS AND WRITS OF EXECUTION

A. Wage Assignments. When submitting a wage assignment for signature, the wage assignment must be accompanied by the mandatory Judicial Council form Ex Parte Application for Wage and Earnings Assignment Order (Form FL-430). If arrears are included in the wage assignment, the mandatory Judicial Council form Declaration of Arrearages pursuant to Family Code Section 5230.5 must be included (Form FL-420).

B. Writs of Execution. An application for a Writ of Execution must be accompanied by an affidavit meeting the requirements of Family Code Section 5104.
(Added July 1, 2003.)

## RULE 5.03 CONDUCT OF HEARINGS ON LAW AND MOTION; CONTENTS OF PLEADINGS

A. Calendar proceedings. The calendar for each session must begin promptly at the appointed time. If there is no appearance when the calendar is first called, the matter may be ordered off the calendar. If one side (the attorney and/or the party) appears when the calendar is first called, and the other side (the attorney and/or the party) does not appear when the calendar is first called, the matter may be heard as uncontested.

B. Meet and confer. Irrespective of other meet and confer requirements (Rule 5.09[B]), the parties and/or attorney are to meet and confer fifteen (15) minutes prior to the call of the calendar in a final effort to resolve or clarify issues. This requirement does not apply to requests to orders of protection brought under the Domestic Violence Prevention Act or where a party is a protected person pursuant to an Order of Protection against the other party.

C. Support hearings. For all child support hearings, and for temporary spousal support hearings, each party must submit a printout using a Judicial Council approved support computer program and submit the printout at the beginning of the hearing that reflects the party's proposed findings on the issues to be decided. In the event either party seeks a support order which deviates from the statewide uniform child support guidelines, that party shall set forth the factual basis for the request in their pleadings.

D. Contents of pleadings. The Request for Order of Notice of Motion and its supporting declaration and such other declarations in support of the relief requested must set forth in full all facts upon which the moving party relies in support of the relief requested. The Responsive Declaration to the Request for Order or Notice of Motion and such other declarations in support of the party s response must set forth in full all facts upon which the responding party relies in support of the response. All declarations shall be based upon personal knowledge of the declarant. Declarations containing hearsay are subject to a motion to strike unless the hearsay is substantiated by a supplemental

declaration by the hearsay declarant. An attorney may not execute a declaration on behalf of any person by means of an attorney's verification.

E. Declarations Re: Custody/Visitation Issues: In preparing declarations and affidavits in custody and visitation matters, exercise discretion as to the extent of detail where sensitive or inflammatory facts are alleged. Prepare such declarations with the best interests of the child(ren) as a primary concern and indicate whether or not testimony will be required to fill in the details of any general allegations of such facts.

F. Income and Expense Declaration. If financial relief is requested, an Income and Expense Declaration in compliance with, and as required by Rule 5.11(B) must be filed and served by each party with the moving pleadings and to the extent necessary shall be augmented, filed and served within five (5) court days of the hearing. This requirement shall not apply to either a Notice of Motion or Request for Order to establish or modify a child support order filed by the Department of Child Support Services. However, in cases wherein support is either sought to be established or modified by the Department of Child Support Services, all parents shall file and serve an Income and Expense Declaration with required supporting documents not later than nine (9) court days before the hearing date.

If a party is receiving public assistance, or if an application for public assistance is pending, that fact must be disclosed in the declaration and the party receiving such public assistance must notify the local child support agency of the applicable county at least ten (10) days prior to the hearing unless such notice is shortened by the court. Additionally, copies of all papers filed with the court shall be timely served on the local child support agency.

G. Declarations in lieu of testimony. Parties have a right to present live testimony absent an agreement of the parties or a finding of good cause to preclude live testimony. In the event of such an agreement to waive live testimony or a finding of good cause, and subject to legal objection, all declarations will be considered received in evidence at the hearing and the court may decide contested issues on the basis of the application, the response, supporting declarations and any memorandum of points and authorities submitted by the parties.

H. Hearing length. Hearings on the Family Law short cause calendar are limited to fifteen (15) minutes and are subject to further time limitations to accommodate the court's calendar. In the event both parties in good faith believe that the matter cannot be completed in fifteen (15) minutes, they must inform the court at the time the matter is first called. The court may then set the matter on its long cause calendar, or make such other order as may be appropriate under the circumstances.

I. Contempt proceedings; compliance with Family Code Section 3028.

1. The moving party must attach a copy of the order allegedly violated to the Order To Show Cause In Re Contempt.

2. Prior to issuing an Order To Show Cause In Re Contempt involving an allegation that a party failed to reimburse for unusual health care costs, the court requires the moving party to comply with Family Code Section 4063.

3. Parents seeking financial compensation for a thwarted visitation or a parent's failure to provide caretaker responsibility must comply with Family Code Section 3028.

4. The local form for Contempt Waiver of Rights and Plea shall be used in taking an admission to a contempt. Judicial Council form FL-415 Findings and Order Regarding Contempt, shall be used for disposition.

J. Hearings on Wage Assignments. An application for a hearing on a wage assignment must include a copy of the court or administrative wage assignment, and a current Income and Expense Declaration.

All wage assignments (orders to withhold income for child support) submitted to the court for signature in non IV-D cases must provide that the check be mailed to the State Disbursement Unit (SDU) and must be accompanied by a completed Child Support Case Registry form (FL-191).

K. Hearings on Earnings Withholding Orders**:** A request for hearing shall be filed using the mandatory judicial council form FL-450. In non Title IV-D cases (actions where the Department of Child Support Services is not involved), the obligor must attach to the pleadings a copy of the notice/order to withhold income and file a current Income and Expense Declaration. In all Title IV-D cases, the Department of Child Support Services shall file a copy of the administratively issued order/notice to withhold income whenever a hearing concerning the order/notice to withhold income for child support is requested. Family Code Section 5246(g).

L. Continuances of Law and Motion Hearings. The following rules govern continuances:

1. Requests for continuances are ordinarily denied, unless good cause is shown.

2. A continuance of a law and motion hearing may be granted by the clerk by telephone if the moving party represents to the clerk that service of the pleadings has been made and both parties represent they have agreed to the continuance to a specific date that is acceptable to the court.

3. In the absence of agreement, the request for continuance must be made to the court and will be granted only upon a showing of good cause and upon imposition of conditions as may be appropriate to the circumstances.

4. The court will consider the parties' efforts to communicate and resolve the issue informally, and may impose sanctions for untimely requests for a continuance.

M. Re-issuance of Request for Order. If service of a Request for Order is not timely made, the Request for Order may be re-issued, with a new hearing date, on form FL-306 (general family law matters) or DV-**115** (domestic violence matters). An application for re-issuance may be submitted to the court clerk by 4:00 p.m. two (2) days before the scheduled hearing date, in which case no appearance in court is required. Otherwise, an appearance for the re-issuance will be required on the scheduled hearing date.

N. Filing and service of pleadings. Moving and responsive pleadings must be filed with the court clerk and served upon the opposing party or if represented by an attorney, upon their attorney. Parties must comply with the time requirements of Code of Civil Procedure Section 1005(b). The court, in its discretion, may refuse to consider papers not timely filed or served.

O. Limited Representation. In the event a party is represented by an attorney and the party's agreement with his or her attorney is one of limited representation, the party and attorney shall promptly file a Notice of Limited Scope Representation (Judicial Council Form FL-950). In the absence of any court record of limited representation, the court will presume a general representation for purposes of notice, communication, responses to discovery, appearances, etc., and for imposing sanctions in the event of a non-appearance of an attorney of record.

P. Attorney Fees and Costs: Any request for attorney fees and costs must comply with CRC 5.427.

Q. Preparation of Order After Hearing: Unless otherwise directed by the court, the moving attorney or self-represented party shall prepare a written order after hearing following any hearing on the law and motion calendar in accordance with CRC 5.125.

If the other party objects to the form or content of the proposed order, the parties must meet and confer to attempt to resolve the disputed language. If the parties fail to resolve their disagreement, either party may request the court to compel entry of the order and refer the court to applicable portions of the hearing transcript, if available. Attorney fees and costs including preparation of the reporter's transcript may be awarded depending upon the merits.

R. Documents Offered at Hearing: Except for documents that impeach the truthfulness of a party or witness, a party shall provide a copy of each document to be offered to the Court before any hearing or trial to all counsel and self-represented parties not less than seven days before the evidentiary hearing or trial. Parties shall bring to the court three copies of any document to be offered at the hearing or trial. Parties shall also be prepared to provide to the Court at the hearing or trial copies of all pleadings, proofs of service and earlier orders relied upon or sought to be modified.
(Amended July 1, 2022.)

## RULE 5.04 TEMPORARY ORDERS, MISCELLANEOUS PROVISIONS

A. Duration of support orders. Unless otherwise specifically ordered, all temporary orders must remain in effect until further order of the court. Unless otherwise ordered or stipulated, temporary spousal support orders are terminable on the death of either spouse.

B. Recipients of public assistance benefits. If a party is receiving public assistance benefits, the temporary support order must comply with Family Code Sections 4204.

C. Stipulations to establish/modify child support. Stipulations concerning temporary child support must use the mandatory Judicial Council form FL-350.

D. Department of Child Support Services cases. In any case between private parties in which a local child support agency appears, if the local child support agency thereafter closes its case, it shall file a notice to that effect. The Court may reject privately prepared wage assignments if such notice is not on file.

E. Temporary Spousal Support Guideline. The Superior Court of the State of California, County of Nevada, adopts the Alameda County spousal support guideline as its temporary spousal support guideline. The court will deviate from the guideline in appropriate cases.

F. Child support computer programs. The court or parties may use any Judicial Council approved child support program except in Title IV-D cases in which case the parties, counsel and the Court are required to use the Statewide Guideline Child Support Calculator.
(Amended January 1, 2019)

## RULE 5.05 CHILD CUSTODY AND VISITATION

All proceedings relating to the custody or visitation of children are governed by the following rules. As used in this chapter, the term "evaluation" includes both partial and full evaluations, and is synonymous with "investigation". The term "assessment" refers to a limited inquiry by Family Court Services (referred hereafter in these rules as FCS) pursuant to Family Code Section 3180.

As authorized by Family Code Section 3183, the mediation process with FCS in the Nevada County Superior Court shall be referred to as Child Custody Recommending Counseling (hereinafter referred to as CCRC). The CCRC process with Family Court Services is not confidential. The mediator is referred to as a Child Custody Recommending Counselor (hereinafter referred to as "Counselor").

A. Who conducts CCRC, investigations and evaluations. FCS performs CCRC and Section 3180 assessments when ordered by the Court. Generally, FCS will not be appointed for evaluations and does not perform assessments unless ordered by the Court. Whenever FCS does not conduct the evaluation, a qualified private provider shall perform the evaluation.

B. Good faith support of the FCS process is mandated. The parties and their attorneys, if any, must make a good faith effort to support the FCS process. FCS conducts a mandatory and valuable process designed to reduce parental conflict and focus the parents' attention on the child(ren)'s best interests. The purposes of the FCS process are the following:

1. To reduce acrimony that may exist between the parties and to remove the weight of conflict from the child(ren).
2. To develop an agreement assuring the child(ren) close and continuing contact with both parents that is in the best interest of the child(ren).
3. To settle the issue of a parenting plan that is in the best interest of the child(ren), that allows the child(ren) to benefit from the love and care of each parent, and that helps the child(ren) to be stable, secure, happy and healthy.

C. Ex parte communication. Except as permitted by Family Code Section 216, there shall be no ex parte communication between the attorneys for any party to an action, including child's counsel, and any court-appointed or court-connected evaluator or mediator, or between a court-appointed or court-connected evaluator or mediator and the court.
(Amended July 1, 2014.)

**RULE 5.05.1 CCRC**

A. CCRC required by Family Code Section 3175. At the time of filing of a Notice of Motion, Request for Order, Request for Trial on an issue involving a disagreement over child custody or visitation, the court will schedule a CCRC appointment in order that the issue may be discussed in CCRC before the date of the court hearing or trial. The CCRC date and any requirement for CCRC orientation shall be plainly stated on the face of the pleadings or At Issue Memorandum. This CCRC is referred to in these rules as "mandatory CCRC."

In the event the moving party fails to schedule a CCRC appointment as set forth above, upon service of the moving pleadings, the responding party shall promptly schedule CCRC for a date prior to the hearing, unless the parties have by that time already reached an agreement regarding a parenting plan, in which case they need not contact FCS.

B. Telephone Appearances. Upon a showing of good cause, telephonic CCRC may take place when either party resides outside of Nevada County and will suffer extreme hardship by traveling to the CCRC appointment. The request for telephone CCRC shall be made to FCS in advance of the CCRC appointment. Telephone CCRC may be authorized by the Court, the Director of Family Court Services, or any individual counselor to whom a CCRC assignment has been made.
(Amended July 1, 2022.)

**RULE 5.05.2 (Repealed)**
(Repealed July 1, 2017.)

**RULE 5.05.3 CCRC ORIENTATION**

Every party attending CCRC must also view the CCRC PowerPoint Orientation prior to the initial CCRC session.
(Amended July 1, 2022.)

**RULE 5.05.4 CHANGE OF CUSTODY COUNSELORS; GENERAL PROBLEMS RELATING TO CCRC**

A court-employed child custody counselor may disqualify himself/herself from a case for good cause. A party does not have the right to disqualify a counselor. A party may request a different counselor by written request to FCS, stating the reason(s) for the request. Copies of the request must be delivered immediately to the counselor and all other parties and attorneys, if any. Requests based solely on disagreement with the counselor's recommendations will not be honored.
(Amended July 1, 2014.)

**RULE 5.05.5 CONDUCT OF CCRC**

A. CCRC. The counselor may exclude attorneys from the counseling session at the sole discretion of the counselor. At the request of a party or attorney, the counselor may be subject to cross-examination.

B. Domestic violence cases. In all cases in which domestic violence is alleged and the parties are involved in the FCS process, the parties are entitled to separate counseling sessions, and, whether or not either parent has requested a separate meeting, some time will be spent by FCS with each parent separately, early in the interviewing process, in order to assess this issue in accordance with Family Code Section 3181 and the Family Court Services' Domestic Violence Protocol. The Domestic Violence Protocol is available from Family Court Services.

C. Agreement reached. In the event the parties reach an agreement, their agreement will be reduced to writing and submitted to the court. If either party is represented by counsel, the agreement will be submitted to counsel before it is provided to the court for approval and made into a court order. If a party's attorney chooses to leave the courthouse prior to the completion of the CCRC session, the attorney will be responsible for advising the party and FCS as to how he or she may be contacted for review of the agreement; provided, however, that neither the parties nor the court shall be unduly inconvenienced by the attorney's conduct.
D. Agreement not reached. In the absence of an agreement, the counselor shall make a written status report and recommendation to the court. However, if no proceedings are pending, no recommendation will be made. If appropriate, the counselor's recommendation may include:

1. Restraining orders being issued pending determination of the controversy;

2. A recommendation for a full or partial custody evaluation;

3. Treatment and/or assessment services; and/or

4. Parenting plans including but not limited to supervised versus unsupervised.

E. CCRC recommendation to court. If a counselor makes a recommendation to the court, the parties and their attorneys may confer together with the counselor prior to the hearing or trial on the custody or visitation issue to discuss the counselor's recommendation, and they must make a good faith effort to settle the parenting plan issue by their agreement.

F. Order for assessment. If resources are available and if the counselor or the court determines an assessment could be helpful to reach an agreement or that it may assist in arriving at a recommendation, the court may order an assessment pursuant to Family Code Section 3180. "Assessment" means a limited investigation into the needs and interests of the child(ren) that would center on one or two issues relating to their health and safety. A Section 3180 assessment is more focused than a full or partial evaluation described in Rule 5.05.6 below, is less formal and is to be handled as expeditiously as possible under the circumstances.

G. Admission into Evidence. The status report and recommendation of the CCRC counselor are admitted into evidence without the necessity of the Family Court Services author laying the foundation. However, upon request, the author will be made available for cross-examination at any contested hearing.
(Amended July 1, 2022.)

**RULE 5.05.6 CUSTODY EVALUATIONS**

A. Custody evaluations.

1. This rule applies to both full and partial evaluations, as defined by California Rule of Court 5.220.
2. The court may appoint an evaluator pursuant to Family Code Section 3111 and California Rule of Court 5.220.
3. All custody evaluations must comply with California Rule of Court 5.220.
4. Evaluators must meet the education, experience and training standards set forth in Family Code Section 3110.5 and California Rule of Court 5.225 and 5.230.

B. Finding qualified evaluators. FCS shall maintain a list of qualified evaluators, which list must be made available to the public in the offices of FCS, and also in the

court clerk's office, the Family Law Facilitator's office, the law library and the court's self-help center.

C. On file maintenance of statement of qualifications. Child custody evaluators that have completed the training in domestic violence required by California Rule of Court 5.230, in lieu of attaching domestic violence training certificates to their evaluations, may maintain on file with the Family Law Department, Nevada City Court, a copy of their certificates of completion of the initial 12 hours of advanced in-person classroom instruction and of the most recent annual four hour update training in domestic violence, as well as any other certificates of any subsequently required training.

D. Confirming qualifications of evaluator. When a child custody evaluator is appointed, whether or not by stipulation, the court must set the matter for review at the earliest time after expiration of ten days from notice of the appointment, for the purpose of confirming receipt and filing of the evaluator's Judicial Council form Declaration of Child Custody Evaluator Regarding Qualifications (Form FL-326), unless the person appointed is a court-connected employee who is required to annually file such form.

E. Selection and challenges to evaluator. The parties are encouraged to select their own qualified evaluator. In the absence of agreement, the court will provide a list of three or more qualified evaluators for consideration. Each party shall have the option of striking one name from the list. The court will make the appointment from any remaining names. Thereafter, no further peremptory challenge to a court-appointed evaluator is permitted. This applies to FCS personnel, other county employees, and any mental health professional.

F. Withdrawal of evaluator. An evaluator may petition the court to withdraw from a case on a showing of good cause. The petition may be in the form of a letter directed to the judge assigned to the case, with a copy served on each party by the court. If no party objects to the withdrawal within five days of service of the petition, the court may decide the issue on the petition. Objections to the petition may also be in letter form. If an objection is received by the court, the court may either decide the matter on the petition and objections, or set the issue for hearing at the earliest date permitting at least ten days notice.

G. Disclosure of lack of confidentiality. The lack of confidentiality of the evaluation process need not be disclosed to a child by the evaluator, but may be disclosed if the evaluator deems it appropriate. The evaluator should, but is not required to, see each parent with the child(ren). Interviews with the siblings should, but are not required to, be separate. The evaluator should make every reasonable effort to interview each parent. All parties, or their respective attorneys, shall be sent a copy of the report. Access to the evaluator's report is granted to the minors (upon their request), the parties, and their attorney. Access to reports by other persons may be granted by the court upon a showing of good cause.
(Amended July 1, 2014.)

## RULE 5.05.7 COMPLAINTS CONCERNING A CCRC

A person who requests to file a complaint against either a counselor or the Director of Family Court Services shall be provided the Family Court Services complaint packet upon request. If the complaint concerns a counselor, the complaint packet shall be returned to the Director of Family Court Services for review. If the complaint concerns the Director of Family Court Services, the complaint shall be submitted to and reviewed by the court executive officer.

The opposing party shall receive a copy of the complaint from the person making the complaint and attach a proof of service evidencing such service at the time the complaint is submitted. The counselor/director may receive a copy of the complaint as part of the review process. If the Family Law judge is advised of the substance of the complaint, the opposing party must receive notification of that fact. The court executive officer, director, or presiding judge, as applicable, may respond in writing to the complaint within thirty days of its receipt, or meet personally with the complaining person.
(Amended July 1, 2014.)

## RULE 5.06 UNCONTESTED TRIALS, DEFAULTS BY HEARING OR BY AFFIDAVIT OR DECLARATION

A. Uncontested hearings. Uncontested and default matters are set for hearing by the clerk.

B. Documents required. Judgments on default or uncontested matters must be submitted with the following original documents and two copies:

1. A Declaration for Default or Uncontested Dissolution or Legal Separation (Family Law form FL-170).
2. A Declaration of Service of a Preliminary Declaration of Disclosure (form FL-141).
3. A Proof of Service of a Final Declaration of Disclosure, unless such declaration is waived. Family Code §§ 2103 -2104.
4. If a Response has previously been filed, form FL-130 Appearance, Stipulations, and Waivers, unless there is an executed written Stipulation or Marital Settlement Agreement that the matter may be treated on an uncontested basis.
5. A current and complete Income and Expense Declaration (form FL-150 or form FL-155) and/or a Property Declaration (form FL-160), when required by California Rules of Court Rule 5.124 and Rule 5.128.
6. If fees have been previously waived as to either party, an updated fee waiver application for BOTH parties, or the payment of fees by either party having the ability to do so.

7. A proposed judgment (form FL-180) conforming to Paragraph D of this Rule 5.06.

8. A Notice of Entry of Judgment (form FL-190), together with pre addressed stamped envelopes to both parties.

C. Stipulation for judgment. A stipulation for judgment must comply with California Rules of Court Rule 5.411.

D. Contents of judgment.

1. The provisions of a judgment must be stated in legal language and not in the language of an agreement or request.

2. The orders and judgment must be consistent with the relief sought in the petition or response, unless the parties otherwise agree in a marital settlement agreement or stipulated Judgment.

3. If the parties have agreed to waive service of a Final Declaration of Disclosure, the judgment, or a separate waiver executed by the parties under penalty of perjury, must show compliance with Family Code Section 2105(c).

4. If one of the parties has not paid court fees, the judgment must make provision for the payment of court fees by the opposing party, unless the opposing party has filed his or her own fee waiver.

5. If there is a marital settlement agreement or stipulation for judgment, it should be attached to the judgment, incorporated by reference and the parties ordered to carry out any executory terms thereof. If the marital settlement agreement is to remain confidential, then it need not be attached; however, all orders for custody, child, spousal or family support (including termination provisions), attorney fees, injunctive orders, restraining orders, etc., shall be set forth in full, either in or as attachments to the judgment.

6. Custody, Visitation or Parenting Provisions.

A. As used herein, the term "parenting plan" refers to the provisions of a judgment or order for a child's or children's legal and/or physical custody, visitation and related issues.

B. The parties and attorneys are encouraged to include a permanent parenting plan concerning both legal and physical custody, in order to provide for the stability of the minor child(ren) and to avoid the re-litigation of custody issues. Where the plan is a permanent one, the judgment should so state; however, the absence of such language shall not deprive the court of jurisdiction to make appropriate findings pursuant to *Montenegro v. Diaz* (2001) 26 Cal.4th 249.

C. The parenting plan must be set forth in its entirety in the judgment. It cannot be included by reference to a marital settlement agreement, mediated agreement, or prior temporary court order, unless the document is attached to the judgment and the parties ordered to carry out its terms.

D. The parenting plan must comply with Family Code Section 3048, including a warning that violation of the order may result in criminal or civil penalties for the violating party.

7. Support Provisions.

A. Support provisions must be set forth in their entirety in the judgment. They cannot be included by reference to a marital settlement agreement or prior temporary court order, unless the document is attached to the judgment and the parties ordered to carry out its terms.

B. Support provisions must include the amount ordered, the commencement date, and for spousal support, the termination date, if any. Child support provisions must include the name and date of birth of each supported child.

C. If the parties have agreed on child support and the amount of support deviates from guideline, the judgment must comply with Family Code Sections 4057 and 4065. If a party requesting support is receiving public assistance, the judgment must include the written consent of the local child support agency and any support order must be made payable to that agency.

D. If the judgment provides that a party maintain medical or dental insurance, the manner of reimbursement for uninsured health care expenses shall be as set forth in Family Code Section 4063. Reimbursement amounts are due within thirty days of notice, unless the judgment provides otherwise.

E. The judgment must have all required attachments, including Judicial Council form FL-192.

8. Stay away, residence exclusion, restraint on personal conduct and property restraint orders will not be granted unless the respondent is given notice in the petition for dissolution (or in an application for domestic violence restraining order) that such relief will be sought, and petitioner has established a factual basis at the time of hearing for granting such orders. However, domestic violence restraining orders otherwise granted pursuant to Family Code Section 6200 et seq., shall remain in full force and effect until the stated expiration date thereon, or as provided by law.

(Amended July 1, 2014.)

## RULE 5.07 VOLUNTARY SETTLEMENT CONFERENCES

A. Voluntary settlement conference procedure. In order to promote the early disposition of family law actions and to reduce the cost of family law litigation, the court has a voluntary settlement conference procedure. This procedure is separate and distinct from attorney supervised settlement conferences, which are presently conducted by private agreement or court order.
This procedure must not be used as a substitute for discovery, settlement discussions between the parties or preparation for a formal settlement conference or trial.

B. Joint request for voluntary settlement conference. In order to participate in this procedure, the parties must file a joint request for voluntary settlement conference, which shall provide the following information:

1. If the action is calendared for settlement conference and trial, specify the dates and times for the settlement conference and trial. If the action is not calendared for settlement conference and trial, so state.

2. Prior to the filing of the joint request, the parties and/or attorneys have met and conferred in a good faith effort to settle the contested issues, and the probability of settling any remaining contested issues is substantial with the assistance of the court in a voluntary settlement conference.

3. A summary statement of the contested issues and the respective positions of the parties on these contested issues.

C. Setting of conference. After the joint request is filed, the action will be placed on the court's next date available to the court and the attorneys or self-represented parties.

D. Attendance. The parties and their attorneys must attend the voluntary settlement conference, unless an appearance is excused by the court prior to the conference.

E. Sanctions. If a party elects to participate in this voluntary procedure and fails to comply with these provisions, the court may impose appropriate sanctions in accordance with Rule 5.07(D).
(Amended July 1, 2003.)

## RULE 5.08 TRIALS AND MANDATORY SETTLEMENT CONFERENCES

A. Purpose of rules; duties of attorneys and self-represented parties. The purpose of this rule is to ensure that contested family law matters are thoroughly prepared and expeditiously tried, and to avoid using the trial itself as a vehicle for what should be pretrial, deposition, discovery and settlement procedures. Attorneys, vested with full authority from their clients to dispose of these matters, and self-represented parties must confer in good faith to review the pretrial statements required by these rules no later than

one week prior to the time set for any settlement conference and/or trial in order that, to the fullest extent possible, issues can be resolved by stipulation, and those issues remaining for determination by the court can be clearly delineated.

B. Relief from rules. Relief from the operation of these rules relating to contested trials may be given in appropriate cases but only on motion for good cause shown. Either side may move to strike the at issue memorandum, pretrial statement/request for admissions, or reply pretrial statement of the other side upon the ground that the document was not prepared and filed in good faith but, rather, as a means to avoid the operation of these rules. Sanctions against the offending party and/or attorney may be ordered as permitted by law.

C. Compliance with other rules. The filing of the statements referred to in these rules will be deemed as compliance with all other rules requiring the filing of any pretrial statement or settlement conference statement.

D. At Issue Memorandum. An at issue memorandum on the court's local form may be filed at any time after the filing of a response and must be filed before any contested case may be set for trial. The filing of an at issue memorandum must be accompanied by a proof of service of the preliminary declaration of disclosure upon the other party unless proof of service of the preliminary declaration of disclosure is already filed. For purposes of calendar management, the issues to be determined at trial shall be specified in any available blank space or on an attached document.

E. Case management conference. A case management conference will be set upon the filing of an at issue memorandum. Participation in the case management hearing is mandatory. In the Truckee Branch, case management shall be by telephonic appearance. In Nevada City, the appearance may be made by telephone. The parties and/or attorneys, in coordination with the court clerk, will make their own telephonic arrangements for case management appearances.

F. Settlement conference; pretrial meet-and-confer rule.

1. The attorneys and the parties must personally appear for a mandatory pretrial settlement conference as noticed. The attorneys and the parties must participate, in good faith, in the settlement conference.

2. The attorneys and self-represented parties must confer before the date of any settlement conference or trial in a reasonable attempt to resolve disputed issues and to exchange all relevant documents. Failure to comply, in good faith, with this rule or in the settlement conference may result in an order dropping the matter from calendar or the imposition of sanctions by the judge.

3. The court, on its own motion, or upon the motion of either party, may refer the matter for an attorney-supervised settlement conference. Attorney-supervised settlement conferences shall be conducted with the presence of all parties and counsel, shall adhere to the meet and confer

principles set forth in Rule 5.09(B), shall be preceded by the exchange of all information required in Rules 5.08(G) and 5.09 and otherwise shall be in compliance with the court's order and all written Family Law Department policies pertaining to the same. The attorney settlement supervisor, on request of the court, may submit a sealed report to the court concerning the settlement conference and any final offers for settlement, which report may be opened following trial if there is a request for Family Code Section 271 fees. The court reserves the right to allocate between the parties the payment of any such reasonable fees and costs for preparation of the report.

G. Pretrial Statement. Where a matter is set for a settlement conference or contested trial, either short or long cause, both parties must file and serve a "Pretrial Statement" at least five (5) court days prior to the trial date or two (2) court days prior to a settlement conference. Failure by both sides to do so may result in a drop from the trial or settlement calendar. Failure by one party will allow the complying party to continue the cause and/or sanctions to be imposed, as permitted by law. Motions for sanctions under this rule will be heard by the judicial officer to whom the case is initially assigned for settlement conference. Where custody and other issues are bifurcated, the party or attorney may elect to file separate pretrial statements as to each bifurcated proceeding. The pretrial statement shall consist of a separately filed current (i.e., information and signature within thirty days of filing) and complete (i.e., all required attachments) Income and Expense Declaration, together with the following pretrial statement information, as may be relevant to the particular issues:

1. Statistical facts. List date of marriage, date of separation, names, dates of birth and ages of children; brief outline of temporary orders for support, custody and visitation, restraining orders with dates, amounts, terms and compliance. List by name, court and case number any other actions, past or pending, between the same parties, including a brief description of the terms of any existing order or judgment. All existing domestic violence restraining orders must be listed and identified in a separate paragraph for that purpose.

2. Separate property/debts. List sufficiently for identification each separate property asset and debt. As to contested separate property, list the date it was acquired, the legal and factual basis upon which it is claimed as separate rather than community property, the current market value, the nature, extent, and terms of payment of any encumbrance against the property, the manner in which title to the property is currently vested, and the record title data.

3. Community property/debts. List sufficiently for identification all assets and obligations of the community, the current market value of assets, the manner in which title to the property is currently vested, the nature, extent, and terms of payment of any secured or unsecured debt. Attach a Propertizer™ or similar spreadsheet showing the proposed division of the community assets and debts.

4. Contested Mixed Community and Separate Property. Include the separate portion in the listed separate property and the community portion in the listed community property. As to each mixed asset, set forth the factual and legal basis for the apportionment between community and separate interests. Separate and community property tracing must set forth in detail, with dates, values, and dollar amounts, the transactions relevant to the tracing issue, as well as the basis for computation or proration, and must meet either of the two approved methods recognized by California law—direct method or family expense method.

5. Funds held by others. To the extent that either separate property or community property consists of funds held by others, such as insurance policies, pensions, profit sharing, or other trust or retirement funds, the statement must fully identify the policy or fund, including policy number, the present values and basis for calculations, and all terms or conditions, imposed upon withdrawal of such funds. If any loans exist against any of these funds, the details regarding those loans should be set forth.

6. Miscellaneous debits and credits. List sufficiently for identification any claims for reimbursement of community or separate property, including, but not limited to, *Watts, Epstein,* Family Code Section 2640, rental, use, or monies owing to or from the community or the parties.

7. Child custody, child support and spousal support. Specify each party's contentions as to child custody and visitation and as to amount and duration of child and spousal support.

    a). For child support issues, the parties must attach a proposed support calculation (i.e. Dissomaster™ or other approved program).

    b). For spousal support issues, set forth each Family Code Section 4320 factor as it relates to the requested relief.

    c). If a party contends income should be imputed to the opposing party, he or she must set forth the legal and factual basis for imputing income.

    d). If a parenting recommendation has been made pursuant to mediation or a child custody evaluation, each party must address what portion of the recommendation is acceptable and what portion is not. Each party must set forth his or her own proposal for a parenting plan.

8. Appraisals, evaluations and evidentiary documents. Appraisals, evaluations, and evidentiary documents must not be attached to the Pretrial Statement; however, each party must serve with the Pretrial Statement on the opposing party a copy of any appraisal or evaluation to be used at trial. Before appraisals of real or personal properties or businesses are obtained, the parties are to meet and confer in an effort to agree upon a joint appraisal.

9. Attorney fees and costs. Any request for attorney's fees and costs should be supported by a brief description of the basis for the request, including an itemization of services rendered. A discussion of sanction-based fees, if requested, shall not include a discussion of settlement negotiations. A later opportunity will be provided, if necessary, for that purpose.

10. A memorandum of points and authorities should be included with respect to any extraordinary or atypical legal issues. Such a memorandum is unnecessary with respect to ordinary issues (i.e., general authority to award spousal support, attorney fees, etc.)

11. To the extent not set forth above, discuss any other issue to be determined by the court.

COMMENT: Because of the generalized nature of family law pleadings, the pretrial statement identifies for the court the issues for trial. With the exception of the marital status, if neither party identifies an issue in the pretrial statement, that issue will not be a trial issue and hence will not be decided by the court.

H. Trial and Trial Preparation.

1. Attorneys and the parties shall fully comply with all pretrial orders.

2. Final Declaration of Disclosure: Each party must serve a Final Declaration of Disclosure not later than 45 days prior to trial. Each party must include all attachments required in the completion of the form. The Final Declaration must be updated prior to trial as necessary.

3. At least five court days prior to trial, the attorneys and the parties must meet and confer in a good faith effort to resolve each of their disputed issues, specifically including:

   a) They must discuss their contentions and the specific evidence they intend to produce at trial concerning each issue.

   b) They must exchange any appraisals, evaluations or other documents they intend to use at trial.

   c) They must jointly mark for identification and receipt into evidence any documents which are to be admitted by stipulation. Documents not relevant or that are unduly burdensome will not be admitted into evidence solely because the parties agree to do so.

   d) As to any document for which there is no stipulation, the parties must prepare a joint statement identifying the document and stating the objection.

   e) Any document that purports to summarize voluminous information that is otherwise admissible must be exchanged with the supporting information in order that the opposing party may verify the accuracy of the summary in advance of trial.

f) The parties must discuss possible stipulations on issues and/or evidentiary matters, including foundation and hearsay issues. Any stipulation must be reduced to writing and submitted to the court at the commencement of trial.

4. Each party must submit in electronic form, on CD or other media compliant with the court's computer system, any proposed property division involving more than ten items. Presently acceptable formats are Propertizer™, SupporTax™, XSpouse™, Excel™ or Quattro Pro™.

5. In cases where a party's exhibits are more than ten in number (excluding stipulated exhibits), the non-stipulated exhibits must be pre-marked for identification, and indexed. In addition to the original document, the proffering party must have a copy for each other party and for the trial judge.

6. Exhibits requiring special handling by the clerk (i.e., physically large exhibits, voluminous exhibits) should be avoided where reasonably practicable, and reasonable alternatives, including summaries, should be considered. The court will evaluate the admission of proffered large or voluminous exhibits in light of Evidence Code Section 352.

7. The attorneys and the parties must arrive in court at or before the time set for trial and must be ready to proceed.

8. Unless a party specifically requests to make an opening statement, the Pretrial Statement will serve as such.

9. If a party is requesting sanction-based fees, at the commencement of trial, both parties shall submit to the clerk, in a sealed envelope, that party's final settlement offer and any response thereto.

I. Preparation and submission of Judgments.

1. Preparation and submission of judgments and orders. After a trial or hearing, the party directed by the court must prepare the judgment or order in accordance with the court's decision within thirty (30) days and submit it to the opposing attorney/party under the legend "Approved as conforming to the court's order". The proposed judgment or order must comply with Rule 5.06(D). If not approved by the opposing attorney or party, the preparing party must submit it to the court with a cover letter explaining why it is submitted without such approval and showing that a copy of the letter has been sent to opposing attorney/party. The parties shall meet and confer in a good faith effort to resolve disputes over language of the judgment and order prior to submitting these disputes to the court.

2. Identification of party. Every judgment or order must state in the upper left-hand corner the name and address of the person who is presenting the Judgment or Order to the court for signature.

3. Signature in family law actions. The original and a copy of the judgment must be presented to the court clerk, for presentation to the Family Law Department for signature by the appropriate judicial officer, together with:

   a) The clerk's file;

   b) An original and two copies of a Notice of Entry of Judgment (form FL-190); and

   c) A postage-paid envelope addressed to each party.

4. Updated fee waiver application. An updated application for fee waiver must be submitted with the proposed judgment if filing fees have not been paid by one or both of the parties.

   In addition, the court may review waivers of court fees and require a party to file a current Income and Expense Declarations or application for waiver of additional court fees under the following circumstances:

   a) Filing of motions for modification of child or spousal support;

   b) Requests for the entry of any order or judgment that awards money or property or allocates debts to any party; or

   c) At any other time the court deems appropriate.

5. The court may require the payment of previously waived fees as appropriate.

(Amended January 1, 2008.)

**RULE 5.09 MISCELLANEOUS PROVISIONS; SANCTIONS**

A. Courtesies. Courtesy is required of attorneys and the parties, both to the court and to opposing parties and attorneys. Courtesy to court staff and mediators and all witnesses is also required. Courtesy is required at all court proceedings and during all discussions and communications in preparation for court proceedings. Courtesy to court staff includes a requirement that substantial efforts be made to see that all matters are appropriately handled within normal court hours. Courtesy to the court and other litigants requires that the fact, or reasonable anticipation, of a resolution or request for continuance be communicated to the court promptly so that court time may be scheduled accordingly.

B. Meet and Confer.

1. Meeting and conferring with the opposing side (attorney or party) is required to be meaningful and not perfunctory. In preparation for a trial or hearing, the parties and/or attorneys must not simply argue positions. Rather, they are required to exchange and inspect relevant documents and information in order that issues may be resolved or facts agreed to by stipulation, and those issues remaining for determination by the court may be clearly delineated and expeditiously presented to the court at the time of hearing. Documents and information not exchanged prior to the hearing may not be received in evidence in the court's discretion.

2. For evidentiary hearings and trials, the parties and attorneys must comply with the relevant provisions of Rule 5.08(H).

3. At the hearing, the attorneys and/or parties must advise the court what issues have been settled by agreement and what issues remain contested. Failure to comply with the meet and confer rule in good faith may result in dropping the matter from the calendar or imposition of sanctions against the offending person(s).

4. The inability of attorneys to be compatible or communicate effectively is not an excuse for failure to comply with the meet and confer requirements. The professional obligation of attorneys to meet and confer in an effort to resolve disputes is an obligation owed to clients, the court, witnesses, children, other litigants and the entire judicial system.

5. Where both parties are self-represented, and where one or both of the parties are subject to a domestic violence restraining order, it is not the intent of this rule to in any way negate or modify the restraining order. In those cases, the meet and confer requirements are specifically subject to and limited by any such applicable restraining orders.

C. Court Reporters. Court reporters are available, with or without fee, as set forth in Chapter 10 of these rules.

D. Sanctions. In addition to any other sanctions available under the law, a party or an attorney not complying with these family law rules may be subject to sanctions for non-compliance under Code of Civil Procedure Section 177.5 and 575.2 and Rule of Court 5.14.

E. Telephonic Appearances.

1. General Provision

A party, an attorney, a witness, or a representative of the child support enforcement agency or other governmental agency may request permission of the court to appear by telephone in any hearing or conference. The Court shall ensure that the appearance of one or more parties by telephone does not result in prejudice to the parties appearing in person.

The following matters are currently deemed unsuitable for telephonic appearances:

a. Any hearing at which witnesses are called to testify absent specific prior authority from the bench officer hearing the case.

b. Settlement Conferences and final Status Conferences, unless the court orders otherwise.

c. Any hearing or conference for which the court determines that a personal appearance would materially assist in a determination of the proceeding or in resolution of the case.

The court reserves the right, at any time, to reject any request for telephonic appearance. When the court rejects a request, it shall notify the telephonic appearance provider and order a refund of deposited telephonic appearance fees.

The court shall also reserve the right to halt the telephonic hearing on any matter and order the attorneys or parties to personally appear at a later date and time, in which case no refund is permitted.

2. Requests

Absent good cause, request for appearance by telephone in all hearings, except Case Management Conferences, Status Conferences and Pretrial Conferences, shall be made by submitting a separate local form, form number FL16, to the Family Law Clerk's Office with the moving papers. If the applicant is the responding party, the attorney for the responding party, another party, or a witness, the request must be submitted to the Family Law Clerk's Office no later ten (10) calendar days after the date of service of the moving papers. The request by the responding party shall be served on the other parties.

3. Opposition

Opposition to the application must be made in writing no later than five (5) court days from the submission and service of the application for telephone appearance.

4. Court Order on Application

Application and/or opposition shall be submitted to the judicial assistant for the designated family law judicial officer. All requests and opposition papers must include a day time telephone number and a fax number, if available, for notification purposes. The court will rule on the application at least (5) five court days before the hearing. If the application is not contested and the court has not ruled on the application by that time, the application is deemed granted. If opposition is filed, the parties will be notified of the judicial officer's decision at least 48 hours before the hearing. If a litigant's request to appear telephonically is denied less than (5) five days before the hearing, the litigant shall have the right to a continuance in order to make travel

arrangements to attend the hearing. The determination as to whether a party may appear by telephone shall be made by the court on a case-by-case basis. At any time before or during a proceeding or hearing, the court may determine that a personal appearance would materially assist it in deciding the proceeding or hearing and order the matter continued.

5. Costs

The party appearing by telephone will be required to pay a fee directly to the vendor who provides the telephonic appearance services. The fee may be waived if an Order Granting Fee Waiver has been issued by the court within the prior six (6) months of the date of the telephonic appearance. (Amended January 1, 2019)

**Rule 5.09.1 CASE RESOLUTION CONFERENCE**

Upon the filing of a petition for dissolution, legal separation, nullity, or parentage the court will issue a Notice of Case Resolution Conference and calendar the conference 180 days after the filing of the petition. The petitioner shall serve the Notice of Case Resolution Conference on the respondent with the summons and petition and any other initial papers to be served with the summons and petition or as required by law or California Rules of Court.

A Case Resolution Conference shall continue to be calendared at reasonable intervals until a judgment on all issues has been filed.

A. Purpose. The purpose of the Case Resolution Conference is to evaluate the case, review the status of temporary orders and discovery, identify issues that need to be resolved, and implement a plan for case resolution. At the Case Resolution Conference, the court may:

- Provide early neutral case evaluation;
- Suggest Alternative Dispute Resolution;
- Bifurcate issues and set these issues for trial;
- Make special referrals such as co-parent counseling;
- Order completion of Declarations of Disclosure if they have not been timely exchanged;
- Limit, schedule or expedite discovery, including disclosure of expert witnesses;
- Appoint joint experts upon stipulation of the parties and order allocation of payment for experts;
- File stipulations the parties reach on temporary issues or that narrow the other issues;
- Schedule a hearing on issues that are critical to the progress of the case; for example, appointment of minor's counsel, appointment of experts;
- Order a Settlement Conference;

- Set the case on a dismissal calendar for failure to serve (Code of Civil Procedure section 583.210) or failure to adjudicate (Code of Civil Procedure section 583.310); unless Code of Civil Procedure section 583.161 applies;
- Review other case management options under Family Code section 2451 with counsel, their clients and self-represented parties;
- Take such other actions and make orders regarding case flow management which would tend to promote a just and efficient disposition of the case.

B. Status and Case Resolution Conference Questionnaire (FL20). At least ten (10) calendar days prior to the Case Resolution Conference, each party shall file with the court and serve on the other party a Status and Case Resolution Conference Questionnaire (FL20). Failure to file and serve the Status and Case Resolution Conference Questionnaire may result in sanctions. If a party has submitted a request to reset and it has been denied the court shall set a date for submission of the Status and Case Resolution Conference Questionnaire in the order denying the reset.

C. Appearances. Self-represented parties and attorneys of record must appear at the Case Resolution Conference unless excused by the Court. Represented parties do not need to appear if his/her attorney of record appears on his/her behalf, unless the party received notice from the other party that his/her appearance is required. Notice of a request for appearance shall be served 10 days prior to the Case Resolution Conference. Notice shall be given by serving form FL20 and checking the applicable box. If the Department of Child Support Services is a party to the action, their appearance is not required unless requested by the Court. Failure to appear at the Case Resolution Conference may result in sanctions.

D. Requests to Reset/Advance/Set Case Resolution Conference. The parties or their attorneys, if any, may request to reset/advance/set of the Case Resolution Conference by submitting to the Court a proposed stipulation signed by the parties or their attorneys, if any, with a proposed order thereon, at least five (5) calendar days prior to the Case Resolution Conference.

The parties or their attorneys, if any, may not stipulate to a reset/advance/set of the Case Resolution Conference without order of the Court. If the case is progressing to the satisfaction of the Court, these requests will be granted.

E. Dismissal of Action. If parties fail to appear twice at their respective Case Resolution Conference or if there is no proof of service of Summons and Petition on file, the case may be set on the Dismissal calendar, pursuant to California Rule of Court, Rule 5.83.

F. Drops from the Case Resolution Conference Calendar. A case may be dropped from the Case Resolution Calendar if the parties fail to appear at three such calendars.
(Added July 1, 2014.)

## RULE 5.10 COURT FACILITATOR; ADDITIONAL DUTIES

A. As required by the Family Law Facilitator Act, Family Code Sections 10000 to 10012, this court maintains an office of the Family Law Facilitator. Pursuant to Family Code Section 10005, this court designates the following additional duties of the Family Law Facilitator:

1. Meeting with litigants to mediate issues of child support, spousal support, and maintenance of health insurance, subject to Section 10012. Actions in which one or both of the parties are unrepresented by an attorney must have priority.
2. Drafting stipulations to include all issues to which the parties have agreed, including issues other than those specified in Section 10003.
3. If the parties are unable to resolve issues with the assistance of the Family Law Facilitator, prior to or at the hearing, and at the request of the court, the Family Law Facilitator shall review the paperwork, examine documents, prepare support schedules, and advise the judge whether or not the matter is ready to proceed.
4. Assisting the clerk in maintaining records.
5. Preparing formal orders consistent with the court's announced order in cases where both parties are unrepresented.
6. Serving as a special master in proceedings and making findings to the court unless he or she has served as a mediator in that case.
7. Providing the services specified in Section 10004 concerning the issues of child custody and visitation as they relate to calculating child support, if funding is provided for that purpose.

B. If staff and other resources are available and the duties listed above have been accomplished, the duties of the Family Law Facilitator may also include the following:

1. Assisting the court with research and any other responsibilities which will enable the court to be responsive to the litigants' needs.
2. Developing programs for bar and community outreach through day and evening programs, videotapes, and other innovative means that will assist unrepresented and financially disadvantaged litigants in gaining meaningful access to the family court. These programs must specifically include information concerning underutilized legislation, such as expedited child support orders (Chapter 5 (commencing with Section 3620) of Part 1 of Division 9), and preexisting, court-sponsored programs, such as supervised visitation and appointment of attorneys for children.
3. (Amended July 1, 2017.)

## RULE 5.11 USE OF FORMS

A. Judicial Council Forms. When the Judicial Council has adopted mandatory forms for use in a proceeding, their use is mandatory. Any document not submitted on a mandatory form will be returned to the party submitting it, except when the Judicial Council has added or modified a mandatory form, in which case the Court may allow a grace period following the effective date of the form to allow incorporation of the new forms into commercial forms programs. It shall be the responsibility of the attorneys and the parties to determine, prior to submitting a paper for filing, if a grace period applies.

B. Income and Expense Declarations.

1. A current and complete Income and Expense Declaration is required for any trial or hearing in which the financial circumstances of one or more of the parties is relevant. If a party is requesting any financial relief or reimbursement, a current and complete Income and Expense Declaration is required.
2. An Income and Expense Declaration is current if it is less than three months between the filing date and the time of hearing, AND there have been no material changes since the date of filing. An Income and Expense Declaration that is more than three months old MAY be considered current if the party files a declaration showing there has been no change of circumstances since the last filing.
3. An Income and Expense Declaration is complete if all blanks are filled in and all required attachments are attached. Required attachments include, but are not limited to, (i) wage stubs showing year to date earnings (or last three pay stubs) for all employment and (ii) a cash flow statement for all self employment and investment income showing cash received and cash expended.
4. That portion of the Income and Expense Declaration that relates to cash and assets on hand must be fully completed if the relief at issue is permanent spousal support, attorney fees, payment of costs, payment of community obligations, or where it is otherwise relevant. Inserting "unknown" or "TBD" or a similar response is non-compliance with this section. Rather, answers should reflect assets then in the possession of or under the control of the declarant.
5. Income tax returns shall not be attached or filed, except on court order, but the last three year's state and federal tax returns (either individual or joint) must be produced at the hearing or trial by the party in possession of the same, or any copy. Copies of the returns must be exchanged at least five days prior to the court appearance.
6. If a party is on public assistance, or an application for public assistance is pending, that fact must be disclosed on that party's Income and Expense Declaration.

C. Schedule of Assets and Debts. A Schedule of Assets and Debts (Form FL-142) shall include all attachments required by that form. It is not compliance with this rule to simply list assets in cases in which attachments are required.

D. Local Forms. Local family law forms are reproduced in the Appendix to these rules. Except where otherwise noted in these rules, the use of these forms is suggested, but not mandatory.
(Amended July 1, 2014.)

**RULE 5.12 (Repealed)**
(Repealed January 1, 2006.)

**RULE 5.13 DOMESTIC VIOLENCE ORDERS AND COORDINATION**

Whenever application is made for a protective order or a custody/visitation order under circumstances in which domestic violence is alleged, the parties and court will adhere to the procedures set forth in Chapter 11 (Domestic Violence Coordination Rules).
(Added January 1, 2004.)

**RULE 5.13.1 DOMESTIC VIOLENCE RESTRAINING ORDERS (FAMILY CODE §§ 6200-6389)**

A. Ex- Parte Applications.
Applications for a Temporary Domestic Violence Restraining Order may be submitted to the court for consideration without notice to the opposing party or their attorney consistent with Family Code Section 6300. The court may grant such temporary orders solely based upon the sworn affidavit or testimony of the person requesting the order(s).

In the event Notice of such requested orders is provided to the other party or their attorney, Notice and Delivery of Applications for Domestic Violence Temporary Restraining Orders, including copies of all documents to be submitted must be provided to the opposing party or attorney by 10:00 a.m. the court day before the application is scheduled to be reviewed by the assigned judicial officer. The pleadings shall be presented to the Civil Division Clerk's Office by 4:00 p.m. the court day prior to the scheduled review of the pleadings.

In the event Notice is provided, Opposition papers may be presented to the Civil Division Clerk's Office by 4:00 p.m. the court day prior to the scheduled review of the pleadings. A copy of any such opposition papers shall also be served on the opposing party on the court day prior to the scheduled review of the pleadings.

Judicial review of the requests for temporary orders shall be conducted Monday through Friday beginning at 8:30 a.m. by a judicial officer designated by the presiding judge. Generally these orders are heard by the judge currently assigned to Department 3 in Nevada City or Department A in Truckee unless that judge is unavailable in which case they shall be heard by another judge assigned by the presiding judge to hear such temporary orders. Generally, oral argument is not taken and the requests are handled solely upon written application without a court hearing.

B. Hearings.

Following the issuance or denial of an ex parte domestic violence prevention request, the matter shall be set for hearing unless it clearly sets forth in the pleadings no legal basis for the orders sought. Such hearings shall occur within 25 calendar days of the issuance or denial of the temporary domestic violence orders of protection.
(Amended July 1, 2022.)

## RULE 5.14 CHILD CUSTODY SUPERVISORS

1. Nonprofessional Providers who provide supervised visitation services shall file Judicial Council Form FL-324(NP) with the judicial secretary prior to commencing supervised visitation services and shall comply with Family Code section 3200.5.

2. Professional Providers who provide supervised visitation services shall file Judicial Council Form FL-324(P) with the judicial secretary prior to commencing supervised visitation services and shall comply with Family Code section 3200.5.
(Added July 1, 2022.)

## 5.15 DISCRETIONARY DISMISSAL

Pursuant to CCP section 583.420, the Court may summarily dismiss an action for failing to serve the Respondent within two years after the action is commenced.
(Added July 1, 2022.)

# CHAPTER 6

# JUVENILE RULES

## RULE 6.00 GENERAL PROVISIONS
(Effective January 1, 1997.)

## RULE 6.00.1 AUTHORITY

These local rules are intended to supplement state statutes which are found principally in the Welfare and Institutions Code (WIC) and to supplement the California Rules of Court (CRC). For the authority for the creation of these rules see Government Code Section 68070 and WIC Section 317.6, subdivision (b). These rules adopt the rules of construction and the severability clause in CRC juvenile court rules.
(Amended July 1, 2003.)

## RULE 6.00.2 STANDING ORDERS

The presiding judge of the juvenile court may issue such standing orders for the administration of the juvenile court as the court deems appropriate. All standing orders presently in effect are attached to these local rules as Appendix I. The court may hereafter issue new or amended standing orders by filing same with the clerk of the juvenile court.

Standing orders, while not a local rule, shall be valid only to the extent they are not inconsistent with the local rules or applicable California Rules of Court and statutory and decisional law. The clerk of the court shall keep and make available to the general public copies of any standing order and these rules. The clerk may charge for the cost of providing such copies.
(Amended July 1, 2010.)

## RULE 6.01 JUVENILE DEPENDENCY PROCEEDINGS
(Effective January 1, 1997.)

## RULE 6.01.1 PURPOSE AND AUTHORITY

These rules are established to comply with Rule 5.660(a) California Rules of Court, and are effective January 1, 1997 for juvenile dependency proceedings.
(Amended January 1, 2008.)

## RULE 6.01.2 GENERAL COMPETENCY REQUIREMENT

All attorneys appearing in juvenile dependency proceedings must meet minimum standards of competence as set forth in these rules. These rules are applicable to attorneys employed by public agencies, attorneys appointed by the court to represent any

party in a juvenile dependency proceeding and attorneys who are privately retained to represent a party to a juvenile dependency proceeding.
(Effective January 1, 1997.)

**RULE 6.01.3 SCREENING FOR COMPETENCY**

A. Effective January 1, 1997, all attorneys who represent parties in juvenile court proceedings shall meet the minimum standards of training and/or experience set forth in these rules. Each attorney of record for a party to a dependency matter pending before the court on January 1, 1997, who believes he or she meets the minimum standards of competency shall complete and submit to the court, on or before January 31, 1997, a Certification of Competency as set forth in Appendix II to these rules. After January 1, 1997, any attorney appearing in a dependency matter for the first time shall complete and submit a Certification of Competency to the court within 10 days of his or her first appearance in a dependency matter.

B. Attorneys who meet the minimum standards of training and/or experience as set forth in Rule 6.01.4, as demonstrated by the information contained in the Certification of Competency submitted to the court, shall be deemed competent to practice before the juvenile court in dependency cases except as provided in subdivision (C) of this rule.

C. Upon submission of a Certification of Competency which demonstrates that the attorney has met the minimum standards for training and/or experience, the court may determine, based on conduct or performance of counsel before the court in a dependency case within the six month period prior to the submission of the certification to the court, that a particular attorney does not meet minimum competency standards. In such case, the court shall proceed as set forth in Rule 6.01.6 hereinafter.

D. Any attorney appearing before the court in a dependency case pending on January 1, 1997 who does not meet the minimum standards of training or experience shall notify the court to that effect and shall have until January 31, 1997, to complete the minimum number of hours of training required to fulfill the requirements of these rules. If the attorney fails to complete such training, the court shall order, except in cases where a party is represented by retained counsel that certified counsel be substituted for the attorney who fails to complete the required training. In the case of retained counsel, the court shall notify the party that his or her counsel has failed to meet the minimum standards required by these rules. The determination whether to obtain substitute private counsel shall be solely within the discretion of the party so notified.

E. In the case of an attorney who maintains his or her principal office outside of this county, proof of certification by the juvenile court of the California county in which the attorney maintains an office shall be sufficient evidence of competence to appear in a juvenile proceeding in this county.
(Effective January 1, 1997.)

## RULE 6.01.4 MINIMUM STANDARDS OF EDUCATION AND TRAINING; CASELOADS

A. Each attorney appearing in a dependency matter before the juvenile court shall not seek certification of competency and shall not be certified by the court as competent until the attorney has completed the following minimum training and educational requirements:

1. At least eight hours of training or education in juvenile dependency law, which training or education shall have included information on the applicable case law and statutes, the rules of court, Judicial Council forms, motions, trial techniques and skills, writs and appeals, child development, child abuse and neglect, substance abuse, domestic violence, family reunification and preservation, and reasonable efforts, or

2. At least six months recent experience in dependency proceedings in which the attorney has demonstrated competence in the attorney's representation of his or her clients in said proceedings. In determining whether the attorney has demonstrated competence, the court shall consider whether the attorney's performance has substantially complied with the requirements of these rules.

B. In order to retain his or her certification to practice before the juvenile court, each attorney who has been previously certified by the court shall submit a new Certificate of Competency to the court on or before January 31st of the third year after the year in which the attorney is first certified and then every third year thereafter. The attorney shall attach the renewal Certification of Competency as evidence that he or she has completed at least eight hours of continuing training or education directly related to dependency proceedings since the attorney was last certified. Evidence of completion of the required number of hours of training or education may include a copy of a certificate of attendance issued by a California MCLE provider; a certificate of attendance issued by a professional organization which provides training and/or education for its members, whether or not it is a MCLE provider; a copy of the training or educational program schedule together with evidence of attendance at such program; or such other documentation as may reasonably be considered to demonstrate the attorney's attendance at such program. Attendance at a court sponsored or approved program will also fulfill this requirement.

C. The attorney's continuing training or education shall be in the areas set forth in subdivision A. 1. of this rule, or in other areas related to juvenile dependency practice including, but not limited to, special education, mental health, health care, immigration issues, the rules of evidence, adoption practice and parentage issues, the Uniform Child Custody Jurisdiction Act, the Parental Kidnapping Prevention Act, state and federal public assistance programs, the Indian Child Welfare Act, client interviewing and counseling techniques, case investigation and settlement negotiations, mediation, basic motion practice and rules of civil procedure.

D. When a certified attorney fails to submit evidence that he or she has completed at least the minimum required training and education to the court by the due date, the court shall notify the attorney that he or she will be decertified. The attorney shall have 20 days from the date of the mailing of the notice to submit evidence of his or her completion of the required training or education. If the attorney fails to submit the required evidence or fails to complete the required minimum hours of continuing training or education, the court shall order, except in cases where a party is represented by retained counsel that certified counsel be substituted for the attorney who fails to complete the required training. In the case of retained counsel, the court shall notify the party that his or her counsel has failed to meet the minimum standards required by these rules. The determination whether to obtain substitute counsel shall be solely within the discretion of the party so notified.

E. Any attorney appearing in juvenile court must comply with the caseload requirements of CRC 5.660(d)(6). An attorney shall not accept representation of a child in juvenile court if the attorney's caseload is such that he or she cannot effectively meet all of the attorney's duties of representation as set forth in this chapter and the CRC. (Amended January 1, 2008.)

**RULE 6.01.5 STANDARDS OF REPRESENTATION**

All attorneys appearing in dependency proceedings shall meet the following minimum standard of representation:

A. Unless excused by the court, said attorney shall promptly attend each scheduled juvenile court hearing.

B. Unless excused by the court, said attorney shall promptly attend each scheduled juvenile court staffing session.

C. Attorneys shall comply with the standards of representation set forth in CRC 5.660(d)(4). Without limiting the generality of the foregoing, the attorney shall thoroughly and completely investigate the accuracy of the allegations of the petition or other moving papers and the court reports filed in support thereof. This shall include conducting a comprehensive interview with the client to ascertain his or her knowledge and/or involvement in the matters alleged or reported; contacting social workers and other professionals associated with the case to ascertain if the allegations and/or reports are supported by accurate facts and reliable information; consulting with and, if necessary, seeking the appointment of experts to advise the attorney or the court with respect to matters which are beyond the expertise of the attorney and/or the court; and obtaining such other facts, evidence or information as may be necessary to effectively present the client's position to the court.

D. The attorney shall determine the client's interests and the position the client wishes to take in the matter. Except in those cases in which the client's whereabouts are

unknown, this shall include a comprehensive interview with the client. If the client is a minor child who is placed out-of-home, in addition to interviewing the child, the attorney shall also interview the child's caretaker.

E. The attorney shall advise the client of the possible courses of action and of the risks and benefits of each. This shall include advising the client of the risks and benefits of resolving disputed matters without the necessity for adhering to court mandated time limits.

F. The attorney shall vigorously represent the child within applicable legal and ethical boundaries. This shall include the duty to work cooperatively with other counsel and the court, to explore ways to resolve disputed matters without hearing if it is possible to do so in a way which is consistent with the client's interests, and to comply with local rules and procedures as well as with statutorily mandated timelines.
(Amended January 1, 2008.)

## RULE 6.01.6 PROCEDURES FOR REVIEWING AND RESOLVING COMPLAINTS

A. Any party to a juvenile court dependency proceeding may lodge a written complaint with the court concerning the performance of his or her appointed attorney in a juvenile court proceeding. In the case of a complaint concerning the performance of an attorney appointed to represent a minor, the complaint may be lodged on the child's behalf by the social worker, a caretaker, relative or a foster parent. A complaint may include a request for a determination that the attorney should be disqualified for excessive caseload.

B. Each appointed attorney shall give written notice to his or her adult client of the procedure for lodging complaints with the court concerning the performance of an appointed attorney. The notice shall be given to the client within ten (10) days of the attorney's appointment to represent the client, and evidence that a copy of said notice was given or mailed to the client shall be provided to the court within ten (10) days of the court's request. In the case of a minor client, the notice shall be mailed or given to the current caretaker of the child. If the minor is 12 years of age or older, a copy of the notice shall also be sent or given to the minor. The notice shall be in the form set out in local form JV9.

C. Any written complaint shall be submitted to the court in which the matter is pending. Upon receipt of a written complaint, the court shall within ten (10) days conduct its own review of the complaint or question to determine if the appointed attorney has acted improperly or contrary to the rules or policies of the court. That review may include a hearing in chambers. The court may take any appropriate action required, including no action, relieving counsel and appointing new counsel, holding a formal hearing on the matter, and/or revoking an attorney's Certification of Competency for a period of up to six (6) months, and requiring the attorney to provide proof of additional training before recertification may be obtained.

D. The court shall notify the attorney and the complaining party in writing of its determination of the complaint. If the court relieves counsel, or revokes the attorney's Certification of Competency, the attorney shall have ten (10) days after the date of the notice of determination to request a further hearing before the court concerning the court's proposed action. If the attorney does not request a hearing within that period of time, the court's determination shall become final.

E. If the court determines that no action shall be taken, the notice of determination shall contain an appropriate warning to the complaining party that the complaining party may wish to seek the advice of an attorney concerning their right to pursue a civil action against the attorney, or to request state bar disciplinary proceeding.
(Amended July 1, 2003.)

## RULE 6.01.7 PROCEDURES FOR INFORMING THE COURT OF THE INTERESTS OF A DEPENDENT CHILD

A. At any time during the pendency of a dependency proceeding, any interested person may notify the court that the minor who is the subject of the proceeding may have an interest or right which needs to be protected or pursued in another judicial or administrative forum. If counsel for the minor becomes aware that the minor may have a right or interest which needs to be protected or pursued in another judicial or administrative forum, counsel for the minor shall notify the court of such right or interest as soon as it is reasonably possible for counsel to do so.

B. Notice to the court may be given by the filing of Judicial Council form JV-100/JV-180 or by the filing of a declaration. In either case, the person giving notice shall set forth the nature of the interest or right which needs to be protected or pursued, the name and address, if known, of the administrative agency or judicial forum in which the right or interest may be affected and the nature of the proceedings being contemplated or conducted there.

C. If the person filing the notice is the counsel for the minor, the motion shall state what action on the child's behalf the attorney believes is necessary, whether the attorney is willing or able to pursue the matter on the child's behalf, whether the association of counsel specializing in practice before that agency or court may be necessary or appropriate, whether the appointment of a guardian ad litem may be necessary to initiate or pursue the proposed actions, whether joinder of an administrative agency to the juvenile court proceedings pursuant to Welfare and Institutions Code Section 362 may be appropriate or necessary to protect or pursue the child's interests and whether further investigation may be necessary.

D. If the person filing the notice is not the attorney for the child, a copy of the notice shall be served on the attorney for the child, or, if the child is unrepresented, the notice shall so state.

E. The court may set a hearing on the notice if the court deems it necessary in order to determine the nature of the child's right or interest or whether said interest should be protected or pursued.

F. If the court determines that further action on behalf of the child is required, the court shall do one or more of the following:

1. Authorize the minor's attorney to pursue the matter on the child's behalf;

2. Appoint an attorney for the child if the child is unrepresented;

3. Notice a joinder hearing pursuant to Section 362 compelling the responsible agency to report to the court with respect to whether it has carried out its statutory duties with respect to the child;

4. Appoint a guardian ad litem for the child for the purposes of initiating or pursuing appropriate action in the other forum(s); or

5. Take any other action the court may deem necessary or appropriate to protect the welfare, interests and rights of the child.

(Effective January 1, 1997.)

**RULE 6.01.8 TIMELINES FOR JUVENILE DEPENDENCY HEARINGS**

Attorneys for parties are required to adhere to the statutory timelines for all hearings. Continuances will be granted on a showing of good cause. General timelines for hearings are:

A. Detention Hearings. Detention hearings shall be heard no later than the end of the next court day after a petition has been filed. (W&I C Section 315; CRC 5.670.)

B. Jurisdiction Hearing. If the child is not detained, the hearing on the petition shall commence within 30 calendar days from the date the petition was filed. If the child is detained, the hearing on the petition shall commence within 15 court days from the date of the detention order. (W&I C Section 334; CRC 5.682.)

C. Disposition Hearing. If the child is detained, the hearing on disposition must commence within 10 court days from the date the petition was sustained. If the child is not detained, the disposition hearing shall commence no later than 30 calendar days after jurisdiction is found. (W&I C Section 358; CRC 5.690.)

D. Six Month Review Hearing. If the child has been removed from the custody of the parent or guardian, a review hearing must be held within six months after the child entered foster care. If the child has not been removed, the hearing shall be held within six months of the declaration of dependency and at least every six months thereafter. (W&I C Sections 364, 366, 366.21; CRC 5.710.)

E. Twelve Month Review. In the case of a dependent child who has been removed from the custody of a parent or guardian, a review hearing shall be held within 12 months of the date the child entered foster care, but in no event later than 18 months after the date of initial removal. (W&I C Section 366.21; CRC 5.715.)

F. Eighteen Month Review. If the child is not returned at the six or twelve month review, the court shall conduct a permanency review hearing no later than 18 months from the date of initial removal. (W&I C Sections 366.21, 366.22; CRC 5.720.)

G. Notice of Intent to File Writ Petition. A notice of intent to file a petition for extraordinary writ must be filed according to the following timeline requirements:

1. If the party was present at the hearing when the court ordered a hearing under Welfare and Institutions Code section 366.26 and CRC 5.590, the notice of intent must be filed within 7 days after the date of the order setting the hearing.

2. If the party was notified of the order setting the hearing only by mail, the notice of intent must be filed within 12 days after the date the clerk mailed the notification.

3. If the party was notified of the order setting the hearing by mail, and the notice was mailed to an address outside California but within the United States, the notice of intent must be filed within 17 days after the date the clerk mailed the notification.

4. If the party was notified of the order setting the hearing by mail, and the notice was mailed to an address outside the United States, the notice of intent must be filed within 27 days after the date the clerk mailed the notification.

H. Petition for Writ. A petition seeking writ review of orders setting a hearing under the W&I C shall be served and filed within 10 days after the filing of the record in the reviewing court; (CRC 8.452(c)(1).)

I. Response to Writ Petition. Any response must be served and filed:

1. Within 10 days or, if the petition was served by mail, within 15 days after the petition is filed; or

2. Within 10 days after a respondent receives a request from the reviewing court for a response, unless the court specifies a shorter time.

J. Selection Hearing. A selection hearing for permanent placement shall begin no later than 120 days after the hearing under W&I C Section 366.26 was ordered; (W&I C Section 366.31, 399.22; 5.720.)

K. Notice of Appeal. A notice of appeal shall be filed within 60 days after the rendition of the judgment. (CRC 8.406 and 5.590.)

If an appellant timely appeals from a judgment or appealable order, the time for any other party to appeal from the same judgment or order is extended until 20 days after the superior court clerk mails notification of the first appeal.
(Amended January 1, 2019)

**RULE 6.01.9 TERMINATION OF JURISDICTION AFTER ADOPTION**

Pursuant to W&I Code §366.3(a) and California Rule of Court 5.740(a)(3), within 35 calendar days after an adoption is granted, the County shall file a memo to the Court seeking termination of dependency along with the mandatory Judicial Council Form JV-364, Termination of Dependency. Upon receipt of the memo and form, the Court shall terminate its jurisdiction without notice or hearing.
(Effective January 1, 2019)

**RULE 6.02 CHILD ADVOCATES**
(Effective January 1, 1997.)

**RULE 6.02.1 THE CHILD ADVOCATE PROGRAM**

The Superior Court may appoint child advocates to represent the interests of dependent children. For cases in which a prosecution is initiated under the Penal Code arising from neglect or abuse of the child, the court shall make such an appointment. In order to qualify for appointment, the child advocate must be trained by and function under the auspices of a Court Appointed Special Advocate Program (CASA), formed and operating under the guidelines set forth in CRC 5.655 and Welfare & Institutions Code Section 356.5.

The CASA program must comply with California Rules of Court Rule 5.655. The CASA program shall report regularly to the Presiding Judge of the juvenile court with evidence that it is operating under the guidelines established by the National Court Appointed Special Advocate Association and the California State Guidelines for Child Advocates.
(Amended January 1, 2008.)

**RULE 6.02.2 CHILD ADVOCATES**

A. Advocates' functions. Advocates serve at the pleasure of the court having jurisdiction over the proceeding in which the advocate has been appointed. In general, an advocate's functions are as follows:

1. To support the child throughout the court proceedings;
2. To establish a relationship with the child to better understand his or her particular needs and desires;
3. To communicate the child's needs and desires to the court in written reports and recommendations;
4. To identify and explore potential resources, which will facilitate early family reunification or alternative permanency planning;
5. To provide continuous attention to the child's situation to ensure that the court's plans for the child are being implemented;
6. To the fullest extent possible, to communicate and coordinate efforts with the case manager/social worker;
7. To the fullest extent possible, to communicate and coordinate efforts with the child's attorneys; and
8. To investigate the interests of the child in other judicial or administrative proceedings outside juvenile court; report to the juvenile court concerning same; and, with the approval of the court, offer his/her services on behalf of the child to such other courts or tribunals.

B. Sworn officer of the court. An advocate is an officer of the court and is bound by these rules. Each advocate shall be sworn in by a Superior Court judge before beginning his/her duties, and shall subscribe to the written oath set forth in Appendix II.

C. Specific duties. The court shall, in its initial order of appointment, and thereafter in any subsequent order, specifically delineate the advocate's duties in each case, which may include independent investigation of the circumstances of the case, interviewing and observing the child and other appropriate individuals, reviewing appropriate records and reports, consideration of visitation rights for the child's grandparents and other relatives, and reporting back directly to the Court as indicated. If no specific duties are outlined by court order, the advocate shall discharge his/her obligation to the child and the court in accordance with the general duties set forth in Rule 6.02.2 above.
(Effective January 1, 1997.)

## RULE 6.02.3 RELEASE OF INFORMATION TO ADVOCATE

A. Court authorization. To accomplish the appointment of an advocate, the judge making the appointment shall sign an order granting the advocate the authority to review specific relevant documents and interview parties involved in the case, as well as other persons having significant information relating to the child, to the same extent as any other officer appointed to investigate proceedings on behalf of the court.

B. Access to records. An advocate shall have the same legal right to records relating to the child he/she is appointed to represent as any case manager/social worker with regard to records pertaining to the child held by any agency, school, organization,

division or department of the State, physician, surgeon, nurse, other health care provider, psychologist, psychiatrist, mental health provider or law enforcement agency. The advocate shall present his/her identification as a court-appointed advocate to any such record holder in support of his/her request for access to specific records. No consent from the parent or guardian is necessary for the advocate to have access to any records relating to the child.

CASA volunteers are considered court personnel as that term is used in Welfare and Institutions Code Section 827. They shall have access to Probation Department and Department of Child Protective Services files and information contained therein needed to carry out their responsibilities as court appointed advocates.

Any release by the Probation Department or the Department of Child Protective Services pursuant to this rule of information made confidential by Welfare and Institutions Code Section 10850 shall be considered a disclosure for purposes directly connected with the administration of public social services as that term is used in Welfare & Institutions Code Section 10850.

Except as contained in their court report and in their dealing with the parties in the particular case, the advocates are prohibited from releasing any information they gain from inspection of these files.

C. Report of child abuse. An advocate is a mandated child abuse reporter with respect to the case to which the advocate is appointed.

D. Communication with others. There shall be ongoing, regular communication concerning the child's best interests, current status, and significant case developments, maintained among the advocate, CPS case manager, child's attorney, attorneys for parents, relatives, foster parents and any therapist for the child.
(Effective January 1, 1997.)

**RULE 6.02.4 RIGHT TO TIMELY NOTICE**

In any motion concerning the child for whom the advocate has been appointed, the moving party shall provide the advocate timely notice.
(Effective January 1, 1997.)

**RULE 6.02.5 CALENDAR PRIORITY**

In light of the fact that advocates are rendering volunteer services to children and the court, matters on which they appear should be granted priority on the court's calendar, whenever possible.
(Effective January 1, 1997.)

## RULE 6.02.6 VISITATION THROUGHOUT DEPENDENCY

An advocate shall visit the child regularly until the child is secure in a permanent placement. Thereafter, the advocate shall monitor the case as appropriate until dependency is dismissed or the advocate is relieved from appointment.
(Effective January 1, 1997.)

## RULE 6.02.7 FAMILY LAW ADVOCACY

Should the juvenile court dismiss dependency and create a family law order pursuant to Welfare & Institutions Code Section 362.4, the advocate's appointment may be continued in the family law proceeding, in which case the juvenile court order shall set forth the nature, extent and duration of the advocate's duties in the family law proceeding.
(Effective January 1, 1997.)

## RULE 6.02.8 RIGHT TO APPEAR

An advocate shall have the right to be present and be heard at all court hearings, and shall not be subject to exclusion by virtue of the fact that the advocate may be called to testify at some point in the proceedings. An advocate shall not be deemed to be a "party" (CRC 5.530(b)(6)); however, the court, in its discretion, shall have the authority to grant the advocate *amicus curiae* status, which includes the right to appear with counsel.
(Amended January 1, 2008.)

## SECTION 6.02.9 SUBPOENA REQUIRING CASA ADVOCATE TO TESTIFY

When any party serves a subpoena on a CASA advocate, requiring the CASA advocate to attend any hearing for the purpose of testifying, the moving party shall also serve the CASA advocate's immediate supervisor with a duplicate copy of the subpoena.
(Effective January 1, 1997.)

## RULE 6.02.10 APPEARANCE BY CONSULAR REPRESENTATIVE

In cases where a parent or minor is a citizen of a foreign nation, the consul and/or an attorney or representative of the consul of that nation shall have the right to appear and participate in the court proceedings to the extent such is provided for by international agreement to which the United States is a signatory.
(Effective January 1, 1997.)

## RULE 6.02.11 REQUIRED WRITTEN REPORTS FROM CASA VOLUNTEERS

For hearings during the time of appointment, the CASA volunteer must provide a written report to the court on the following hearings:

1. Initial disposition hearing.

2. 6 months review hearing.

3. 12 month permanency hearing.

4. 18 month permanency hearing.

5. Selection and implementation hearing.
6. Post permanent plan review hearings.

7. As directed by the court.

At least two court days prior to the hearing, the original of the report shall be filed with the court and a copy provided to the following, through their respective attorneys, if any:

1. The Nevada County Human Services Agency.

2. The child.

3. The mother, if living, and if her parental rights have not been terminated.

4. The presumed father, if living, and if his parental rights have not been terminated.

5. A probate or legal guardian of the child.

6. Such other persons as the court may so direct.
(Effective January 1, 2006.)

**RULE 6.03 PATERNITY**
(Effective January 1, 1997.)

**RULE 6.03.1 PATERNITY ORDERS, JUDGMENTS AND FINDINGS**

Welfare and Institutions Code Section 903.41 and CRC 5.635 are hereby adopted and incorporated.
(Amended January 1, 2008.)

**RULE 6.03.2 DETERMINATION OF ISSUE**

The issue of the paternity of a minor may be determined in a juvenile court proceeding.
(Effective January 1, 1997.)

**RULE 6.03.3 NECESSARY COURT MEASURES**

If a person claims to be the natural/biological father of a minor who is the subject of juvenile court proceedings, the court shall take such measures as are necessary to make a

paternity finding. The court shall insure coordination with the local child support agency as set forth in Welfare & Institutions Code Section 903.41.
(Amended July 1, 2003.)

**RULE 6.03.4 RIGHT TO COUNSEL/LEGAL RESPONSIBILITIES**

In any paternity proceeding arising under this rule the court shall inform the mother and the person claiming to be father of their right to be separately represented by counsel on the issue of paternity. The court shall advise the person claiming to be father of his legal responsibilities should he be found to be the natural father of the minor, including the obligation to pay child support and the possibility he may be incarcerated if he willfully fails to pay child support after being legally ordered to do so.
(Effective January 1, 1997.)

**RULE 6.03.5 EVIDENCE OF TESTIMONY**

The court shall permit such evidence to be taken as necessary to determine the paternity of the minor. Testimony from the mother and the person claiming to be the natural father may be sufficient to make a paternity finding. If the mother or the person claiming to be the father is absent from the court proceeding, evidence in addition to testimony from those in attendance will normally be necessary to enable the court to make a paternity finding.
(Effective January 1, 1997.)

**RULE 6.03.6 SCIENTIFIC TESTING**

The court may order genetic testing if it believes such tests will assist in making a paternity finding. The court shall determine which party or parties shall pay for any such test.
(Amended July 1, 2003.)

**RULE 6.03.7 RELEASE OF FINDINGS**

Any paternity finding shall be noted in the clerk's minutes and shall be available upon request to any person or agency having a need to know.
**(Effective January 1, 1997.)**

**RULE 6.04 DISCOVERY, EVIDENCE, SETTLEMENT CONFERENCES AND TRANSCRIPTS**
(Effective January 1, 1997.)

**RULE 6.04.1 PRE-HEARING DISCOVERY**

The discovery provisions of California Rule of Court 5.546 are hereby adopted and incorporated.
(Amended January 1, 2008.)

## RULE 6.04.2 TIMELY DISCLOSURE OF INFORMAL DISCOVERY

Pre-hearing discovery shall be conducted informally. Except as protected by privilege, all relevant material shall be disclosed in a timely fashion to all parties of the litigation. (Effective January 1, 1997.)

## RULE 6.04.3 FORMAL DISCOVERY

A. Formal discovery. Only after all informal means have been exhausted may a party petition the court for discovery. Any noticed motion shall state the relevancy and materiality of the information sought and the reasons why informal discovery was not adequate to secure that information. The motion shall be served on all parties at least five (5) court days before the hearing date. The date for the hearing shall be obtained from the county clerk. A copy shall be served on the court before which the matter is scheduled to be heard.

Any responsive papers shall be filed and served two (2) court days prior to the hearing.

B. Civil discovery. In order to coordinate the logistics of discovery in dependency cases, there shall be no depositions, interrogatories, subpoenas of juvenile records or other similar types of civil discovery without approval of a judge of the juvenile court upon noticed motion. For non-dependency cases, see Section 6.07.1 regarding the standing order on confidentiality of juvenile records.

C. Case records and reports (CRC 5.546). In contested proceedings, the social worker's narratives and other relevant case records shall be made available to counsel as provided by Rule 5.546 and applicable law, at least ten (10) calendar days before the hearing and any up-dated records two (2) calendar days before the hearing. In all other cases, such documents shall be made available at least two (2) calendar days prior to the hearing.

Upon timely request, parents, guardians and de facto parents shall disclose to all other parties such non-privileged material and information within the parent's, guardian's or de facto parent's control which is relevant.
(Amended January 1, 2017.)

## RULE 6.04.4 PRESENTATION OF EVIDENCE
(W&I C Sections 280, 281; CRC 5.690)

Social Study Reports prepared by CPS shall be made available to all counsel before the hearing in accordance with the following time limitations unless otherwise ordered by the court:

A. Jurisdictional and/or dispositional reports are due at least 48 hours before the hearing;

B. Review of dependency status and status review reports are due at least ten (10) calendar days before the hearing;

C. All other reports shall be due a reasonable number of days before the hearing but in no event less than 48 hours before.

If the social study report is not timely filed or made available to all counsel, then any affected party or the court may request a continuance of the hearing to the extent permitted by law.

The names of any experts to be called by any party and copies of their reports, if not part of a social study report prepared by CPS, shall be provided to all counsel at least ten (10) days before the hearing, unless a shorter time is ordered by the court.

Reports prepared by any CASA advocate shall be filed with the court and made available to all counsel a reasonable number of days before the hearing, but in no event less two (2) court days before.

D. All Detention reports shall be filed not less than one hour before the scheduled Detention hearing.
(Amended January 1, 2008.)

**RULE 6.04.5 SETTLEMENT CONFERENCES**

Settlement conferences shall be calendared and held prior to every contested hearing, unless deemed unnecessary by the judicial officer setting the contested hearing.

The attorneys and all parties shall be present at the settlement conference, unless excused by the court. All excused parties shall be readily available either in person or by telephone at the direction of their attorneys. A representative of CPS with authority to settle cases shall be present at the settlement conference.
(Effective January 1, 1997.)

**RULE 6.04.6 REQUESTS FOR TRANSCRIPTS**

Any party wanting the court to pay for a reporter's transcript shall apply in writing to the judicial officer who heard the matter in question or to the presiding judge. Alternatively, a party may orally request at a court hearing that the court order a transcript be prepared at court expense. A party may order a reporter's transcript prepared at that party's expense without seeking court authorization.
(Effective January 1, 1997.)

**RULE 6.05 MOTIONS AND ORDERS**
(Effective January 1, 1997.)

**RULE 6.05.1 MOTION TO CHALLENGE LEGAL SUFFICIENCY OF DEPENDENCY PETITION** (*In re Fred J.* (1979) 89 Cal.App.3d 168; 175-177; W&I C Section 348)

In any dependency proceeding the court may entertain a pre-hearing challenge to the petition's sufficiency by a motion to challenge the legal sufficiency of the petition. Such a motion may be made in writing or orally, but must be made as early in the proceedings as possible. The court may rule on the motion at the hearing at which it is made, or may continue the hearing on the motion to another date in order to receive briefing from counsel. If the court sustains the motion, the court may grant leave to amend the pleading in the petition upon any terms as may be just and shall fix the time within which the amendment or amended petition shall be filed.
(Effective January 1, 1997.)

**RULE 6.05.2 EX PARTE APPLICATIONS AND ORDERS**

Ex parte applications for orders are made to the court without formal advance notice to the other parties of the application.

There are three types of ex parte applications: Ex parte applications to calendar hearings, routine ex parte applications, and all other ex parte applications.

This rule does not apply to applications for administration of psychotropic medication. For that procedure, see Rule 6.07.2.
(Effective January 1, 1997.)

**RULE 6.05.3 EX PARTE APPLICATION TO CALENDAR HEARING**

A. Presentation; calendaring; continuance. An ex parte application to calendar a hearing is made by submission of the ex parte application to calendar and order form to the judge or referee in whose courtroom the case is assigned. An ex parte application to calendar a hearing shall not be made to a judge or referee other than the judge or referee in whose courtroom the proposed hearing is to be held, or for other good cause.

1. If the ex parte application to calendar form is being used to place on calendar a hearing which does not already have a hearing date, advance notice to all other counsel of the intent to submit an ex parte application to calendar and order form to a judge or referee in whose courtroom the case is assigned is not required if the proposed date of hearing is more than seven (7) calendar days from the date of submission of the form. Any party choosing to proceed thus must give all other counsel seven (7) calendar days written notice of the hearing date which has been approved by the judge or referee. If the proposed date of hearing is less than seven (7) calendar days from the date of submission of the ex parte application to calendar and order form, consent to the proposed hearing date must be sought from the other counsel. Consent of counsel can be reflected by that

counsel or party initialing the appropriate box on the ex parte application to calendar and order form.

An ex parte application to calendar and order form seeking a hearing date less than seven (7) calendar days from the date of submission of the form may be submitted to the judge or referee even if written consent to the proposed hearing date has been withheld by other counsel, so long as said counsel was given an opportunity to give written consent to the proposed hearing date. The party submitting the ex parte application to calendar and order form shall memorialize on the form the counsel's refusal to give written consent to the proposed hearing date.

2. If the ex parte application to calendar form is being used to obtain a continuance of a hearing date which is already on calendar, the ex parte application to calendar form, which shall adequately specify the reason the continuance is sought and the length of the continuance being sought, shall first be presented to all counsel. If any counsel objects to the proposed continuance, or requests a hearing on the request for a continuance, that counsel should so specify on the ex parte application to calendar form. Once the ex parte application to calendar form has been initialed by all counsel, the form shall be presented to the judge or referee in whose courtroom the hearing is currently scheduled for consideration.

   When presented with an ex parte application to calendar form requesting a continuance, the judge or referee shall do one of the following:

   a. grant the request for a continuance and select a new hearing date,
   b. deny the request for a continuance, or
   c. set the request for a continuance for hearing and select a date for that hearing.

   When the party submitting the completed ex parte application to calendar form receives that form back from the judge or referee, that party shall file the form with the clerk's office and serve copies of the filed form on all counsel and the CPS case manager.

B. Different motion. If a case has an upcoming hearing date already on calendar, an ex parte application to calendar and order form need not be submitted to place on calendar for the same date a separate/different motion on the same case. However, the party seeking to place the separate/different motion on calendar must give ten (10) calendar days written notice of the separate/different motion to all other counsel, unless the court, for good cause shown, prescribes a lesser number of days for notice.

C. Not substitute for motion. The ex parte application to calendar and order form has no purpose other than to place, change, or continue a hearing date on the court's calendar. The ex parte application to calendar and order form is not a substitute for a

Welfare & Institutions Code Section 388 petition, a formal written motion, or supporting points and authorities.
(Effective January 1, 1997.)

**RULE 6.05.4 ROUTINE EX PARTE APPLICATIONS**

Unless counsel for a party has specifically requested advance notice of ex parte applications regarding out-of-state travel or medical/dental care for the minor, an ex parte application may be made, without advance formal notice, to the judge or referee in whose courtroom the minor's case is assigned, seeking an order permitting minor to travel out-of-state with the foster parent or care provider, relative, or other appropriate adult acceptable to CPS, or an order authorizing that medical or dental care be performed on the minor. Any such ex parte applications shall be filed no less than 15 calendar days prior to the proposed travel or medical/dental care absent good cause shown on the application, or unless the court has specified a greater or lesser period. All such ex parte applications shall include the following information:

A. Name and address. The name and address of each party to the action, and the name and address of each party's counsel;

B. Effort to obtain consent. The efforts made to obtain the consent of and/or give notice to the parents or guardians of the minor of the proposed travel or medical/dental care;

C. Refusal noted. If a parent or guardian has refused to agree to the proposed travel or to give consent to medical/dental care, that fact shall be noted on the application, including the ground for the parent/guardian's refusal, if known;

D. Efforts to locate. For any parent or guardian whom CPS was unable to locate to give notice and/or obtain consent, a description of the efforts made to locate the parent/guardian; the fact the minor's counsel has been notified of the proposed travel or medical/dental care, and said counsel's position on the proposed travel or medical/dental.

When presented with an ex parte application for order authorizing out-of-state travel or medical/dental care, the judge or referee shall either grant the request and issue the order or deny the request. If the judge or referee issues the requested order authorizing out-of-state travel or medical/dental care, the party who sought the order shall file the ex parte application form and order with the clerk's office and provide copies of the filed ex parte application and order form with all counsel. Any party disagreeing with the order for out-of-state travel or medical/dental care shall place the matter on calendar for further consideration.

An order nunc pro tunc making corrections, changes or additions to any finding or order generated at a prior hearing may be made by ex parte application where the court made an order or finding that was mistakenly omitted from the minute order.
(Effective January 1, 1997.)

## RULE 6.05.5 NON-ROUTINE EX PARTE APPLICATIONS

All ex parte applications other than those discussed in Rules 6.05.3 and 6.05.4 are considered non-routine ex parte applications. All non-routine ex parte applications must be made only upon adequate advance notice to all counsel in accordance with this rule. Non-routine ex parte applications include, but are not limited to, requests for a temporary order modifying a visitation order pending a hearing on a concurrently filed Welfare & Institutions Code Section 388 petition seeking the same relief on a permanent basis.

Non-routine ex parte applications shall be heard at 8:30 a.m. by the judge or referee in whose courtroom the case is assigned.

Before submitting an ex parte application and proposed order forms to the judge or referee in whose courtroom the case is assigned for signature, the applicant shall adhere to the following procedures:

A. The applicant shall advise the judge or referee in whose courtroom the case is assigned no later than 3:00 p.m. the day prior to the hearing that a non-routine ex parte application will be made the following morning in that judge's or referee's courtroom.

B. The applicant shall give, no later than 4:00 p.m. on the day prior to the proposed ex parte application, advance notice of the time, place, and basic subject matter of the proposed ex parte application to all counsel and the social worker assigned to the case, except for good cause shown or consent of all counsel.

C. The notice given to the other counsel regarding the ex parte application for a non-routine order shall be stated on the declaration re notice of ex parte application form attached as Appendix II.

If the applicant has made a good faith attempt to inform the other counsel regarding the ex parte application but was unable to do so, the efforts made to inform them shall be specified on the declaration re notice of ex parte application.

If the applicant contends that advanced notice to one or more other counsel should not be required, the grounds upon which this contention is based shall be specified on the declaration re notice of ex parte application form. The completed declaration re notice of ex parte application form shall be submitted to the judge or referee with the ex parte application. An ex parte application which is submitted to the judge or referee without the declaration re notice of ex parte application form will be summarily denied.

Whenever possible, the ex parte application moving papers and the declaration re notice of ex parte application form, and any responding papers, shall be served on all other counsel as far in advance of the ex parte application as is practicable.

Notice of the ex parte application may be excused if the giving of such notice would frustrate the purpose of the order, or cause the minor to suffer immediate and irreparable physical or emotional harm.

Notice may also be excused if, following a good faith attempt, the giving of notice is not possible, or if the other counsel do not object to the relief sought by the ex parte application.
(Effective January 1, 1997.)

**RULE 6.05.6 NOTICED MOTIONS**

No noticed motion shall be accepted by the clerk's office unless it is accompanied by a proof of service. A noticed motion must give 10 calendar days written notice to all other counsel unless the court, for good cause shown, prescribes a lesser number of days for notice.
(Effective January 1, 1997.)

**RULE 6.05.7 MODIFICATION OF ORDERS**
(W&I C Sections 386, 387 and 388; CRC 5.560 – 5.570.)
(Amended January 1, 2008.)

**RULE 6.05.8 MORE RESTRICTIVE PLACEMENT**

Any motion by petitioner to modify an existing order to a more restrictive placement shall be implemented pursuant to Welfare & Institutions Code Section 387 and CRC 5.560(c), 5.565. A change in an out-of-home, non-relative placement (i.e., foster care, family foster home, or group home) shall not be deemed a more restrictive placement unless the placement change is from a level 12 or lower placement (as defined by State law) to a higher level which requires a mental health certification. Placement in a level 13 or higher level home is defined as being more restrictive than a level 1 to level 12 home whether the home be a foster home, a family foster home or a group home.
(Amended January 1, 2008.)

**RULE 6.05.9 LESS RESTRICTIVE PLACEMENT**

Any motion by an interested party to modify the court's orders to a less restrictive placement shall follow the procedures outlined in Welfare & Institutions Code Section 388 and CRC 5.560(d), 5.570, and these rules.
(Amended January 1, 2008.)

**RULE 6.05.10 APPLICATIONS FOR MODIFICATION**

Any party seeking an order changing, modifying or setting aside an order previously issued by the juvenile court shall file a petition pursuant to Welfare & Institutions Code Section 388. The petition shall comply with the requirements of Welfare & Institutions Code Section 388 and CRC 5.570.

The completed petition for modification and any supporting papers shall be presented to the judge or referee in whose courtroom the minor's case is assigned. The judge or referee shall either grant a hearing on the petition for modification and assign a hearing date, or deny the petition for modification outright.

After the judge or referee signs the petition for modification, the party who presented the petition for modification shall file the petition for modification and any supporting papers with the clerk's office and serve copies of the filed petition for modification and any supporting papers on each party and the party's counsel, if any.

If the judge or referee grants a hearing on the petition for modification and assigns a hearing date, the party who presented the petition for modification shall serve, no less than 10 calendar days prior to the assigned hearing date, the filed petition for modification and any supporting papers on each party and the party's counsel, if any. If the petition for modification and any supporting papers is not served on each party or the party's counsel, if any, in compliance with this rule, the hearing date may be taken off calendar.

Any party seeking an order temporarily granting the relief sought in a petition for modification pending the hearing on that petition shall specify in the petition the fact that temporary relief is being sought and the specific nature of the temporary relief sought. Any such request for temporary relief shall be accompanied by evidence demonstrating that the order temporarily granting the relief sought in a petition for modification is in the best interests of the minor. The party seeking an order temporarily granting the relief sought in a petition for modification shall comply with the notice requirements for non-routine ex parte applications set forth in Section 6.05.5.
(Amended January 1, 2008.)

**RULE 6.05.11 VISITATION**

Visitation between a minor and the minor's parents should be as frequent as possible based on the individual circumstances of the case, considering the needs of the child.

Orders for visitation may be issued at any scheduled hearing. Arrangements for visitation may be modified by the filing and approval of a Welfare & Institutions Code Section 388 petition.

Unless specified otherwise by the court, the following definitions shall apply to visitation orders:

> Supervised Visits: CPS is responsible for the supervision of visits unless the court order specifies that a third party may assume that role. Only reasonable visits may be required to be supervised.
>
> Reasonable Visits: Visits may last up to one day but shall not include overnight.

Liberal Visits: Visits may include overnight and weekends and up to a maximum of 14 consecutive days.

Extended Visits: Visits which last beyond 14 consecutive days. Pursuant to state regulations, extended visits become placements after 60 consecutive days.

Any significant decrease from the court-ordered level of a parent's/party's level of visitation shall be presented to the affected parent/party for comment before being submitted to the court. The court may set a hearing on the issue after hearing the parent's/party's comments on the proposed reduction.
(Effective January 1, 1997.)

**RULE 6.05.12 TRAVEL AUTHORIZATION**

Unless ordered otherwise by the court, a minor's care provider, with the concurrence of CPS and, when possible, notice to the parent, may authorize travel by the minor 1) within the State of California, and 2) if the minor is placed in Eastern Nevada County, to Washoe County and/or Douglas County, Nevada. Any travel that would conflict with any scheduled court date, and any other travel for the minor out of the State of California shall require prior court approval. Any application to the court for orders regarding travel of the minor shall state what efforts have been made to notify the parent(s) and their response, if any.
(Amended January 1, 2008.)

**RULE 6.05.13 APPLICATION TO COMMENCE PROCEEDINGS**
(W&I C Sections 329, 331)

When a CPS referral is made to CPS and if CPS decides not to intervene or fails to report the outcome of the referral to a reporting party within ten (10) days, any person may apply to CPS requesting CPS to file a petition pursuant to Welfare & Institutions Code Section 329. In that application, the applicant shall give notice and identifying information of any pending family law proceeding. If a family law proceeding is pending, a copy of the application shall also be sent to Family Court Services by the applicant. CPS shall respond to the application as soon as possible or within three (3) weeks after submission of the application. If applicable, CPS shall notify Family Court Services of its response. If the applicant is dissatisfied with the decision of CPS, the applicant may petition the juvenile court to order CPS to file a Welfare & Institutions Code Section 300 petition as provided by Welfare & Institutions Code Section 331.
(Effective January 1, 1997.)

**RULE 6.06 COORDINATION WITHIN THE COURT SYSTEM**
(Effective January 1, 1997.)

**RULE 6.06.1 FAMILY AND JUVENILE COURT MANAGEMENT OF CHILD ABUSE CASES**

It is the policy of the Superior Court of the State of California, County of Nevada to identify and coordinate custody proceedings involving the same minor who may appear in multiple legal settings. It is further the policy of the Superior Court to coordinate the efforts of the different court systems so that the minor's needs are served and the resources of the family and the court are not wasted. To these ends the Superior Court and the agencies serving the court shall cooperate to increase the exchange of information and to determine the most appropriate forum for the resolution of the issues relating to the minor.
(Amended July 1, 2003.)

**RULE 6.06.2 REPORT PURSUANT TO PENAL CODE SECTION 11166**

If during the pendency of a family law proceeding a child abuse allegation against one of the minor's parents comes to the attention of a Family Court Services staff member or other mediator or evaluator, that person shall first determine whether the allegation must be reported to a child protection agency pursuant to Penal Code Section 11166. If that person determines the allegation does not fall within the description of Section 11166, he/she need not make a report. However, any other person may report the allegation to a child protection agency.
(Effective January 1, 1997.)

**RULE 6.06.3 CHILD ABUSE INVESTIGATION**

When CPS receives a report of suspected child abuse during the pendency of a family law proceeding, it shall investigate the matter pursuant to California CPS regulations. CPS shall inform Family Court Services of any decisions it makes concerning the child abuse investigation. If CPS determines that further investigation is necessary, it shall contact the appropriate investigating agency immediately so that all investigative efforts can be coordinated.
(Effective January 1, 1997.)

**RULE 6.06.4 SUSPENSION OF FAMILY COURT PROCEEDINGS**

A. CPS report. After a report of suspected child abuse has been made to a child protection agency, the court may suspend any custody and visitation proceedings in the Family Court. If a suspension is ordered, the Family Court shall have the power to make temporary protective orders to ensure the safety of the minor. An ordered suspension shall remain in effect for the period ordered by the court or until CPS indicates in writing that it will take no action in the matter, whichever occurs first.

B. Welfare & Institutions Code Section 300 Petition, Juvenile Court. If a petition pursuant to Welfare & Institutions Code Section 300 is filed in the juvenile court, all custody and visitation proceedings in the Family Court are suspended. Thereafter, custody and visitation issues shall be determined by the juvenile court. The Family Court shall resume custody of visitation litigation only after written authorization is received from the juvenile court.

(Effective January 1, 1997.)

**RULE 6.06.5 INFORMAL SUPERVISION AGREEMENT**

If during CPS investigation, one or both parents reach an informal supervision agreement pursuant to Welfare & Institutions Code Section 301, a copy of that agreement shall be sent immediately to CPS, to Family Court Services and to each parent.
(Effective January 1, 1997.)

**RULE 6.06.6 PETITION FOR DISMISSAL**

Whenever any interested party believes that juvenile court intervention on behalf of a minor is no longer necessary, application may be made to the juvenile court pursuant to Welfare & Institutions Code Section 388 or at any regularly scheduled hearing to have the case dismissed. If the application is granted, any future litigation relating to the custody, visitation and control of the minor shall be heard in the Family Court or other appropriate Superior Court Civil Department.
(Effective January 1, 1997.)

**RULE 6.06.7 JUVENILE COURT CUSTODIAL ORDER**

If the juvenile court determines that jurisdiction of the juvenile court is no longer necessary for the protection of the minor, the court may create a custodial order consistent with the needs of the minor and thereafter dismiss the juvenile petition and case. (See Judicial Council Form JV-200.) Any party may object to the proposed dismissal and be heard on the issues.
(Effective January 1, 1997.)

**RULE 6.06.8 MAINTENANCE OF ORDERS IN COURT FILES**

A. Juvenile court. The original court order shall be filed in the Family Court or other Superior Court division and endorsed copies shall be filed in the juvenile court file. A copy of the endorsed filed order shall be mailed to the attorneys and parties.

B. Superior Court. If no court file exists in the Family Court or other Superior Court division or in any other jurisdiction, the clerk's office shall create a file under the names of the minor's parents. The file shall contain a copy of the Juvenile Court order. Pursuant to W&I C Section 362.4, there shall be no filing fee.
(Effective January 1, 1997.)

**RULE 6.06.9 DOMESTIC VIOLENCE ORDERS AND COORDINATION**

Whenever application is made for a protective order or a custody/visitation order under circumstances in which domestic violence is alleged, the parties and court will adhere to the procedures set forth in Chapter 11 (Domestic Violence Coordination Rules).
(Effective July 1, 2003.)

## RULE 6.06.10 VICTIM NOTIFICATION IN DOMESTIC VIOLENCE CASES

In any domestic violence case subject to the provisions of Penal Code Section 1203.097, the District Attorney shall give notice to the victim of the disposition of the case. (Added January 1, 2008.)

## RULE 6.07 MEDICAL ISSUES

(Effective January 1, 1997.)

## RULE 6.07.1 STANDING ORDER PERMITTING HEALTH ASSESSMENT, PHYSICAL EXAMINATION, LABORATORY TESTS, VENEREAL DISEASE SCREENING AND FURNISHING OF CONTRACEPTIVES, IMMUNIZATIONS, ROUTINE MEDICAL CARE, MENTAL HEALTH EVALUATION AND SERVICES, AND DENTAL ASSESSMENT AND TREATMENT OF TEMPORARILY DETAINED MINORS

In order that minors detained by or in the custody of the Child Protective Services (CPS) receive necessary care of their physical and mental health, and do not endanger the health and welfare of other persons, medical facilities, clinics and providers within the County of Nevada are hereby authorized to provide, and CPS is authorized to secure, the following services to all such minors, which services follow the Statement of the Committee on Adolescents of the American Academy of Pediatrics, Health Care for Children and Adolescents in Detention Centers, Jail, Lock-ups, and other Court Sponsored Residential Facilities:

A. A comprehensive health assessment and physical examination.

B. Any clinical laboratory tests the physician determines are necessary for the evaluation of the minor's health status.

C. Upon consent of the minor, sexually active minors may be screened for venereal disease. Contraceptive devices may be furnished to any minor upon the minor's request.

D. Any immunization necessary to bring a minor's immunization up to date, and, if immunizations are recommended by the American Academy of Pediatrics for that child's age.

E. Any routine medical care required based on the results of the comprehensive health assessment, and any routine medical care required for the care of illnesses and injury, including the use of standard X-rays. Routine medical care excludes any medical procedure requiring local or general anesthesia. Routine medical care as referred to above includes:

1. First aid care for conditions which require immediate assistance from a person trained in basic first aid as defined by the American Red Cross or its equivalent;

2. Clinic care for ambulatory minors with health care complaints which are evaluated and treated on an out-patient basis;

3. Inpatient bed care for illness or injury which requires limited observation and/or management and does not require admission to a licensed hospital. Routine medical care does not include blood transfusions or inpatient care for illness or diagnosis which requires optimal observation and/or management in a licensed hospital.

F. A mental health status evaluation and necessary mental health services except no placement in an inpatient psychiatric facility shall occur without compliance with Welfare & Institutions Code Sections 319.1, 500 et seq., 5585 et seq. and 6550 et seq.

G. A dental assessment, including X-rays when appropriate, and any routine dental treatment required based on the results of the dental assessment. Routine dental treatment does include the use of local anesthesia but excludes any procedure requiring general anesthesia.

Reasonable efforts should be made to obtain the consent of the parent or legal guardian for non-routine medical care while the minor is temporarily detained or placed out-of-home. In the event said consent cannot be obtained (e.g., parent or guardian is not available to give consent), CPS shall request a court order for any non-routine health care.
(Effective January 1, 1997.)

## RULE 6.07.2 AUTHORIZATION FOR USE OF PSYCHOTROPIC DRUGS

Juvenile Court authorization for the administration of psychotropic medication to dependent children of the court shall be obtained using the procedures and forms set forth in CRC 5.640.

Pursuant to CRC Rule 5.640(i), the procedures and forms set forth in CRC Rule 5.640 shall apply to the authorization for administration of psychotropic medication to a minor declared a ward of the court under WIC §601 or 602 and removed from the custody of the parent or guardian.
(Amended January 1, 2008.)

## RULE 6.07.3 SIX MONTH RENEWAL NEEDED FOR ALL ORDERS

Order authorizing administration of psychotropic/anti-seizure medications shall expire no later than six (6) months from date of issuance without prejudice to a renewal request using the above procedures.

(Effective January 1, 1997.)

**RULE 6.08 CONFIDENTIALITY**
(Effective January 1, 1997.)

**RULE 6.08.1 RELEASE OF INFORMATION RELATING TO JUVENILES**
(WIC §§827, 10850)

Juvenile court records are confidential by statute and case law. Disclosure and use of such records shall be governed by WIC §827, WIC §10850, CRC 5.552 and the juvenile court's standing order on confidentiality, which is attached to these local rules in Appendix I.
(Amended January 1, 2017.)

**RULE 6.08.2 RELEASE OF RECORDS TO PARTIES AND THEIR ATTORNEYS**

Any party or his or her attorney in any W&I C Section 300 matter shall be given access to all unsealed dependency records relating to the minor which are held by the clerk's office.
(Effective January 1, 1997.)

**RULE 6.08.3 ACCESS TO COURTROOM BY NON-PARTIES**
(W&I C Sections 345, 346)

Unless specifically permitted by statute, juvenile court proceedings are confidential and shall not be open to the general public.

The court encourages interested persons including trainees and students to attend juvenile proceedings in order to better understand the workings of the juvenile court. The court retains the discretion to determine in each case whether any such interested party shall remain in the courtroom.

The court or its agent shall remind each such nonparty that the names of parties and any actual or potentially identifying information from any case is confidential and shall not be further disclosed to anyone outside of the court.

The court, on its own or at the request of any party, may require a person attending a juvenile court proceeding to sign a written agreement or state under oath that he or she will comply with all confidentiality requirements.
(Effective January 1, 1997.)

**RULE 6.09 PARENTAL FINANCIAL RESPONSIBILITY**
(Amended July 1, 2010.)

A. A standing order on parental responsibility and a standing order to appear for financial evaluation have been adopted and are attached to these rules in Appendix I. These standing orders are subject to Rule 6.00.2.

B. Whenever a child is not returned to the home of his or her parent(s) (other than placement in a juvenile hall or other lock-up facility), the parent(s) shall be advised that they are subject to an order of child support, retroactive to the date of placement. Each parent shall be referred to the Family Court Facilitator for information, forms and assistance regarding that parent's child support obligations and the effect of reunification for family with qualifying income.

C. The father, mother, spouse or other personal liable for the support of a minor, the estate of that person, and the estate of the minor, shall be liable for the reasonable costs of support, pursuant to Welfare & Institutions Code Section 903, the cost of legal services as provide for in Section 903.1 or probation costs as provided in Section 903.2, or any other reimbursable costs allowed under the Welfare & Institutions Code, and may be ordered to appear before the financial evaluation officer for a financial evaluation of his or her ability to pay those costs.
(Amended July 1, 2010.)

## RULE 6.10 CHILD ABUSE PREVENTION AND TREATMENT ACT (CAPTA) GUARDIAN AD LITEM

An attorney appointed under CRC 5.660 will serve as the child's CAPTA guardian ad litem under WIC §326.5. If the court finds that the child would not benefit from the appointment of counsel, the court will appoint a CASA volunteer to serve as the child's CAPTA guardian ad litem. The guardian ad litem shall have the responsibilities and duties set forth and referred to in CRC 5.662.
(Added January 1, 2008.)

## RULE 6.11 JUVENILE COURT LOCAL FORMS (APPENDIX II)

| | |
|---|---|
| Local JV1 | Casa Oath |
| Local JV2 | Certification of Competency |
| Local JV3 | Court Order Authorizing Limited Disclosure of Confidential Public Social Services' Records |
| Local JV4 | Court Order to Report for Financial Evaluation |
| Local JV5 | Declaration for the Receipt of Confidential Juvenile Information |
| Local JV6 | Declaration re: Notice of Ex Parte Application |
| Local JV7 | Notice and Acknowledgement of Rights, Liabilities and Order to Appear for Financial Evaluation |
| Local JV8 | Statement of Advisement and Waiver of Rights |
| Local JV9 | Notice of Procedure for Lodging Complaints |

(Renumbered January 1, 2008.)

## RULE 6.12 JUVENILE DELINQUENCY PROCEEDINGS

(Added July 1, 2017)

### 6.12.1 PURPOSE AND AUTHORITY

These rules are established to comply with Rule 5.663 California Rules of Court, and are effective July 1, 2017 for juvenile delinquency matters.
(Added July 1, 2017)

## 6.12.2 GENERAL COMPETENCY REQUIREMENT

A. All attorneys appearing in juvenile delinquency proceedings must meet the minimum standards of competence set forth in CRC 5.664(b) & (c).

B. Attorneys who have completed the required education and training shall complete a Declaration of Eligibility for Appointment to Represent Youth in Delinquency Court (JV-700) by July 1 of each year.

C. In the case of an attorney who maintains his or her principal office outside of this county, proof of certification by the juvenile court of the California county in which the attorney maintains an office shall be sufficient evidence of competence to appear in a juvenile delinquency proceeding in this county.
(Added July 1, 2017)

# CHAPTER 7

# CRIMINAL LAW RULES

## RULE 7.00 GENERAL

All counsel and defendants representing themselves in a criminal matter are expected to know and follow these rules as well as all applicable sections of the federal and California Constitutions, California codes and statutes, California Rules of Court, especially Rule 10.950, et. seq., and Standards of Judicial Administration. Sanctions similar to Rule 2.30 of the Rules of Court may be imposed for failure to comply with these rules, the Rules of Court or orders of the court.

These rules are intended to supplement the Rules of Court and constitutional and Penal Code provisions except where a contrary intent is expressed herein. Rules 10.950-10.953 of the Rules of Court are adopted herein and shall apply equally to all unified courts, except that the term "readiness conference" as used in the Rules of Court shall mean "pretrial conference" when used in these local rules. As used in these rules, "readiness conference" means a conference to determine if the case is ready for trial.

Unless ordered otherwise by the trial judge, these criminal court rules apply to all criminal cases in both Nevada City and Truckee.
(Amended January 1, 2008.)

## RULE 7.01 EARLY CASE DISPOSITION (FELONY OR PRE-TRIAL) CONFERENCES

A. Pursuant to the guidelines set forth in People v. West (1970) 3 Cal.3d 595 at pages 604-605, negotiation of criminal cases at the earliest practicable stage of the proceedings furthers a significant social policy and is to be encouraged.

B. Counsel are strongly encouraged to meet and confer informally in an attempt to resolve cases at the earliest convenient time.

C. The court may decline to meet in any formal felony or pretrial conference with parties who have not attempted a resolution beforehand.

D. Early resolution will be best promoted if parties comply with the discovery statutes as soon as possible following the entry of the initial plea in the case. The prosecutor shall informally provide all police reports containing the information described in Penal Code Section 1054.1(b), (e) and (f) in his/her possession at least 24 hours prior to the first scheduled felony conference.

E. The first felony conference with the court shall occur prior to the preliminary hearing. The first misdemeanor pre-trial conference shall occur on a date set by the court. Upon a written request, the prosecutor shall deliver to defense counsel or a

defendant proceeding in pro per a formal offer for resolution prior to the conference. Defense counsel shall meet with his/her client before said conference and be prepared to discuss the offer to other possible disposition with the court. Counsel appearing at the conference shall have the authority to dispose of the case.

F. After a defendant is held to answer or an indictment is filed, early disposition shall again be attempted following compliance by all parties with discovery rules. Additional conferences may be set.

G. Without court approval beforehand, no defendant shall be permitted to enter a conditional plea (a plea which in any manner restricts the number of charges admitted and/or the sentencing choices of the court) to which the prosecutor does not agree unless such plea is entered not later than the trial readiness conference; and except where alternative counts or counts subject to Penal Code Section 654 exist, plea agreements may not be accepted after the trial readiness conference.

H. Misdemeanor matters are also subject to these early disposition guidelines where applicable under state law or local rules. A final pretrial conference shall be set at least 10 calendar days prior to trial. The court may waive this 10 day rule. The defendant need not be personally present pursuant to Penal Code Section 977. However, to facilitate the expedited trial program time standards, counsel must either have his or her client (1) present or (2) readily available or (3) possess full authority to negotiate any disposition within the parameters of statutory possibility. When the interest of justice so dictates, the court may order the personal presence of the defendant(s).
(Amended July 1, 2017.)

## RULE 7.02 PRE-TRIAL MOTIONS EXCEPT CONTINUANCES OR DISCOVERY

A. Generally, the provisions of California Rule of Court 4.111 shall apply to pre-trial motions in misdemeanors and felonies.

B. In felony and misdemeanor motions involving an evidentiary hearing the moving party must specify on the first page of his/her notice of motion that an evidentiary hearing is requested and the estimate of time needed. Failure to comply with this rule may result in a denial of the right to present live testimony.

C. Time limits for motions requesting live testimony are the same as set out in Rule 4.111(a).
(Amended January 1, 2008.)

## 7.02.1 EX PARTE APPLICATIONS IN CRIMINAL PROCEEDINGS

A. Contents of application: A request for ex parte relief must be in writing and must include all of the following: (1) An application containing the case caption and stating

the relief requested; (2) A declaration making a factual/legal showing for the relief requested and notice given; (3) A proposed order.
B. Factual/Legal Showing Required: An applicant must make an affirmative factual and legal showing in a declaration containing competent testimony of the basis for granting relief ex parte.

C. Notice Required: An ex parte application must be accompanied by a declaration regarding notice stating: (1) The notice given (including the date, time, manner, and name of the party informed), and whether opposition is expected; (2) That the applicant in good faith attempted to inform the opposing party but was unable to do so, specifying the efforts made to inform the opposing party; or (3) That, for reasons specified, the applicant should not be required to inform the opposing party.

D. Service of papers: Parties must serve the ex parte application on all other parties by personal delivery, electronic mail, or facsimile, at the first reasonable opportunity, or must show cause why they should not be required to serve the opposing party.

E. Hearing: Ordinarily, ex parte applications will be resolved based on the written submission(s) of the party(ies) solely. A hearing will be conducted only upon request and with leave of the court.

F. Sealing: A party requesting that an application or order be filed under seal must comply with the requirements of California Rules of Court 2.550 and 2.551.
(Added July 1, 2017.)

**RULE 7.03 MOTIONS UNDER PENAL CODE SECTIONS 995 AND 1538.5**

A. In addition to the requirements of Rule 7.02, moving papers relating to motions under Penal Code Sections 995 and 1538.5 shall be in writing and shall include:

1. A concise statement of all alleged facts upon which the moving party intends to rely in support of the motion. Said statement shall include, if relevant, facts allegedly asserting the moving party's standing to bring the motion. In the case of a motion to suppress evidence, a specific statement of the factual and legal basis of the motion is required in the first instance, subject to the requirements of People v. Williams;

2. Where the moving party intends to rely upon some testimony in a transcript of prior proceedings, reference to such testimony identified as to page and line number in the transcript;

3. Where the motion is under Penal Code Section 1538.5, a complete specification of the exact matters or things sought to be suppressed or returned. ("All evidence seized . . ." without listing the items is not a specification.); and

4. Where the motion is under Penal Code Section 995, a specific identification of the defect argued to be in the Magistrate's order.

B. A moving party's failure to set forth each and every ground to be relied upon in support of the motion in the memorandum of points and authorities may be construed by the court as an admission that insufficient facts exist to support said ground and a waiver of the right to assert said ground at the hearing unless the court, for good cause shown, rules otherwise.
(Amended July 1, 2014.)

**RULE 7.04 CONTINUANCES AND DISCOVERY**

Motions for continuances and discovery are governed by the provisions of Article 1, sections 29 and 30(c) of the California Constitution and Penal Code Sections 1048-1051 and 1054-1054.7.
(Effective January 1, 1997.)

**RULE 7.05 TRIAL SETTING**

A. At the time a not guilty plea is entered and if time is not waived, the court shall set:

1. Trials will be scheduled pursuant to Penal Code Section 1382;

2. A pre-trial settlement conference at least 10 days prior to the trial date; and

3. A deadline for hearing pre-trial motions under Rule 7.02 OR 7.03.

B. At the time a not guilty plea is entered and if time is waived, the court shall set:

1. A trial date giving priority to a case entitled to it by law, unless counsel request to defer trial setting until the initial pre-trial conference;
2. A pre-trial conference date; and

3. A deadline for hearing pre-trial motions under Rule 7.02.

C. At the time a trial date is set, counsel shall state a time estimate for trial unless the estimate is one (1) day or less. Undesignated trials will be set for one (1) day.
(Amended July 1, 2012.)

**RULE 7.06 READINESS CONFERENCE**

A. A trial readiness conference shall be held a minimum of ten (10) court days prior to trial and shall be attended by trial counsel, including a pro per defendant. The court may waive the ten (10) day limit.

B. *In limine* or Evidence Code Section 402 motions shall be filed and served on opposing counsel at least two days prior to the Trial Readiness Conference. Any written oppositions to said motions shall be filed and served on opposing counsel at the Trial Readiness Conference.

C. Charge bargained pleas may be presented at the readiness conference. No such plea need thereafter be entertained by the court. If a defendant desires to waive a jury trial, counsel is encouraged to make a reasonable effort to advise the court by the readiness conference.
(Amended January 1, 2017.)

**RULE 7.07 APPOINTMENT AND COMPENSATION OF COUNSEL**

A. In any case where a defendant cannot afford counsel as determined pursuant to Penal Code sections 987(a), (b) or (c), counsel shall be appointed in the following order: (1) the public defender; (2) the conflict public defender; (3) private counsel. This order may be varied if appropriate under existing contracts, statutes, or case law, and all appointments are subject to Penal Code section 987.05.

B. Private counsel may be compensated pursuant to contract or by the hour in the court's discretion, but in no event shall compensation exceed the hourly rates set by the court unless a judge determines in a written order that said rate is not reasonable under Penal Code section 987.3. The rates set by the court are subject to change. Any revisions to hourly rates will be available at the clerk's office.

C. Appointment and compensation of private counsel, and other service providers under Rule 7.08, shall be by minute order or written order signed as directed by the presiding judge. (If counsel and the court have executed a written contract for services, a written order may also be required.) Services shall end upon imposition of judgment or rendering of an order granting probation unless otherwise stated in a writing executed before services commence. Compensation may be capped by the court subject to proof of additional need.

D. Billings or invoices for services rendered pursuant to this rule or Rule 7.08 shall be paid on a quarterly basis and submitted to the Court Executive Officer no later than thirty (30) days following performance unless:

1. Otherwise specified in a writing executed by the service provider and approved by the presiding judge, or

2. Specified in a written, services contract executed by the service provider and the court.

The court has the option of not paying invoices or billings that are submitted late.
(Amended July 1, 2012.)

## RULE 7.08 APPOINTMENT AND COMPENSATION OF INVESTIGATORS, EXPERT WITNESSES, PARALEGAL SERVICES, ETC.

A. Subject to Penal Code Section 987.9, if appointed counsel seeks to receive compensation above and beyond the amounts allowed under Rule 7.07 for services of others, counsel must file a declaration before any such services are performed justifying that such services are "necessary expenses" to enable counsel to render legally adequate defense services. Boilerplate declarations will be deemed an admission of no merit to the request. (See People v. Lucero (1981) 122 Cal.App.3d 484, 489-490.)

B. Compensation for such services shall not be made absent a written declaration signed by the service provider detailing the services rendered and a written declaration by counsel that the services were necessary to render legally adequate representation.

C. Expert witness services should not exceed the current hourly rate set by the court absent evidence and a judicial determination that such amount is unreasonable under the circumstances.

D. Paralegal and investigative services shall not exceed the current hourly rate set by the court except in cases determined by the court to be so complex that such amount is unreasonable.
(Amended January 1, 2000.)

## RULE 7.09 MISCELLANEOUS RULES

(Effective January 1, 1997.)

## RULE 7.09.1 TRIAL BY WRITTEN DECLARATION

A. Defendants charged with infraction(s) under the Vehicle Code or local ordinances adopted pursuant to the Vehicle Code may request and obtain a trial determination of the offense(s) upon written statement submitted to the clerk of the division in which the infraction charge has been filed when the following conditions exist or have been fulfilled.

1. The charge to be tried has been filed with the court by the citing officer on written notice to appear pursuant to the provisions of Penal Code Section 853.9;

2. Defendant has posted with the clerk of the division bail applicable to the infraction(s) as established by the Nevada County infraction and misdemeanor schedule for the purpose of assuring defendant's appearance at trial de novo as may become applicable in the event of decision adverse to the defendant;

3. The charge is not joined with a misdemeanor offense;

4. The defendant submitted a written request for trial by declaration to the clerk. A Judicial Council form request for trial by declaration (form TR-205) is available at http://www.courts.ca.gov/forms.htm.
(Amended July 1, 2014.)

## 7.09.2 REQUEST FOR NEW TRIAL (TRIAL DE NOVO)

Pursuant to California Rules of Court 4.210(b)(7) and 4.210(c), the due date for filing a Request for New Trial (Trial de Novo) (form TR-220) is extended to 25 calendar days after the date of delivery or mailing of the Decision and Notice of Decision, whichever occurs first.
(Effective January 1, 2019)

## RULE 7.09.3 MEET AND CONFER PRE-SENTENCE CUSTODY CREDITS

Prosecution counsel and defense counsel shall meet and confer before every sentencing in an attempt to resolve the issue of pre-sentence custody credits.
(Added January 1, 2000.)

## RULE 7.09.4 NOTIFICATION TO AND CONSULTATION WITH ALLEGED VICTIMS IN CRIMINAL MATTERS

A. In order to carry out the rights of victims to justice and due process, as set out in Article I, Section 28 of the California Constitution and Penal Code Section 679.026 ("Marsy's Law), the prosecuting agency is obligated to notify victims of their rights at the earliest point in the criminal proceedings and the court is obligated to ensure the enforcement of victims' rights. To this end, it is necessary to implement a local rule that informs the court whether victims have been notified of their rights and whether they have requested to participate in court proceedings.

B. In every pending criminal case, the prosecuting agency shall file with the initial complaint or as soon thereafter as practically possible, a Certification of Compliance with Marsy's Law utilizing the LOCAL CL1 form appended to these rules. If a victim later asserts a right to notification not previously asserted, the prosecuting attorney shall file an updated Certification of Compliance within ten (10) days of the victim's new request for notification.

C. In the event a victim retains private counsel in any criminal case, the victim's private attorney, instead of the prosecuting attorney, shall prepare and file the Certification of Compliance for all activities occurring after private counsel's retention.
(Amended July 1, 2010.)

### 7.09.5 BRIEF PRELIMINARY EVALUATIONS OF THE MENTAL COMPETENCY OF A CRIMINAL DEFENDANT

(a) Brief Preliminary Evaluation Reports. A brief preliminary evaluation of the mental competency of a criminal defendant may be conducted by a forensic psychiatrist. The evaluation shall be memorialized in a written report, which shall be submitted to the mental health court in which the defendant's competency case is pending. The report shall specify the defendant's name, the date of the evaluation, and the case number or numbers. The report shall also specify the reasons for the psychiatrist's opinion as to the defendant's competence, including observed symptoms, and the defendant's ability or inability to understand the nature of the criminal proceedings or assist counsel in the conduct of a defense in a rational manner as a result of a mental disorder. If the psychiatrist opines that the defendant is not competent to stand trial, the report shall address the issues regarding antipsychotic medication as specified in Penal Code section 1369(a). The report shall be signed by the psychiatrist.

(b) Application. This local rule is intended to comply with Rule 4.130(a)(3) of the California Rules of Court, so that Brief Preliminary Evaluation Reports prepared in accordance with this rule need not comply with Rule 4.130(d)(2).
(Effective January 1, 2019)

### RULE 7.10 REMOTE APPEARANCES

In criminal matters where the Court has previously authorized remote appearances, Defendant's counsel must email the court clerk at least two court days prior to the hearing to obtain the Zoom link.
(Added July 1, 2022.)

### RULE 7.11 CRIMINAL MOTIONS IN LIMINE

Both the Prosecution and the Defense are required to number all motions in limine.
(Added July 1, 2022.)

### RULE 7.12 ASSIGNMENT OF ACTIONS

A. All felony criminal maters related to a felony information (following a holding order), or felony sentencing (following a conviction by plea in Departments 1 or 2), or to felony post-conviction proceeding (including violations of parole, PRCS, or probation, and extraordinary writs), which are filed in, pending in or transferred to the Nevada City court, are assigned for all purposes to the judge whose regular assignment is in Department 4.

B. Reassignment. These cases and related proceedings may be reassigned as necessary, or as appropriate to the timely and orderly conduct of the court's business.
(Added July 1, 2022.)

# CHAPTER 8

# PROBATE RULES

**RULE 8.00 (Repealed)**
(Repealed July 1, 2003.)

**RULE 8.01 (Repealed)**
(Repealed July 1, 2003.)

**RULE 8.02 (Repealed)**
(Repealed July 1, 2003.)

**RULE 8.03 NOTICE BY CLERK**

The moving party shall prepare and submit to the clerk as many copies of the notices to be posted, published or mailed by the clerk as the clerk is required to post, publish or mail. Where the notice is to be mailed, the moving party shall furnish to the clerk envelopes addressed to those required to receive notice, with postage prepaid, and with the clerk's address as the return address.
(Effective January 1, 1997.)

**RULE 8.04 SPECIAL OR TEMPORARY LETTERS ON EX PARTE PETITION**

A. Separate Petition. A separate petition for probate or permanent letters must first be filed and a hearing date assigned before a petition for special administration or for temporary letters for a conservatorship or guardianship will be considered. The petition for appointment of a special administrator or a temporary conservator or guardian must also be filed before its presentation at the ex parte hearing.

B. Arranging for and Notice of Ex Parte Hearing. Unless the court orders otherwise, the party seeking special letters of administration or temporary letters of guardianship or conservatorship shall arrange a time for the ex parte hearing and give notice pursuant to the rules and procedures followed in civil cases. Notice of the application shall be given to the surviving spouse, nominated executor, proposed ward or conservatee, other persons who might be expected to seek letters, and any other persons equitably entitled to notice.

C. Declaration. A declaration must accompany the petition setting forth to whom notice was given, the date, time and manner of notice, that notification was given of the time and place of the ex parte hearing and the nature of relief sought, and a statement that notice pursuant to this section has been complied with or an excuse thereof. The declaration is to state what response, if any, was received, and whether opposition is expected.

D. Urgency or Necessity to be Shown. The urgency and necessity of special or temporary letters must be shown in an attachment to the petition.

E. Appearance. Absent a court order otherwise, the petitioner and the attorney for petitioner shall appear at the ex parte hearing.

F. Limitation on Time of Letters. Except in an instance of a contest, special or temporary letters shall issue only for a specified period time, unless the court orders otherwise.

G. Bond. The court may require a bond even if the will waives bond or the beneficiaries have filed written waivers of bond.
(Amended January 1, 2000.)

**RULE 8.05 (Repealed)**
(Repealed July 1, 2003.)

**RULE 8.06 COPIES OF WILLS AND CODICILS IN PETITION FOR PROBATE**

The original will shall be filed in support of the petition for probate. In the case of a holographic will or other will of which material provisions are handwritten, the petitioner shall also attach a typed copy of the will. If the will is in a foreign language, an English translation shall be attached. On admission of the will to probate, the court shall certify to a correct translation into English, and the certified translation shall be filed with the will.
(Effective January 1, 1997.)

**RULE 8.07 LISTING AND NOTICING HEIRS, DEVISEES, EXECUTORS AND FIDUCIARIES IN PETITION**
(Repealed July 1, 2003.)

**RULE 8.08 DECLINATION TO SERVE**

It is insufficient to allege merely that the person named in the decedent's Will as executor thereof declines to act as such. In addition, a written declination to act, signed by such person, must be filed with the court.
(Added January 1, 2000.)

**RULE 8.09 (Repealed)**
(Repealed January 1, 2008.)

**RULE 8.10 HEARINGS BEFORE COMMISSIONER OR RESEARCH ATTORNEY**

The commissioner or the court's research attorney may sit as a temporary judge on the stipulation of all parties or their counsel. Notification of use of a temporary judge shall

be contained in the tentative rulings issued for sessions to be heard by a temporary judge. Any party who does not wish to stipulate to the temporary judge must notify the other parties and then notify the court's law and motion/probate judicial assistant at (530) 265-1273 by 4:00 p.m. the day before the hearing. If all parties stipulate to the temporary judge but wish to argue at the hearing, they must notify the law and motion secretary and the other parties by 4:00 p.m. the day before the hearing. A failure to object shall be deemed a stipulation that the commissioner or research attorney may hear the matter as temporary judge.
(Amended July 1, 2010.)

**RULE 8.11 VOLUNTARY MEDIATION PROGRAM**

The court at any time may refer any matters on the probate calendar to a volunteer mediation program.
(Added January 1, 2000.)

**RULE 8.12 (Repealed)**
(Repealed July 1, 2003.)

**RULE 8.13 WORDING OF PROBATE ORDERS**

All orders and judgments in probate matters must be complete in themselves; they shall be worded so that their general effect may be determined without reference to the petition upon which they are based. All matters actually decided by the court, including but not limited to the relief granted, the names of persons and the descriptions of property (including assessor's parcel number and specific legal description), amounts of money affected, the terms of trusts, and the provisions of leases or other agreements must be set forth with the same particularity required in civil judgments.
(Renumbered January 1, 2000.)

**RULE 8.14 TIME FOR SUBMITTING PAPERS AND ORDERS**

All papers relating to a probate hearing, including the proposed order prepared by the moving party and any declaration or affidavit of publication, shall be filed or lodged with the clerk at least three (3) court days before the date of hearing.
(Amended July 1, 2003.)

**RULE 8.15 FILING OF OBJECTIONS**

Objections, including grounds of opposition, to any petition or other pleading filed in probate court must be set forth in writing and filed either as required by statute or, in the absence of specific statutory requirements, at least three (3) court days before hearing on the petition or pleading. If written objection has not been filed in accordance with this rule, the court in its discretion may either continue the matter to allow compliance with this rule or decide it as an uncontested matter.
(Amended January 1, 2008.)

## RULE 8.16 UNCONTESTED MATTERS

A. Appearance of counsel. Except as otherwise provided by law, all verified petitions in probate matters shall be deemed submitted without an appearance except that the attorneys shall appear on a petition to confirm sale of real or personal property valued in excess of $100.00. The petitioner and the petitioner's attorney shall appear on all petitions for appointment of a guardian or conservator. Except where a tentative ruling has been posted, before denying any petition where there is no appearance under this rule, the court will continue the matter to give the petitioner or petitioner's attorney an opportunity to appear. If there is no appearance or other response by the petitioner or petitioner's attorney at the continued hearing, the court may drop the matter from the calendar.

B. Proposed order in matters submitted without an appearance. In matters submitted without an appearance by a party or the party's attorney pursuant to subdivision (A), an original and one copy of a proposed order bearing the date of submission shall be delivered to the clerk for presentation to the judge at least three (3) court days before the hearing.

COMMENT: It is the responsibility of the attorney to determine whether the matter has been approved or continued.
(Amended July 1, 2003.)

## RULE 8.17 PETITIONS FOR INSTRUCTION

A. The use of petitions for instructions is limited to those matters for which no other procedure is provided by the statute.

B. Petitions for instructions should not be used to determine the manner in which an estate should be distributed. A direction of the court regarding distribution of an estate will only be furnished pursuant to a Petition for Distribution or a Petition to Determine Entitlement.

C. The petitioner shall set forth in the petition the instructions which petitioner believes the court should give.
(Added January 1, 2000.)

## RULE 8.18 MATTERS WHICH MAY BE HEARD EX PARTE

Matters which may be heard ex parte include the following:

A. Sale of securities;

B. Sale of depreciating assets;

C. Family allowance (first application before inventory);

D. Guardianship and conservatorship investments;

E. Appointment of special administrator;

F. Appointment of temporary conservator or guardian, providing good cause is shown for the appointment without the required five days notice to the proposed conservatee and petition for appointment of general conservator or guardian is on file or will be filed at same time as the petition for temporary;

G. Increase in bond;

H. Amendment of title of proceedings;

I. Authorization to enter into exclusive listing agreement for sale of real property;

J. Preliminary distribution of estate pursuant to Probate Code Section 11623; and

K. Authorization to invest in units of a common trust fund.
(Added January 1, 2000.)

**RULE 8.19 APPLICATIONS FOR FAMILY ALLOWANCE**

A. Applications made by persons described in Probate Code Section 6540(a). If made before the filing of the inventory, petition for family allowances for persons described in Section 6540(a) may be presented ex parte to the court. When the petitioner is not the personal representative, consent to the allowance by the personal representative must accompany any ex parte petition. Lack of consent of the personal representative requires a noticed motion. After an inventory has been filed, an order may be made or modified only after notice has been given. Any noticed petition made by persons described in Section 6540(a) shall be made under Section 1220.

B. Applications made by persons described in Probate Code Section 6540(b). An order for a family allowance made by persons described in Section 6540(b) may be made only after notice of hearing has been given under Section 1220 to all of the following persons: each person listed in Section 1220 and each known heir and devisee whose interest in the estate would be affected by the petition.

C. Duration of order. Ordinarily, the duration of an order for family allowance is limited to six (6) months if no inventory has been filed and to one year if an inventory has been filed. A family allowance commences on the date of the court's order or such other time as may be provided on the order.

D. Proof required for order. The person seeking an allowance shall set forth such person's income from sources outside the estate, as well as any itemization of the

applicant's separate property and monthly expenses, and shall make an appropriate showing of the assets and liabilities of the estate.

**COMMENT**: The court discourages requests for retroactive payment of family allowance. Requests for a family allowance should be made in a timely fashion.
(Amended January 1, 2000.)

## RULE 8.20 FEES AND COMMISSIONS

Reference is made to California Rules of Court 7.702, 7.703 and 7.756. In keeping with those rules, this court requires itemized billing statements for extraordinary commissions and fees in probate matters and trustee's fees in trust matters. The itemized billings are to include the date of services rendered, a description of services rendered, time spent, and total charged for each item. The court does not approve trustee's fees based solely on a percent of the trust estate's value.
(Added January 1, 2006.)

## RULE 8.21 CREDITOR'S CLAIMS BY PERSONAL REPRESENTATIVE

A noticed motion for approval of a creditor's claim filed by the personal representative, with service of the notice of motion on the heirs and devisees, is required unless: (1) The claim is for reimbursement of funeral and last illness expenses and proof of payment is attached to the claim; (2) The claim together with all other claims of the personal representative, except for reimbursement of funeral and last illness expenses, is less than $1,000; or (3) All persons beneficially interested in the estate approve the claim in writing.
(Amended July 1, 2003.)

## RULE 8.22 SALE OR ENCUMBRANCE OF SPECIFICALLY DEVISED OR BEQUEATHED PROPERTY

Absent written consent by the specific devisee or legatee filed with the court, no specifically devised or bequeathed real or personal property shall be encumbered or offered for sale unless first approved by the court on 15 court days notice to the specific devisee or legatee.
(Renumbered January 1, 2000.)

## RULE 8.23 REQUIRED MATTERS IN A PETITION FOR FINAL DISTRIBUTION

In addition to items otherwise required by law, a petition for final distribution shall contain the following matters unless set forth in the account and report:

A. Assets. A list containing a full and complete description of all assets on hand which are to be distributed is to be set forth in the petition as well as the judgment of distribution. Said description is to include the assessor's parcel number and a legal

description of all real property to be distributed. The petition shall allege whether the property is community or separate. Where the distribution is made pursuant to Section 6402.5, the source of the property shall be alleged.

B. Entitlement to distribution. Facts specifically showing the entitlement of each heir or devisee to the portion of the estate to be distributed to that heir or devisee, including any information concerning predeceased children.

C. Computation of fees and commissions. A computation of the attorney's fees and personal representative commissions requested.

D. Accounting if distribution to trustee, conservator or guardian. An accounting if assets are to be distributed to a trustee, conservator or guardian.

E. Agreement of distribution. An agreement to the distribution signed by each heir with each signature acknowledged must be filed if distribution of assets are to be made in kind and all persons will not share equally in each asset or if the distribution sought is other than that provided by the will or by the laws of intestate succession. The judgment of distribution shall include reference to the agreement which is the basis of the distribution.

F. Schedule of claims. A schedule of claims showing the name of the claimant, amount claimed, date presented, date allowed, and if paid, the date of payment. As to any claims rejected, the date of rejection must be set forth, and the original of the notice of rejection with affidavit of mailing to the creditor must be filed.

G. Testamentary trust. The terms of any testamentary trust must be set out in full in the petition and order and not merely incorporated by reference.

H. Costs. An itemization of costs for which counsel is seeking reimbursement. Costs of long distance telephone calls, photocopies, postage and faxes shall be allowed if properly itemized.

I. Proration of taxes and costs. A schedule showing the proration of taxes, fees and costs.

J. Statement re separate and community property. A statement of what property is separate and what is community.

K. Assignment of interest. If distribution is to be made pursuant to an assignment of interest, the assignment shall be filed and acknowledged and the details of the consideration set forth.

L. Distribution to trust. If distribution is to be made to a trust, either an acknowledged statement by the trustee accepting the property under the terms of the trust or a petition by the executor or administrator for the designation of a substitute trustee.

M. Distribution to minor or incompetent. If distribution is to be made to a minor or incompetent, either facts showing compliance with Probate Code Sections 3400 et seq. or current certified copies of letters of conservatorship or guardianship shall be filed.

N. Actions under IAEA. All capital transactions and other actions taken under the Independent Administration of Estates Act, including the amounts of any gains or losses.

O. Condition of estate. Disclosure of liabilities and other matters necessary to show the condition of the estate.

P. Estate taxes. That no federal or California estate taxes are payable or that they have been paid.

Q. Income taxes. That income taxes and other taxes have been paid or otherwise provided for.

R. Interest-bearing accounts. Whether surplus cash was kept in interest-bearing accounts.
(Renumbered January 1, 2000.)

**RULE 8.24 REQUIRED FORM OF ACCOUNTS**

All accounts filed in probate proceedings, including guardianship, conservatorship and trust accounts, shall contain a summary or recapitulation showing:

A. Amount of inventory and appraisement, if first account, or amount chargeable from prior court.

B. Amount of receipts excluding capital items.

C. Gain on sales or other disposition of assets.

D. Amount of disbursement.

E. Loss on sales or other disposition of assets.

F. Amount of property on hand.

The required form of summary is as follows:

**SUMMARY OF ACCOUNT**

The petition is chargeable, and is entitled to the credits, respectively, as set forth in this summary of account. The attached supporting schedules are hereby incorporated herein by reference:

**CHARGES**

| | |
|---|---|
| Amount of Inventory and Appraisement<br>(Or, if subsequent account, amount chargeable from prior account) | $_____ |
| Receipts during Account Period (Schedule A) | $_____ |
| Gain on Sales (Schedule B) | $_____ |
| TOTAL CHARGES | $_____ |

**CREDITS**

| | |
|---|---|
| Disbursements during account period (Schedule C) | $_____ |
| A Loss on Sales (Schedule D) | $_____ |
| Other credits: (Property distributed; homestead or other property set apart Schedule E) | $_____ |
| Property on Hand (Schedule F) | $_____ |
| TOTAL CREDITS | $_____ |

In all cases the total charges and total credits are to balance. If they cannot be balanced due to an accounting reason, an explanation shall be given in the petition. The summary shall be supported by detailed schedules. The schedules of receipts and disbursements shall show the nature or purpose of each item and date thereof. The schedule of property on hand is to describe each item and indicate the appraised value. Failure to comply with this rule may result in a non-approval of the relief requested in the petition.
(Renumbered January 1, 2000.)

## RULE 8.25 SPOUSAL PROPERTY ELECTION

Formal probate of community, quasi-community, or separate property passing or confirmed to a surviving spouse in a decedent's estate pursuant to Probate Code Section 13502 must be supported by a written election expressly indicating a consideration of the alternative procedures available pursuant to Section 13650. Written elections made pursuant to Section 13502 shall contain an express acknowledgment that the inclusion of the property passing to or belonging to the surviving spouse in the probate estate could result in additional appraisal fees, commissions, and attorney's fees.
(Renumbered January 1, 2000.)

## RULE 8.26 PETITION TO ESTABLISH FACT OF DEATH

A petition to establish the fact of death (terminate a joint tenancy or life estate) shall be verified and shall have attached as exhibits:

A. A copy of any instrument relating to any interest in the property; and

B. A copy of the death certificate.

No request for fees for services are to be made.
(Amended July 1, 2003.)

**RULE 8.27 POSTING OF TENTATIVE RULINGS**

The court posts probate tentative rulings on its website for the probate calendar by 2:00 p.m. at least one court day prior to the hearing date. The court from time to time and without modification of this rule may change the date and time of posting or eliminate the tentative ruling system for the probate calendar.

Attorneys and parties are urged to review the tentative rulings prior to the scheduled hearing, notify the opposing side if they intend to appear at the hearing and notify the clerk at (530) 362-4309 or by emailing OA@nccourt.net by 4:00 p.m. the court day preceding the hearing.

Where appropriate, the court issues tentative rulings on conservatorships, guardianships, minor's compromises, contested matters, matters set at a time other than the regular probate calendar, any matters requiring an appearance, and on such matters as the court may determine in its sole judgment.

See also Rule 8.10 regarding stipulation for hearings before a commissioner or research attorney.
(Amended July 1, 2022.)

**RULE 8.28 (Repealed)**
(Repealed July 1, 2003.)

**RULE 8.29 ADDITIONAL COPY FOR COURT INVESTIGATOR IN CONSERVATORSHIPS AND GUARDIANSHIPS.**

For all filings in conservatorships and guardianships, including initial petitions and subsequent petitions and motions, the petitioner or moving party and any party responding or objecting shall serve an extra copy on the court investigator and file a proof of service with the clerk's office.
(Amended January 1, 2008.)

**RULE 8.30 WILLS CONTAINING DISTRIBUTIONS TO A TRUST**

When a Petition to Administer Estate seeks to admit to probate a will which contains distributions to a trust, notice to all trustees, successor trustees, beneficiaries, and contingent beneficiaries of the trust must be given of the Petition to Administer Estate. A properly authenticated copy of the trust must also be filed with the Petition to Administer.

In lieu of filing a copy of the trust, a declaration under penalty of perjury from a party or counsel may be filed stating who the trustees, successor trustees, beneficiaries and contingent beneficiaries of the Trust are.
(Added July 1, 2012.)

**RULE 8.31 ATTESTATION CLAUSES**

If the attestation clause of any will sought to be admitted to probate does not contain language stating that the testator "was not acting under duress, menace, fraud, or undue influence," or language substantially similar thereto, a proof of subscribing witness must be filed in order to prove the will.
(Added July 1, 2012.)

**RULE 8.32 ASSIGNMENT OF ACTIONS**

A. All probate, trust and/or estate cases of any type which are filed in, pending in or transferred to the Nevada City court, are assigned for all purposes to the judge whose regular assignment is in Department 6.

B. Reassignment. These cases and related proceedings may be reassigned as necessary, or as appropriate to the timely and orderly conduct of the court's business.
(Added July 1, 2022.)

# CHAPTER 9

# APPELLATE DEPARTMENT

## RULE 9.00 SESSIONS

Regular sessions of the Appellate Department shall be held on the first Friday of each calendar month at 1:00 p.m. in the department of the judge assigned to the Nevada City Superior Court Civil-Probate calendar, unless otherwise ordered.
(Effective January 1, 1997.

## RULE 9.01 (Repealed)
(Repealed July 1, 2010.)

## RULE 9.02 (Repealed)
(Repealed July 1, 2010.)

## RULE 9.03 (Repealed)
(Repealed July 1, 2010.)

## RULE 9.04 (Repealed)
(Repealed July 1, 2010.)

## RULE 9.05 HEARINGS ON TRAFFIC INFRACTIONS

Pursuant to Code of Civil Procedure Section 77(h), appeals from convictions of traffic infractions are heard and decided by one judge of the appellate division of the superior court, to be assigned by the presiding judge of the appellate department.
(Amended July 1, 2010.)

## RULE 9.06 DISMISSALS

Motions to dismiss, whether brought by the parties or on the court's own motion, shall be heard and determined by the presiding judge of the appellate department.
(Added July 1, 2010.)

## RULE 9.07 VIDEO APPEARANCES BY APPELLATE DIVISION JUDGES

Because of the geographic distance of the Truckee Branch Court to the Nevada City Branch Court, and because judges from other courts may be members of the Appellate Division of this court, pursuant to California Rule of Court 8.885(b)(1)(B), judges of the Appellate Division may appear at any oral argument conducted by the Appellate Division by appropriate video conference.
(Added July 1, 2012.)

## RULE 9.08 HANDLING OF LAW AND MOTION MATTERS

Law and motion matters filed in the Appellate Department may be handled by the Presiding Judge of the Appellate Department, or assigned to the full panel, at the discretion of the Presiding Judge of the Appellate Department.
(Added July 1, 2014.)

## RULE 9.09 TRIAL COURT FILE AS CLERK'S TRANSCRIPT

Pursuant to California Rules of Court 8.833(a), 8.863(a), and 8.914(a), the original trial court file shall be used instead of a clerk's transcript in any appeal of a limited jurisdiction civil case, a misdemeanor criminal case, or an infraction case.
(Effective July 1, 2016.)

## RULE 9.10 CONTENTS OF REPORTER'S TRANSCRIPT

Pursuant to California Rule of Court 8.865, only the oral proceedings at trial, but excluding the voir dire examination of jurors and any opening statement, shall be included in the reporter's transcript, unless the Appellant or Respondent requests in writing within 30 days of the filing of the Notice of Appeal that additional items set forth in California Rule of Court 8.865(a) are requested.
(Effective July 1, 2016.)

## 9.11 RECORD IN INFRACTION APPEALS

(a) The use of an official electronic recording is permitted to serve as the record of the oral proceedings.

(b) The trial court judge may order that the original of an electronic recording of the trial court proceedings, or a copy made by the court, be transmitted as the record of these oral proceedings without being transcribed. The court will pay for any copy of the official electronic recording ordered under this subdivision.

(c) Alternatively, the trial court judge may order that a transcript be prepared as the record of the oral proceedings. The court will pay for any transcript ordered under this subdivision.

(d) This local rule is intended to comply with Rule 8.916(d)(6).
(Effective January 1, 2019)

# CHAPTER 10

# COURT REPORTERS; INTERPRETERS

## RULE 10.00 COURT REPORTERS

This rule sets forth the court's policy concerning availability of and payment for court reporters in compliance with Government Code Section 68086(a) and California Rule of Court 2.956.
(Amended July 1, 2016.)

## RULE 10.00.1 COURT REPORTERS – GENERALLY

Except as otherwise provided in Rules 10.00.2, 10.00.3 and 10.00.4 and California Rules of Court 3.50 – 3.58, court reporters are not available at the expense of the court unless a party has a valid fee waiver on file and the party requested, in writing, the presence of a court reporter at least five court days in advance of the hearing. In all other cases, court reporters may be used but they shall be obtained by and at the expense of one or more of the parties. Where court reporters are available for certain types of matters, they are available in all departments for those matters.
(Amended January 1, 2019)

## RULE 10.00.2 COURT REPORTERS -- CRIMINAL PROCEEDINGS

An official court reporter shall report at the court's expense felony criminal proceedings including, but not limited to, arraignments, pre-trial hearings, trials, sentencings and related matters, juvenile proceedings other than those heard by a juvenile court referee or traffic hearing officer and all proceedings under the Lanterman-Petris-Short Act (Welfare & Institutions Code Sections 5000 et seq.).
(Amended July 1, 2022.)

## RULE 10.00.3 COURT REPORTERS – LIMITED AND UNLIMITED CIVIL: EX PARTE, CASE MANAGEMENT, TRIALS DE NOVO, LAW AND MOTION, TRIAL; PROBATE CALENDAR

A. Court reporters are not available at the expense of the court for all civil proceedings and hearings, including trials, unless a party has a valid fee waiver on file and the party requested, in writing, the presence of a court reporter at least five court days in advance of the hearing. In all other cases, court reporters may be used in such proceedings, but they shall be obtained by and be at the expense of the party requesting a reporter. The party requesting a reporter shall file five (5) days advance written notice to the clerk of his/her request to have a reporter present during any hearing or trial.

B. In the court's discretion, court reporters are available at the expense of the court for the regular weekly probate calendar and for reporting settlements. Court reporters are

not provided for any probate proceeding set for a short or long cause hearing or trial outside of the regular weekly probate calendar. If the services of a reporter will not be available, that fact shall be noted on the Court's official calendar.

C. An official court reporter shall report any oral determination of a summary judgment motion or civil jury trials in unlimited jurisdiction cases, whether contested or uncontested, at the expense of one or more of the parties.
(Amended January 1, 2019)

**RULE 10.00.4 COURT REPORTERS – FAMILY LAW: TRIALS, HEARINGS EX PARTE, CASE MANAGEMENT, LAW AND MOTION**

A. Court reporters are not available at the expense of the court on family law short cause hearings, long cause hearings, or trials, ex parte applications or hearings, case management conferences, unless a party has a valid fee waiver on file and the party requested, in writing, the presence of a court reporter at least five court days in advance of the hearing. In all other cases, court reporters may be used in such proceedings, but they shall be requested by and be at the expense of the party requesting a reporter. The party requesting a reporter shall file five (5) days advance written notice to the clerk of his/her request to have a reporter present during any hearing or trial.

B. In the Court's discretion, court reporters are available at the expense of the court for law and motion matters and reporting settlements. If the services of a reporter will not be available, that fact shall be noted on the Court's official calendar.

C. Court reporters are available at the court's expense for all juvenile proceedings other than those heard by a juvenile court referee or traffic hearing officer and for proceedings to declare a minor free from parental custody.
(Amended January 1, 2019)

**RULE 10.00.5 COURT REPORTERS - OTHER PROCEEDINGS; FEES; DEPOSITS; FORFEITURE; TRAVEL EXPENSES.**

A. Other proceedings, when to report. In addition to those court proceedings set out in Rules 10.00.2, 10.00.3 and 10.00.4, an official court reporter shall report the following court proceedings whether contested or uncontested:

1. Any court proceeding ordered by the court, at the court's expense;

2. Any other court proceeding when a party requests a court reporter in accordance with subdivision (D).

B. Payment of fees. Except where the reporter's services are requested by a party pursuant to subdivision (D) of this rule, the reporter's fee for reporting a civil proceeding pursuant to Rule 10.00.3(C) and for all transcriptions ordered by the court shall be paid:

1. In a contested civil proceeding, by the parties in equal amounts.

2. In an uncontested civil proceeding, by the moving party.

C. Deposit of fees under (B). Except as otherwise directed by the court for good cause shown, one day's fee shall be, in accordance with subdivision (B), advanced to the reporter or clerk before the commencement of each day's proceedings.

D. Request for court reporter; deposit of fee. When a party requests a court reporter and the reporter is not required by these rules or by statute to report the court proceeding, such party shall, at least five (5) court days before the date of the proceeding, notify the clerk, in writing, of the request. It shall be that party's responsibility to obtain the services of a court reporter for that court proceeding. Such party shall advance at that time one day's fee to the reporter or clerk. Thereafter, one day's fee shall be advanced to such reporter or clerk before the commencement of each day's proceedings. Failure by a party to make such written request or advance such fee shall be deemed a withdrawal of the request unless, in the case of a failure to advance a fee, the other party advances such fee. In the event of an actual or implied withdrawal, the court in its discretion may proceed without a court reporter or, upon such terms as may be just, with a court reporter.

E. Forfeiture of fee. When a party requests a court reporter pursuant to subdivision (D) and thereafter withdraws the request, the party shall pay one day's fee to the reporter or clerk unless such party notified the clerk at least three (3) court days in advance of the date of trial or hearing that the reporter's services will not be required or the reporter has a similar service to perform at the time.

F. Travel expenses. Whenever under this rule a party is required to pay or deposit a reporter's fee, the party shall also pay or deposit one day's actual expenses for the reporter's out-of-town travel, including mileage at the rate per mile specified by the Judicial Council.

Comment: Check with the clerk whether the court reporter is to be paid directly or through the clerk.
(Amended July 1, 2017.)

**RULE 10.01 USE OF INTERPRETERS**

A. Interpreters may be provided for civil, family law or small claims matters, to the extent that State funding is available. Any party desiring the services of an interpreter must submit a request to the clerks' office or the court's interpreter coordinator. Form INT-1 may be utilized to make such requests.

B. Interpreters are provided for trial court proceedings in criminal cases and juvenile delinquency proceedings under Welfare & Institutions Code Section 602 et seq. pursuant to California Rule of Court 2.893.
(Amended January 1, 2017.)

# CHAPTER 11

# DOMESTIC VIOLENCE COORDINATION RULES

## RULE 11.01 COURT COMMUNICATION

Until the court has an operational case management system capable of automatically coordinating domestic violence orders, the court's criminal, family and juvenile law departments shall communicate and exchange information with each other prior to issuing protective orders and child custody and visitation orders to determine if any such orders have already been issued as to the same parties or children in any other department.
(Effective January 1, 2004.)

## RULE 11.02 AVOIDING CONFLICTING ORDERS

No department of the family or juvenile court shall issue a protective order or custody order in conflict with an order of the criminal court. In the event such an order issues inadvertently, the orders of the criminal law proceeding shall control.
(Effective January 1, 2004.)

## RULE 11.03 MODIFICATION OF CRIMINAL ORDERS

A court issuing a criminal court protective order may, after consultation with the appropriate department of the family or juvenile court, modify the criminal court protective order to allow or restrict contact between the restrained person and his or her children, spouse, or other protected person.
(Effective January 1, 2004.)

## RULE 11.04 COEXISTING CRIMINAL AND FAMILY OR JUVENILE ORDERS

A family or juvenile court order may coexist with a criminal court protective order, subject to the following:

A. Any order that permits contact between the restrained person and his or her children shall provide for the safe exchange of the children and shall not contain language either printed or handwritten that violates a "no contact order" issued by a criminal court.

B. Safety of all parties shall be the courts' paramount concern. The family or juvenile court order shall specify the time, day, place, and manner of transfer of the child, as provided in Section 3100 of the Family Code.
(Effective January 1, 2004.)

# INDEX TO

# THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF NEVADA RULES OF COURT