

**SUPERIOR COURT OF THE  
STATE OF CALIFORNIA**

**COUNTY OF AMADOR**



**RULES OF COURT**

**EFFECTIVE JANUARY 1, 2013**

State of California  
County of Amador

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**LIST OF CURRENTLY EFFECTIVE RULES  
EFFECTIVE JULY 1, 2012**

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<b>CHAPTER 1---GENERAL RULES</b>			
1.00	Scope of Rules	1/1/95	1/1/00
1.01	Citation of Rules	1/1/95	1/1/00
1.02	Effective Date of Rules	1/1/95	1/1/13
1.03	Effect of Rules	1/1/95	1/1/00
1.04	Construction and Application of Rules	1/1/95	1/1/00
1.05	Adoption of Rules of Court	1/1/95	1/1/00
1.06	Amendment, Addition, or Repeal of these Rules; Sanctions	1/1/95	1/1/07
1.07	Rules Governing Probate Filings	1/1/97 -	
<b>CHAPTER 2 ---JUDICIAL ADMINISTRATION</b>			
2.00	Presiding Judge	1/1/95	7/1/01
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4.00	Preemption of Local Rules	1/1/00 -	1/1/07
4.01	Dropping Civil Motions	7/1/12 -	
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4.04	Default Judgment by Affidavit	7/1/01	1/1/07
4.05	Joining Motions of Other Parties	7/1/01	7/1/12
4.06	Continuances	7/1/01	7/1/12

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**EFFECTIVE**      **REVISED**  
**DATE**                      **DATE**

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5.00	Settlement Conferences	1/1/95	1/1/00
5.01	Settlement Conference Procedures	1/1/95	7/1/12

CHAPTER 6 ---CRIMINAL

6.00	Arraignment	1/1/95	1/1/00
6.01	Continuances	1/1/95 -	
6.02	Withdrawal of Attorney of Record	1/1/95 -	
6.03	Pretrial Motions Not Waived	1/1/95 -	
6.04	Filing of Papers	1/1/95	7/1/11
6.05	Format of Motions; Citations	1/1/95 -	
6.06	[NUMBER RESERVED FOR FUTURE USE]		
6.07	Failure of Counsel to Appear in Law and Motion	1/1/95 -	
6.08	Taking Matters Off Calendar	1/1/95	7/1/12
6.09	Setting Evidentiary Hearing Motions	1/1/95	7/1/11
6.10	Discovery Requests	1/1/95 -	
6.11	Numbering of Discovery Documents and Tapes	1/1/95 -	
6.12	Discovery Motions	1/1/95 -	
6.13	Probable Cause Hearings	1/1/95	1/1/06
6.14	Temporary Release from Jail	1/1/95	1/1/06
6.15	Alternative Sentencing	1/1/95	1/1/06
6.16	Standing Income Deduction Order	1/1/95	1/1/06
6.17	Pleas at the Time of Trial	1/1/06 -	
6.18	Plea Bargaining	1/1/06 -	
6.19	[NUMBER RESERVED FOR FUTURE USE]		
6.20	[NUMBER RESERVED FOR FUTURE USE]		

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7.02	Motions in Limine	1/1/00	7/1/11

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8.01	Trial Court Delay Reduction Program	1/1/95	1/1/00
8.02	Included Actions; Exceptions; Excluded Actions	1/1/95	7/1/09



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8.03	Disposition of Program Cases	1/1/95	1/1/07
8.04	Filing and Service of Pleadings	1/1/95	1/1/07
8.05	Case Management Conferences	1/1/95	1/1/10
8.06	Failure to Comply with the Rules	1/1/95	1/1/00
8.07	[NUMBER RESERVED FOR FUTURE USE]		
8.08	Motions for Relief from Time Limits	1/1/95	1/1/00
8.09	[NUMBER RESERVED FOR FUTURE USE]		
8.10	Exemption of Complex Cases	1/1/95	7/1/01
8.11	Dismissals	1/1/95	7/1/01
8.12	At-Issue Memorandum Abolished	1/1/06 –	
8.13	Cross-Complaints	1/1/06 –	
8.14	Civil Mediation Program	7/1/06	7/1/09
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9.02	Appointment of Arbitrator	1/1/95	7/1/01
9.03	Where Arbitrator Declines to Serve	1/1/95	7/1/01
9.04	No Hearing Due to Neglect of Party	1/1/95	7/1/01
9.05	Filing of Award and Trial De Novo	1/1/95	1/1/06
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10.01	Requests for Excuse—Procedure	1/1/95	7/1/11
10.02	Preparation of Jury Panels	1/1/95 –	
10.03	Sealing of Juror Personal Identifying Information	1/1/95	7/1/04
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11.00	Photocopying and Reproducing Official Court Records	1/1/11	
11.01	Printed Forms	1/1/95 –	
11.02	Acceptance of Checks and Other Negotiable Paper	1/1/95	1/1/07
11.03	Jury Fees	1/1/95	1/1/03
11.04	Refund of Jury	1/1/95	1/1/96
11.05	Official Reporter Fees	1/1/95	1/1/13
11.06	Availability of Court Reporting Services	1/1/95	1/1/13

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	<b><u>EFFECTIVE DATE</u></b>	<b><u>REVISED DATE</u></b>
11.07 Interpreters and Translators	1/1/95 –	
11.08 Contacting Court’s Legal Research Staff	1/1/95 –	
11.09 Appearances by Telephone	1/1/95	1/1/13
11.10 Attorney’s Fees—Promissory Notes/Contracts	1/1/95 –	
11.11 Attorney’s Fees in Residential Unlawful Detainer Actions	1/1/95	1/1/00
11.12 Form of Judgment	1/1/95 –	
11.13 Stipulated Judgment to be Separate from Stipulation	1/1/95 –	
11.14 Replacing Lost Papers	1/1/95 –	
11.15 Appeal from Decision of Labor Commissioner	1/1/95 –	
11.16 Fax Filing	1/1/95	7/1/12
11.17 Filing of Confidential Papers	1/1/96 –	
11.18 Extraordinary Writs	1/1/00 –	
11.19 Electronic Recording	7/1/06	1/1/08
11.20 Case Intake Sheet	1/1/08 -	
11.21 Submission of Orders	1/1/08	1/1/10
11.22 Drop Box Policy	7/1/08 –	
11.23 Direct Calendaring of Cases	7/1/08	7/1/11
11.24 Habeas Corpus	7/1/08 –	7/1/10
11.25 Photography and Recording in Courthouse	1/1/09 –	7/1/12
11.26 Ex Parte Hearings in Civil and Family Law Matters.	7/1/09 –	
11.27 Filing of Papers	1/1/10	
11.28 Reserved Hearings	1/1/10	
11.29 Courtroom Attire	1/1/10	
11.30 Untimely Small Claims Appeals	7/1/11	

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12.00 Application for Appointment of Guardian Ad Litem	1/1/95 –	
12.01 Compromise of Claims	1/1/95	1/1/03
12.02 Attorney’s Fees	1/1/95	7/1/12

CHAPTER 13 ---FAMILY LAW

13.00 Matters Heard; Financial Declarations	1/1/95	7/1/12
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	<b><u>EFFECTIVE DATE</u></b>	<b><u>REVISED DATE</u></b>
13.01 Family Law Motion and Order to Show Cause	1/1/95	7/1/11
13.02 Settlement Conferences	1/1/95	7/1/08
13.03 Statement of Issues in Long Cause Cases	1/1/95	1/1/96
13.04 Failure to Serve	1/1/95 –	
13.05 Continuance of Short Cause Law and Motion and Order to Show Cause Calendar	1/1/95	7/1/11
13.06 Lack of Appearance	1/1/95 –	
13.07 Matters Exceeding 10-15 minutes; Special Setting	1/1/95	7/1/04
13.08 Child Custody/Visitation; Referral for Report	1/1/95	7/1/12
13.09 Appointment of Counsel for Minor Children Pursuant to Family Code Section 3150	1/1/95	1/1/13
13.10 Report of Expert Appointed Pursuant to Evidence Code Section 730	1/1/95 –	
13.11 Temporary Support Orders	1/1/95	7/1/11
13.12 Stepparent Adoptions	7/1/11	
13.13 Stipulations Modifying Existing Orders	1/1/95 –	7/1/10
13.14 Uncontested Trials	1/1/95	7/1/12
13.15 Contested Trials	1/1/95	7/1/12
13.16 Judgments and Orders	1/1/95	7/1/10
13.17 [NUMBER RESERVED FOR FUTURE USE]		
13.18 Continuance Fees	7/1/08	7/1/12
13.19 [NUMBER RESERVED FOR FUTURE USE]		
13.20 [NUMBER RESERVED FOR FUTURE USE]		
13.21 Additional Duties; Family Law Facilitator	1/1/98 –	
13.22 Counsel Appointed to Represent Child in Custody or Visitation Proceedings; Complaint Procedure	7/1/06 –	
13.23 Family Law Case Management	7//1/06	7/1/11

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<b>CHAPTER 14 ---JUVENILE</b>		
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14.02 Appointment of Guardian Ad Litem	1/1/02 –	1/1/07
14.03 Court Appointed Special Advocate (CASA)	7/1/03 –	1/1/13
14.04 Court Appointed Attorney Fees: Dependency	1/1/09 --	
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15.01 Trial by Declaration	1/1/95	1/1/06
15.02 Continuances	1/1/06	1/1/09
<b>CHAPTER 16 ---DOMESTIC VIOLENCE COORDINATION RULES</b>		
16.01 Court Communication	7/1/08 –	
16.02 Avoiding Conflicting Orders	7/1/08 –	
16.03 Modification of Criminal Orders	7/1/08 –	
16.04 Coexisting Criminal and Family or Juvenile Orders	7/1/08 –	
<b>CHAPTER 17 ---PROBATE</b>		
17.01 Probate Tentative Rulings	1/1/09 –	
17.02 Accountings in Guardianships and Conservatorships	1/1/09 --	
17.03 Successor Conservators and Guardians	7/1/09 –	
17.04 Investigator Fees	7/1/09 –	
17.05 Death of Conservatee	7/1/09 –	
17.06 Conservator’s Duty to Purchase Book and View Video	1/1/10 -	
17.07 Appointment of Investigator in Conservatorship Matters	7/1/11 –	
17.08 Capacity Declarations	7/1/12 -	

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CHAPTER 18 ---APPELLATE DIVISION

18.01 Record in Misdemeanor and Infraction Appellate Division Cases	7/1/09 --
18.02 Electronic Recording as Part of Appellate Record	7/1/09 --

## **CHAPTER 1 – GENERAL RULES**

### **1.00 Scope of Rules.**

These Local Rules of Court apply to the Amador County Superior Court.

(Effective 1/1/95; Amended 1/1/00)

### **1.01 Citation of Rules.**

These Rules shall be known and cited as the "Local Rules for the Amador County Superior Court."

(Effective 1/1/95; Amended 1/1/00)

### **1.02 Effective Date of Rules.**

These Rules shall take effect January 1, 2013.

(Effective 1/1/95; Amended 7/1/01; Amended 1/1/03; Amended 7/1/07; Amended 1/1/08; Amended 7/1/08; Amended 1/1/09; Amended 7/1/09; Amended 1/1/10; Amended 7/1/10; Amended 1/1/11; Amended 7/1/11; Amended 7/1/12; Amended 1/1/13)

### **1.03 Effect of Rules.**

These rules shall on their effective date supersede all local court rules previously adopted by the Amador County Superior Court.

(Effective 1/1/95; Amended 1/1/00)

### **1.04 Construction and Application of Rules.**

These Rules shall be construed and applied in such a manner as to not conflict with the California Rules of Court and shall be liberally construed to facilitate and promote the business and administration of justice by the Amador County Superior Court.

(Effective 1/1/95; Amended 1/1/00)

### **1.05 Adoption of California Rules of Court.**

The court hereby adopts the California Rules of Court, which are applicable to superior courts in civil and criminal cases, and the Uniform Local Rules for Third Appellate District Superior Courts.

(Effective 1/1/95; Amended 1/1/00)

### **1.06 Amendment, Addition, or Repeal of these Rules Sanctions for Failure to Comply with Rules.**

- A. These Local Rules may be adopted, amended, or repealed by the judges of the court at any judges' meeting. Any rules adopted or amended shall be effective subject to the notice and publication requirements of Code of Civil Procedure §575.1 and the requirements of Government Code §68071.
- B. These Rules, where applicable to civil actions and proceedings and as amended from time to time, are adopted pursuant to Code of Civil Procedure §575.1. Any counsel, party represented by counsel, or party appearing in pro per, who fails to comply with any of the requirements set forth in these Rules, shall upon motion of a party or the court be subject to the sanctions set forth in Code of Civil Procedure §575.2, Code of Civil Procedure §177.5 and California Rules of Court, Rule 2.30.

(Effective 1/1/95; Amended 1/1/00; Amended 1/1/07)

### **1.07 Rules Governing Probate Filings.**

The civil law and motion rules contained herein shall be applicable to the filing of documents in probate proceedings except where otherwise provided by statute.

(Effective 1/1/97)

## **CHAPTER 2 – JUDICIAL ADMINISTRATION**

### **2.00 Presiding Judge.**

The presiding judge of the Amador County Superior Court shall be selected by agreement of the judges and shall serve a two-year term, which shall commence on January 1 of each even-numbered year and expire on December 31 of each odd-numbered year. If the presiding judge is absent or unable to act, then the other judge will act as presiding judge.

(Effective 1/1/95; Amended 7/1/01)

## **CHAPTER 3 – COURT EXECUTIVE OFFICER**

### **3.00 Clerk of the Superior Court - Court Executive Officer.**

- A. There shall be appointed a Court Executive Officer for the Superior Court of Amador County who shall be selected by agreement of the Superior Court Judges and shall serve at the pleasure of said judges.
- B. Under the direction of the Presiding Judge, the Court Executive Officer shall perform the duties described in Rule 10.610 of the Standards of Judicial Administration as adopted by the Judicial Council and any other duties as may be assigned by the Presiding Judge.
- C. The powers, duties and responsibilities transferred pursuant to this rule shall include all of the powers, duties and responsibilities of the County Clerk with respect to the Superior Court, in all actions, proceedings and records including, but not limited to the receipt, processing and filing of papers concerning court business and records; the maintenance of court files; indices and other records; the provision of courtroom and other clerks to assist in the conduct and recording of judicial business; the calendaring of cases and the maintenance of court calendars and schedules, and the keeping and dissemination of statistical information and reports as required by law or policy. The Court Executive Officer shall also serve as the Jury Commissioner.
- D. It is the intent of this rule that all employee positions and incumbent personnel performing said functions are reallocated accordingly. The following employee positions are affected:
  1. Court Executive Officer of the Superior Court;



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2. Assistant Court Executive Officer of the Superior Court;
3. Court Clerk Supervisors; and
4. Court Clerks.

(Effective 1/1/95; Amended 7/1/01; Amended 1/1/07; Amended 7/1/10)

## **CHAPTER 4 – CIVIL LAW AND MOTION RULES**

### **4.00 Preemption of Local Rules.**

All local rules related to pleadings, demurrers, ex parte application, motions, discovery, provisional remedies, and form and format of papers have been preempted by the California Rules of Court and applicable provisions of the Code of Civil Procedure. To the extent there is a conflict or inconsistency between the Rules of Court and these rules, the Rules of Court will take precedence. The failure of counsel or a party to comply with the relevant provisions of the California Rules of Court may subject counsel and/or the party to sanctions pursuant to Rules of Court, Rule 2.30.

(Effective 1/1/00; Amended 1/1/07)

### **4.01 Dropping Civil Motions**

The moving party shall notify the Court, in writing, in order to drop a motion from calendar.

(Effective 7/1/12)

### **4.02 [NUMBER RESERVED FOR FUTURE USE]**

### **4.03 Tentative Rulings.**

- A. The court operates a tentative ruling procedure for all regularly scheduled civil law and motion matters. On the afternoon of the court day before a law and motion matter is calendared for hearing, the court shall prepare a tentative ruling for each matter on calendar. Tentative rulings for the next court day will be available after 2:00 p.m. on the Court's web site at <http://www.amadorcourt.org/>. If a party is unable to access the website, the tentative ruling may be accessed by telephoning (209) 257-2603.
- B. Parties satisfied with a tentative ruling need not appear at the scheduled hearing, unless ordered to do so by the court. Parties intending to appear and contest the tentative ruling must notify the court and opposing counsel of such intent by 4:00 p.m. on the first court day before the hearing. Unless opposing counsel has been notified of such intent, oral argument will not be permitted.

- C. Where appearance has been requested or invited by the court, limited oral argument will be entertained.
- D. All noticed motions and demurrers in civil matters shall include the following information in the notice:

"Pursuant to Local Rule 4.03, the court will make a tentative ruling on the merits of this matter by 2:00 p.m., the court day before the hearing. To receive the tentative ruling, call (209) 257-2603 or visit the Court's website, [www.amadorcourt.org](http://www.amadorcourt.org). If you intend to appear and contest the tentative ruling, you must notify the court and opposing counsel of such intent by 4:00 p.m. on the first court day preceding the hearing. If you do not provide proper notice to the court and the opposing party no hearing will be held."

- E. Absent oral argument, the tentative ruling will become the ruling on the motion.
- F. These tentative ruling procedures do not apply in any case in which a self-represented party is in the custody of the California Department of Corrections.

(Effective 7/1/01; Amended 7/1/04; Amended 1/1/08; Amended 7/1/10; Amended 7/1/11)

#### **4.04 Default Judgments by Affidavit.**

If a default judgment is requested by affidavit pursuant to Code of Civil Procedure §585(d), the requesting party shall comply with Rules of Court, Rule 3.1800. The request and accompanying declarations shall be submitted to the clerk. If, after reviewing the materials submitted, the court determines that personal testimony is required, the clerk shall so advise the moving party. If testimony is required, the moving party must apply to the clerk for a hearing date and file the form provided by the court for the setting of default or uncontested matters for hearing.

(Effective 7/1/01; Amended 1/1/07)

#### **4.05 Joining Motions of Other Parties.**

If a party desires to receive the same relief as another party and files papers "joining" another party's motion, the court will not grant relief to the party joining the motion, unless that party has complied with all procedural requirements for the filing of motions, including payment of filing fees, proper notice, format of motion and method of service.

(Effective 7/1/01; Amended 7/1/12)

#### **4.06 Continuances.**

These provisions apply only to the continuances of law and motion matters and do not apply to the continuances of trial or any matters set pursuant to the Trial Delay Reduction Rules.

If the requested continuance is uncontested and has been served, the matter may be re-calendared upon request of the moving party. The party or counsel requesting the continuance must send confirming notice to the court prior to the time originally set for hearing with a copy to opposing counsel or parties appearing in pro per. In no event shall the matter be reset more than twice. Failure to provide confirming notice, as directed herein, will result in the matter being dropped from the calendar.

If the continuance involves a motion, which has not yet been served, the matter may be re-calendared by contacting the calendar clerk for a new date and re-noticing the motion.

If the requested continuance is contested, or if the matter has been previously reset by the clerk more than twice, the request shall be made on noticed motion or ex parte application pursuant to the rules set forth herein.

Any court ordered hearing, such as an order to show cause, temporary order, or injunctive order shall require a court order for continuance. The order may be obtained ex parte or by written stipulation of all parties submitted to the court five (5) court days prior to the date set for hearing.

The court must approve any continuance of a motion for summary judgment or a motion for summary adjudication. The order may be obtained by ex parte application. Any request for continuance of such a motion must be made at least seven (7) court days before the scheduled hearing.

If any party intends to appear in court to request continuance of a motion, such party shall notify the court at least seven (7) court days before the time set for hearing.

(Effective 7/1/01; Amended 7/01/04; Amended 1/1/07; Amended 7/1/09; Amended 7/1/11; Amended 7/1/12)

### **CHAPTER 5 - PRETRIAL SETTLEMENT CONFERENCES**

#### **5.00 Settlement Conferences.**

A. The court adopts the policy that good faith efforts to settle civil proceedings are an essential part of the judicial process, and that good faith efforts to settle shall be made in conformity with the rules of this chapter.

- B. A party to any civil proceeding, short or long cause, may apply to the court for a specially set settlement conference. If granted, the rules in this chapter shall be applicable to such settlement conference.

(Effective 1/1/95; Amended 1/1/00)

## **5.01 Settlement Conference Procedures.**

### **A. Assignments.**

The court will maintain a list of attorneys and retired judges who may act as settlement conference pro tem judges. The judge assigned to supervise the settlement conference pro tems may assign specific settlement conferences to one or more persons from said list and/or to a member of the judiciary.

### **B. Powers of the Court at Settlement Conferences.**

1. A judge pro tem shall not, for any reason, change the date set for trial or hear or rule upon law and motion matters, but may accept and file the written stipulations by the parties.
2. In all conferences resulting in settlement of a case, the terms thereof shall be placed upon the record with the reporter present or, if one is not available, by minute order. Unless otherwise agreed, counsel shall share the costs for the court reporter. Enforcement of the settlement shall be pursuant to Code of Civil Procedure §664.6.

### **C. Excuses from Attendance; Telephone Availability.**

1. Any request to the court to excuse attendance of any person whose attendance is required by these rules shall be made to the court in writing not less than five (5) court days before the date set for the settlement conference.
2. Any person whose presence at a settlement conference is required by these rules may be excused by the court for good cause shown but, if so excused, shall be and remain immediately available for telephone communication with counsel and the court at the time set for and throughout the settlement conference.
3. Any party who wishes to be excused from personal appearance shall meet and confer with the opposing party and attempt to obtain a stipulation regarding the same, prior to submitting a request to the court.

**D. Waiver of Rules.**

Waiver of the provisions of this chapter or CRC 3.1380 is disfavored. However, the court may, in its discretion, waive any such provisions for good cause shown, provided that absent extraordinary circumstances, the court will not waive the provisions of CRC 3.1380 relating to settlement conference statements.

(Effective 1/1/95; Amended 7/1/01; Amended 1/1/03; Amended 7/1/04; Amended 1/1/08; Amended 7/1/11; Amended 7/1/12)

**CHAPTER 6 – CRIMINAL**

**6.00 Arraignment.**

Where a defendant has been held to answer on felony charges following a preliminary examination, or upon waiver of a preliminary hearing, the judge will seek a stipulation that the complaint (as amended, if appropriate) be deemed the information filed forthwith. The defendant may then be arraigned on the information.

(Effective 1/1/95; Amended 1/1/00)

**6.01 Continuances.**

No matters will be continued, even by stipulation of the parties, except with approval by the court for good cause shown. Compliance with Penal Code §1050 is required, unless excused by the court.

(Effective 1/1/95)

**6.02 Withdrawal as Attorney of Record.**

An attorney retained to represent a client in a criminal proceeding shall not withdraw from such representation, except by order of the court either upon a timely motion or by the consent of the defendant.

(Effective 1/1/95)

**6.03 Pretrial Motions Not Waived.**

Any pretrial motions, including demurrers, may be made after arraignment and notwithstanding a not guilty plea.

(Effective 1/1/95)

#### 6.04 Filing of Papers.

- A. A law and motion matter may be set:
1. By filing a noticed motion.
  2. With oral permission of the court upon oral request of a party made in open court at a time when the case is otherwise regularly calendared; or
  3. By submission of an Ex Parte Application to Set Matter on Calendar and Proposed Order on Ex Parte Application. Said forms are available on the Court's website, [www.amadorcourt.org](http://www.amadorcourt.org). Notice of any Ex Parte Application to Set Matter on Calendar must be provided to the opposing party no less than twenty-four (24) hours prior to the hearing or an explanation why proper notice was not provided must be submitted with the Ex Parte Application. Notice must be provided during regular business hours. Failure to provide the appropriate notice or provide a legitimate reason for not doing so may result in the denial of the Application. It is not necessary to provide notice at least twenty-four (24) hours prior to the hearing if the Ex Parte Application states the parties agree to set the matter on calendar at the time and date set forth in the Application.
- B. Unless otherwise ordered by the court, the date and time of all hearings will be set by the clerk.
- C. All initial moving papers relating to pretrial motions, including those filed after obtaining an order shortening time, shall be filed with the clerk. No matter shall be calendared prior to the filing of the moving papers.

Documents submitted for filing which are required to be kept confidential pursuant to statute or court order, must contain the work "**CONFIDENTIAL**" in bold caps directly beneath the document title.

- D. Failure to serve and file papers in opposition to a motion, other than an ex parte application, may in the court's discretion be deemed a waiver of any objections and an admission that the motion or other application is meritorious.

A party who has not timely filed written opposition to a noticed motion may, in the court's discretion, be precluded from offering oral argument at the hearing.

- E. All opposition and reply papers shall be served upon opposing counsel by personal delivery, telecopy, express mail, federal express, or other means designed to ensure that the opposition and reply papers are received by opposing counsel within 24 hours of filing.

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The motion shall not be heard unless the above-mentioned documents have been served on all parties to the proceeding within the time limits specified.

A party shall not be deemed to have been served until that party receives actual notice of the motion; or if the notice of motion is mailed through the U.S. mail, a party shall be deemed to have been served five calendar days after the posting of the notice of motion.

- F. Failure, without good cause, to comply with the requirements of this rule concerning the time for filing and serving initial papers may, in the discretion of the court, be deemed an admission that the motion is without merit. Failure, without good cause, to comply with the requirements of this rule concerning the time for filing and serving opposing and reply papers may, in the discretion of the court, be deemed cause for acting on the matter without consideration of the document filed in violation of the rule.
- G. The above filing rules, paragraphs (A) through (D), do not apply to motions for continuance.

(Effective 1/1/95; Amended 1/1/96; Amended 1/1/06; Amended 7/1/09; Amended 7/1/11)

#### **6.05 Format of Motions, Citations.**

- A. Citations. Citations to California cases must be by reference to the official reports and should indicate the year of the decision, the volume number, the first page of the case, and the specific page or pages on which the pertinent matters appear.
- B. If counsel relies on other than California state statutory or case authority, a copy of such authority shall be provided upon request of the court. This rule applies to Attorney General opinions, local ordinances, law review articles, citations to other state cases and statutes, and to all federal cases, other than United States Supreme Court decisions.

(Effective 1/1/95)

#### **6.06 [NUMBER RESERVED FOR FUTURE USE]**

#### **6.07 Failure of Counsel to Appear.**

A failure of the moving party to appear when called may, in the court's discretion, cause the matter to be ordered off calendar. In the event of an unavoidable schedule conflict, the attorney with the conflict can avoid having the matter dropped by calling the court at any time prior to the scheduled hearing and reporting the conflict.

(Effective 1/1/95)

### **6.08 Taking Matters Off Calendar.**

The moving party may be drop a motion from calendar up to 48 hours before the calendar appearance date by confirming written notice. In any event, all parties must appear.

(Effective 1/1/95; Amended 1/1/96; Amended 1/1/09; Amended 7/1/12)

### **6.09 Setting Evidentiary Hearing Motions.**

Motions requiring the testimony of witnesses, including but not limited to a motion to suppress evidence, shall not be set for an evidentiary hearing except on a date as selected by the court with both sides present. A motion to set such an evidentiary hearing date may be brought within the time requirements prescribed by statute.

(Effective 1/1/95; Amended 7/1/11)

### **6.10 Discovery Requests.**

- A. At the time of the defendant's first appearance on a felony or misdemeanor matter, an informal request for continuing discovery shall be deemed to have been made by the defendant requesting the prosecuting attorney to disclose all materials and information set forth in Penal Code §1054.1 and as required to be disclosed by the state and federal Constitutions, including exculpatory information regarding guilt or innocence and sentencing mitigation covered by *Brady v. Maryland (1963) 373 U.S. 83* and its progeny.
- B. At the time the prosecuting attorney provides the discovery of items in compliance with subparagraph (A) above, the prosecuting attorney shall provide a written receipt showing the date of compliance and shall include a written notice that either an informal request is made that the defense disclose all materials and information set forth in Penal Code §1054.3 or that no informal request is being made.
- C. Upon receipt of the original request as specified above or any other informal request, the receiving party shall respond by either providing the information requested or specifying the items the party refuses to produce and the reason for the refusal.

(Effective 1/1/95)



### **6.11 Numbering of Discovery Documents and Tapes.**

Any discovery material provided to the opposing side, including documents, photographs, audio, or video tape recordings, shall be recorded in a document retained by the party providing the discovery memorializing the specific items provided and the date they were provided to the opposing side.

(Effective 1/1/95)

### **6.12 Discovery Motions.**

- A. When a party's compliance with an informal discovery request under Local Rule 6.10 is considered insufficient in some particular by the requesting party, the requesting party shall make an informal request for the particular items sought prior to making a formal discovery motion.
- B. A formal motion for an order to compel discovery shall be supported by a declaration stating facts showing a failure by the opposing party to comply with the informal request for discovery. The declaration shall specify in particular those items not disclosed in response to any informal request for discovery.

(Effective 1/1/95)

### **6.13 Probable Cause Hearings.**

Upon the booking of any person into the county jail, other than pursuant to an arrest warrant, the arresting agency shall present a declaration to a judge establishing probable cause for the detention. The declaration shall be on a form approved by the court.

(Effective 1/1/95; Renumbered Effective 1/1/06)

### **6.14 Temporary Release from Jail.**

- A. Except as indicated below, applications by or on behalf of inmates confined in the county jail, as sentenced or committed prisoners, for temporary release from custody (in the custody of the sheriff or without such custody) for medical, family emergency, education, employment, and related purposes shall be made to the sheriff and not to the court.
- B. Only the following applications shall be made to the court:
  - 1. Orders to produce an inmate to testify as a witness in court.

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2. Applications to the court by affidavit of the sheriff for removal of an inmate who requires medical or surgical treatment necessitating hospitalization, which treatment cannot be furnished or supplied at county jail pursuant to Penal Code §4011;
3. Commitment of inmate to mental facility pursuant to Penal Code §4011.6.
4. Removal of inmate for mental health services pursuant to Penal Code §4011.8.

(Effective 1/1/95; Renumbered Effective 1/1/06)

**6.15 Alternative Sentencing.**

Any sentencing order requiring community service shall be administered through the probation department.

(Effective 1/1/95; Amended 1/1/06)

**6.16 Standing Income Deduction Order.**

This local rule creates a Standing Income Deduction Order which shall apply in any case in which the court, at the time of sentencing, orders that the defendant pay restitution to the victim and/or the Restitution Fund pursuant to Government Code §13967(c) and/or Penal Code §1203.04 and also orders an income deduction from all income due and payable to the defendant pursuant to Government Code §13967.2. This Standing Income Deduction Order shall be effective so long as the order for restitution, upon which it is based, is effective or until further order of the court.

The terms of the Standing Income Order are:

- A. The matter is referred to the probation department for an evaluation and recommendation regarding the defendant's ability to pay restitution and ability to pay through an income deduction. If the defendant does not consent to the amount of the income deduction recommended by the probation department, the matter shall be set for a hearing before the court. The court shall determine the total amount of income to deduct for each pay period and shall determine all applicable fees and interest.
- B. All payers of income due and payable to the defendant are directed to deduct from those amounts that sum of money fixed by the court according to paragraph (A) above.
- C. This order applies to all current and subsequent payers and periods of employment.

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- D. A copy of this order shall be served on the defendant's payer(s).
- E. This order is stayed until the probation department determines that the defendant has failed to meet his/her obligation under the restitution order and the defendant has failed to provide the probation department with good cause for the failure according to the procedure below.
- F. If the probation department determines that the defendant has failed to meet his/her obligation under the restitution order, the probation department shall request the defendant to provide evidence indicating that timely payments have been made or provide information establishing good cause for the failure.
- G. If, within five days of the request, the defendant fails to provide the probation department with the evidence required in paragraph (F) or fails to establish good cause, the probation department shall immediately inform the defendant of that fact and shall inform the court that the stay on the income declaration order should be lifted and a notice to payer should be issued.
- H. If the clerk of the court receives information from the probation department as provided in paragraph (G) above, the clerk shall prepare and endorse an income deduction order and notice to payer. Unless the defendant applies within a 15-day period for a hearing to contest the lifting of the stay and enforcement of the income deduction order, the clerk shall forward the order and notice to the probation department for service on the defendant's payers.
- I. The defendant within 15 days after being informed by the probation department pursuant to paragraph (G) above that the order staying the income deduction order shall be lifted, may apply for a hearing to contest the enforcement of the income deduction order only 1) on the ground of mistake of fact regarding the amount of restitution owed, or 2) on the ground that the defendant has established good cause for the nonpayment.
- J. Upon the filing of defendant's request pursuant to paragraph (I) above within the 15-day period, the matter shall be set for a hearing before the court to determine whether the enforcement of the income deduction order is proper.
- K. The defendant shall provide to the probation department the address of his/her current and subsequent payers and within seven days shall notify the probation department of any change of payer.
- L. The defendant shall notify the probation department within seven days of his/her change of address.

(Effective 1/1/95; Amended 1/1/06)

**6.17 Pleas at the Time of Trial.**

Following the Trial Readiness Conference, only a plea to all counts in the Complaint or Information will be accepted, except when the counts are pled in the alternative.

(Effective 1/1/06)

**6.18 Plea Bargaining.**

Sentencing is a function of the judiciary. The provisions of Penal Code §§1192.6 and 1192.7 will be strictly adhered to in plea-bargaining.

(Effective 1/1/06)

**6.19 [NUMBER RESERVED FOR FUTURE USE]**

**6.20 [NUMBER RESERVED FOR FUTURE USE]**

**CHAPTER 7 - CIVIL PRETRIAL AND TRIAL SETTING FOR  
CIVIL CASES**

**7.00 [NUMBER RESERVED FOR FUTURE USE]**

**7.01 Duties if Case Settles.**

Whenever a case assigned a trial date settles, the attorneys or in pro per parties shall immediately notify the court. The primary obligation to notify the court shall be plaintiff's through plaintiff's attorney or, if in pro per, in person. Notice of settlement shall be conveyed to the court at the earliest possible time, both by telephone and by fax transmittal or personal delivery of a written notice of settlement. No trial or mandatory settlement conference date will be vacated and no action will be dropped from the civil active list until the court receives written Notice of Settlement.

Counsel and all parties shall be required to conform with Rule 3.1385 of the California Rules of Court with regard to Notice of Settlement and adhere to the time limits contained therein.

With the exception of conditional settlements, as defined in California Rules of Court, Rule 3.1385, upon receipt of a Notice of Settlement, using the mandatory Judicial Council Form CM-200, the action will be scheduled for dismissal on the court's own motion. The clerk will serve all parties with a Notice of Dismissal and the action will

be dismissed 45 days after the Court receives the Notice of Settlement unless a Request for Dismissal is filed or good cause is shown why the case should not be dismissed.

(Effective 1/1/95; Amended 1/1/00; Renumbered 1/1/03; Amended 7/1/04; Amended 1/1/07; Amended 7/1/12)

## **7.02 Motions in Limine**

Unless otherwise ordered by the court, all motions in limine shall be filed no later than seven (7) court days prior to the date set for trial.

(Effective 1/1/00; Renumbered 1/1/03; Amended 7/1/11)

# **CHAPTER 8 - TRIAL COURT DELAY REDUCTION**

## **8.01 Trial Court Delay Reduction Program**

The rules hereinafter set forth are adopted pursuant to the Trial Court Delay Reduction Act and amendments thereto, and shall apply only to actions included in the court's program. It is the policy of the court, in accordance with the Trial Court Delay Reduction Act, to bring general civil actions to disposition by settlement, trial, or other means as quickly as possible, and within the court's guidelines established herein and by statute. The court, in administering the program, will employ techniques of calendar management necessary to achieve the goal of reducing delay in the disposition of civil actions. The presiding judge shall conduct the program. The Court Executive Officer shall provide administrative assistance necessary to the successful operation of the program and obtainment of the program goals.

(Effective 1/1/95; Amended 1/1/00)

## **8.02 Included Actions; Exceptions, Excluded Actions.**

- A. Except as provided in subdivision (b) of this rule, all civil actions filed on or after July 1, 1992, shall be included in the program.
- B. The following actions shall be excluded from the program: probate, guardianship, conservatorship, family law (including proceedings under the Family Law Act, Uniform Parentage Act, and Uniform Child Custody Jurisdiction Act, freedom from parental custody and control proceedings, and adoption proceedings), juvenile court proceedings, small claims actions, petitions to establish the fact of birth, petitions to establish the fact of death, petitions for conciliation, petitions for writ of mandate or prohibition, temporary restraining order, harassment restraining order, domestic violence restraining order, writ of possession,

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appointment of a receiver, release of property from lien, change of name, coordinated proceedings, unlawful detainer actions, petitions for forfeiture, proceedings brought under Food and Agricultural Code §31601, et seq., petitions for appointment of an arbitrator, and petitions to compel extra-judicial arbitration.

(Effective 1/1/95; Amended 7/1/04; Amended 7/1/08; Amended 7/1/09)

### **8.03 Disposition of Program Cases.**

It is the policy of the court that all program cases shall be tried or otherwise disposed of within 24 months of the filing of the initial pleading. In order to effectuate this policy, the court adopts the case disposition time standards set forth in the Appendix to the California Rules of Court, Division 1, Standards of Judicial Administration, Section 2.2.

(Effective 1/1/95; Amended 7/1/04; Amended 1/1/07)

### **8.04 Filing and Service of Pleadings.**

At the time of filing the complaint, the clerk will issue a “Notice of Inclusion in Delay Reduction Program.” The notice must be served with the complaint. All pleadings must be served and filed pursuant to California Rules of Court, Rule 3.110.

(Effective 1/1/95; Amended 1/1/00; Amended 1/1/03; Amended 1/1/07)

### **8.05 Case Management Conferences.**

- A. All parties or their counsel of record shall file with the courts, a Case Management Conference Statement ([Judicial Council Form CM-110](#)) at least 15 days prior to the Case Management Conference. Failure to submit a timely Case Management Conference Statement will result in the issuance of an Order to Show Cause and sanctions may be imposed, pursuant to Local Rule 8.06. A new Case Management Conference Statement is required prior to each Case Management Conference, unless otherwise ordered by the Court.
- B. No later than 30 calendar days before the first scheduled Case Management Conference, the parties shall meet and confer, in person or by telephone, and discuss the issues identified in California Rules of Court, Rule 3.724.
- C. A Case Management Conference shall be held before a judicial officer or judge pro tem designated by the presiding judge approximately 125 days after the filing of the initial pleading. All parties or their attorneys shall be present and be prepared to discuss all elements of the case, including, but not limited to, the suitability of the case for arbitration (as required by Code of Civil Procedure Section 1141.16) or other form of alternative dispute resolution, the status of discovery, pending or anticipated law and motion matters, and scheduling the

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matter for trial. Counsel and self-represented parties may appear by telephone if the procedures set forth in Rule 11.09 are followed.

- D. At the time of the Case Management Conference, the court or judge pro-tem designated by the presiding judge, shall be empowered to establish discovery schedules, set an additional Case Management Conference, order the matter to arbitration, schedule the exchange of expert witness information, set the matter for trial, consider a request to be placed on an 18 or 24 month case disposition track, and otherwise actively manage the progress of the litigation. At the first Case Management Conference, the court may order the matter to arbitration to be completed within 90 days. Absent a waiver by the parties, a case may not be referred to arbitration prior to 210 days after the filing of the complaint. ([Government Code Section 68616\(g\)](#).) Failure to object to an earlier referral to arbitration at or before the Case Management Conference shall be deemed a waiver.
- E. At 2:00 p.m. on the day before a scheduled conference, the court will post tentative rulings on the court's website at [www.amadorcourt.org](http://www.amadorcourt.org). Any party who wishes to contest the tentative ruling must request a hearing and notify the opposing party of the request no later than 4:00 p.m. on the day before the hearing. If a hearing is not requested by 4:00 p.m., the tentative ruling will become the final ruling of the court. Unless proper notification of a request for oral argument is provided, oral argument will not be permitted.
- F. The tentative ruling procedures do not apply in any case, in which a self-represented party is in the custody of the California Department of Corrections and Rehabilitation.

(Effective 1/1/95; Amended 1/1/00; Amended 1/1/03, Amended 7/1/06; Amended 1/1/07; 7/1/08; Amended 1/1/10)

### **8.06 Failure to Comply with Rules.**

Any failure to comply with Local Rules, or order of the court, unless good cause is shown, is an unlawful interference with the proceedings of the courts. For any such failure, the courts may impose upon the offending party, attorney, or both, sanctions which may include, but not be limited to, monetary sanctions, attorney's fees, expenses, striking pleadings, entering the default of any party, dismissal of the action, and contempt.

(Effective 1/1/95; 1/1/00)

### **8.07 [NUMBER RESERVED FOR FUTURE USE.]**

### **8.08 Motions for Relief from Time Limits.**

Motions for relief from any of the provisions of these rules relating to the Trial Court Delay Reduction Program shall be brought before the judge. Any such motion shall be signed by the attorney, if any, and the moving party, except for good cause shown by declaration under penalty of perjury of the attorney, setting forth facts establishing the unavailability of the moving party. The mere fact that a party resides out of county will not, standing alone, constitute good cause. If a motion to continue a status conference date, a trial setting conference date, a settlement conference date, or a trial date is granted by the judge or his designee, the matter shall be reset on a specific date at the time the motion is granted. Motions for relief from any of the rules relating to the program shall be made and may be granted only upon showing of good cause.

(Effective 1/1/95; Amended 1/1/00)

### **8.09 [NUMBER RESERVED FOR FUTURE USE]**

### **8.10 Exemption of Complex Litigation.**

At any time a case is at-issue, a party may file a motion with the judge to exempt the case from the program because of its complex nature. There shall be filed with said motion a declaration, under penalty of perjury, setting forth in detail the reasons such party believes the case cannot be brought to trial within two years. Said declarations shall be signed by the attorney, if any, and the moving party, except for good cause shown by declaration of the attorney, setting forth facts establishing the unavailability of the moving party. The mere fact a party resides out of county will not, standing alone, constitute good cause.

The court shall consider, in ruling on said motion, the nature of the subject matter of the case, the number of parties, cross-complaints filed, anticipated law and motion matters, anticipated discovery and anticipated trial time.

If the motion to exempt the case from the Delay Reduction Program is granted, a status conference shall be set before the judge within 30 days of the granting of the motion for exemption and the judge shall thereafter set further status conferences as necessary to actively monitor the progress of the case.

(Effective 1/1/95; Amended 7/1/01)



### **8.11 Dismissals.**

The parties and attorneys are not excused from attending any scheduled proceeding based upon a promise or representation of a dismissal unless the dismissal has actually been filed with the clerk of the court.

(Effective 1/1/95; Amended 7/1/01)

### **8.12 At-Issue Memorandum Abolished.**

No at-issue memorandum shall be filed by the clerk's office in any delay reduction case.

(Effective 1/1/06)

### **8.13 Cross-Complaints.**

Cross-complainants shall serve all new cross-defendants with a copy of the initial "Notice of Inclusion in Delay Reduction Program" document and with notice of any other pending Case Management Conference hearing date.

(Effective 1/1/06)

### **8.14 Civil Mediation Program.**

- A. **Purpose:** The purpose of the civil mediation program is to promote and facilitate the voluntary resolution of civil disputes.
- B. **Eligibility:** All general civil cases may be assigned to civil mediation if (1) the parties agree to participate; and (2) the court so orders. Cases will be ordered to mediation at a Case Management Conference. A failure by any party to participate in good faith in the mediation may result in the imposition of sanctions.
- C. **Mediators:**
1. The court will maintain a roster of court-approved mediators, referred to as "Panel Mediators." All mediators will be required to attend an orientation session before they are accepted on the Panel. Members of the mediation Panel shall have been admitted to practice law in the State of California for a minimum of five (5) years and have either completed a mediator training course or have substantial experience as a mediator. The court will retain discretion to modify these requirements for good cause on a case-by-case basis. Membership on the Panel shall be at the sole discretion of the Presiding Judge.
  2. Within ten (10) days following the order to mediate, the parties shall provide the court with written notification of their agreed mediator

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3. The parties may stipulate, in writing, to use a non-Panel mediator. In such cases, the parties shall arrange payment directly to the mediator.
- D. **Fees:** The court will pay for the first three (3) hours of the Panel Mediator's services at the mediation session. The parties are responsible for payment of any mediation fees in excess of three (3) hours. Additional fees are subject to negotiation between the parties and the mediator.
- E. **Appearance:** Each party must personally appear at the mediation, unless excused by the mediator. When the party is other than a natural person, it shall appear by a representative, other than its attorney, with full authority to resolve the dispute or, in the case of a governmental entity that requires an agreement to be approved by an elected official or legislative body, by a representative with authority to recommend such agreement. Each party is entitled to have counsel present at all mediation sessions and such counsel and an insurance representative of the covered party shall also be present unless excused by the mediator.
- F. **Time Limits:**
1. The mediation shall be completed within the time specified by the court when the case is ordered to mediation.
  2. The election to mediate in lieu of arbitration will not suspend any time periods specified by statute, California Rules of Court, or these local rules.
- G. **Mediator's Statement:** Within ten (10) days of the conclusion of mediation, the mediator shall file a statement on Judicial Council Form ADR-100, advising the court whether the mediation ended in full agreement or non-agreement as to the entire case or as to particular parties in the case. Submission to the court of the mediator's statement does not relieve the parties of their obligation to promptly notify the court of a settlement pursuant to Rules of Court, Rule 3.1385.
- H. **Mediator Fees:** The mediator's fee statement must be submitted to the Court within thirty (30) days of completion of mediation.

Untimely claims may, in the discretion of the court, be denied.

(Effective 7/1/06; Amended 1/1/07; Amended 7/1/08; Amended 1/1/09; Amended 7/1/09)

## **CHAPTER 9 – ARBITRATION**

### **9.00 Ordering Arbitration.**

Pursuant to Code of Civil Procedure Section 1141.11, subdivision (b), it is determined that it is in the best interest of justice that all at-issue civil actions be submitted to arbitration by the presiding judge, if the amount in controversy, in the opinion of the court, will not exceed \$50,000.00 for each plaintiff. The court will order arbitration where appropriate under California Rules of Court, Rules 3.811 and 3.812. The order may be made at the first Case Management Conference in cases processed under the Trial Court Delay Reduction Act. The arbitration process shall not delay the goals of that act.

(Effective 1/1/95; Amended 1/1/07)

### **9.01 Random Selection.**

The clerk shall select, at random, a number of names of arbitrators equal to the number of sides plus one.

The list of randomly selected names shall be mailed to counsel and each side has ten days from the date of mailing to file a rejection of no more than one name on the list. If there are two or more parties on a side, they must join in a single rejection.

At the expiration of the ten-day period, the clerk shall appoint, at random, one of the persons on the list whose name was not rejected, if more than one name remains.

(Effective 1/1/95; Amended 7/1/01)

### **9.02 Appointment of Arbitrator.**

The case shall be assigned to the arbitrator and the clerk shall give notice of the appointment of the arbitrator. Within 15 days after the appointment, the arbitrator shall notify each party and the clerk in writing of the date, time, and place of hearing.

(Effective 1/1/95; Amended 7/1/01)

### **9.03 Where Arbitrator Declines to Serve.**

If the arbitrator declines to serve or does not hold a hearing within 60 days from the date of the assignment to him, except where continued, the appointment shall be vacated and the clerk shall return the case to the top of the arbitration list, restore the arbitrator's name to the list and appoint a new arbitrator.

(Effective 1/1/95; Amended 7/1/01)

#### **9.04 No Hearing Due to Neglect of Party.**

If the inability to hold a hearing is due to neglect of a party, the case shall be removed from the arbitration list and restored to the civil active list; other cases may be ordered reassigned or the court may make any other appropriate order.

(Effective 1/1/95; Amended 7/1/01)

#### **9.05 Filing Award and Trial De Novo.**

Within ten days after hearing, the arbitrator shall file the award with the court, with proof of service on each party. The clerk shall hold the award for a period of thirty days. At the expiration of thirty days, if a request for a trial de novo is not made, the clerk shall enter the award as judgment.

(Effective 1/1/95; Amended 7/1/01; Renumbered 1/1/06)

#### **9.06 Arbitrator's Fees**

Pursuant to Rule of Court 3.819, the arbitrator's award must be timely filed with the clerk of the court or a notice of settlement must have been filed before a fee may be paid to the arbitrator.

The arbitrator's fee statement must be submitted to the Court within thirty (30) days of completion of arbitration.

Untimely claims may, in the discretion of the court, be denied.

(Effective 1/1/09)

### **CHAPTER 10 - SELECTION AND IMPANELMENT OF JURORS**

#### **10.00 Juror Selection Procedures.**

The Jury Commissioner and/or such staff members as may be designated are authorized to excuse prospective jurors under the following terms and conditions:

- A. Persons who meet one of the exceptions of California Code of Civil Procedure §203.
- B. Persons who, within the past one year, served as trial jurors on any superior or federal court jury panel; served as grand jurors on any county or federal grand jury; or were placed on telephone alert or equivalent standby system for service on any superior or federal court jury panel.

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- C. Persons for whom jury service would constitute undue hardship may apply in writing to the jury commissioner for deferral to another date. Those persons requesting a permanent excuse from jury service due to an undue hardship, with the exception of medical reasons, must make their request to the court at the time they are required to appear pursuant to summons.

(Effective 1/1/95)

**10.01 Requests for Excuse - Procedure.**

Requests for deferral of jury service based upon undue hardship shall be submitted in writing to the Jury Commissioner at least three (3) court days prior to the scheduled start date, or, in exceptional circumstances, at the earliest possible time. Such request must be supported by facts specifying the hardship. The Jury Commissioner will promptly determine whether the deferral shall be granted.

Where a prospective juror requests an excuse based on reasons that require verification, i.e. medical reasons, it is the responsibility of the prospective juror to provide sufficient verification or a means of verification to the Jury Commissioner. Where the prospective juror requesting an excuse fails to provide verification or a means of verification, the Jury Commissioner may, on the basis of such failure alone, deny the request.

Requests for excuse or deferral that have been denied may be brought before the Judge presiding at the trial for which the juror was summoned.

(Effective 1/1/95; Amended 1/1/96; Amended 7/1/11)

**10.02 Preparation of Jury Panels.**

The Jury Commissioner shall randomly select a list of persons suitable and competent to serve as trial jurors from a combined voter registration and Department of Motor Vehicles' list, pursuant to Code of Civil Procedure §197.

(Effective 1/1/95)

### **10.03 Sealing of Juror Personal Identifying Information.**

The addresses and telephone numbers of jurors in any criminal jury proceeding are deemed conditionally sealed at the time the jury is discharged, as to persons other than court employees on official business, subject to any person petitioning the court for access to these records. If a petition for access to juror personal identifying information is received, the court shall give all potentially affected jurors at least ten days notice of the hearing date and an opportunity to oppose the unsealing of juror personal identifying information.

(Effective 1/1/95; Amended 7/1/04)

## **CHAPTER 11 – MISCELLANEOUS**

### **11.00 Photocopying and Reproducing Official Court Records**

Only judicial officers and authorized Court personnel may photocopy or otherwise reproduce original, official Court records and exhibits. Any such copying and reproduction for public distribution shall be done by such authorized personnel, subject to any established Court charge for these services. Personal photographing or other reproduction of original Court records by the public is not permitted. This rule does not apply to the printing or reproduction of documents that may be posted or otherwise made available in electronic form on the Court's website.

(Effective 1/1/11)

### **11.01 Printed Forms.**

Whenever a printed form minute order is used, those portions checked or filled in shall be deemed to be the order of the court, and those portions not checked or left blank shall be deemed to be purposefully omitted from the order.

In the interest of uniformity, and to expedite the business of the court, there shall be printed such legal forms as the court shall direct, and such forms shall be furnished to and be used by the attorneys in all instances where appropriate.

(Effective 1/1/95)

**11.02 Acceptance of Checks and Other Negotiable Paper.**

(Adopted pursuant to Government Code §71386(a).)

No checks or money orders will be accepted in payment of court fees and/or fines unless they meet the requirements set forth in Rule 10.821, California Rules of Court. Prior to acceptance of any check or money order, the clerk may require satisfactory proof of its validity and of the identity of the person who tenders it.

In criminal proceedings, a personal check will be accepted in payment of any fine or for a deposit of bail for any offense, which is not declared to be a felony. A personal check will not be accepted for an amount in excess of \$300.00 from a defendant in custody as a deposit of bail for an alleged violation of law in which the bail is not forfeitable under the court's bail schedule.

Any person or firm who tenders a check or money order in payment of a court fee or fine, which check or money order is dishonored, shall be assessed a service charge in the maximum amount permitted by §71386 of the Government Code. Collection will be sought for any personal check or money order which is returned without payment for any reason in addition to any amount allowed by law for the failure to make payment following a written demand as provided in Civil Code §1719. In addition, no further court filings will be accepted from said person or firm until payment is received, and all future filings will be accepted on a cash-only basis. Exceptions to the cash-only basis will be made only at the direction of the court in which the matter is pending. Further, the court may strike the filing of any pleadings for which a fee is required and paid for with a dishonored check, if payment in full is not received within 10 days.

(Effective 1/1/95; Amended 1/1/96; Amended 1/1/07)

**11.03 Jury Fees.**

Jury fees shall be deposited pursuant to Code of Civil Procedure §631.

(Effective 1/1/95; Amended 7/1/01; Amended 1/1/03)

**11.04 Refund of Jury Fees.**

No refund of a deposit for jury fees shall be made in the event the trial of a cause before a jury shall have been waived or the cause dropped from the trial calendar, unless the clerk is given reasonable notice that the jury will not be required. Such notice must be given, in writing, at least 24 hours prior to the time set for the commencement of the trial.

(Effective 1/1/95; Amended 1/1/96)

### **11.05 Official Reporter Fees.**

Pursuant to Government Code §68086 and California Rules of Court, Rule 2.958, parties utilizing the services of the official reporter in civil proceedings shall pay the following fees:

Full Day	\$346.50
Half Day	\$173.25
Proceedings less than one hour	\$30.00

Fees are subject to change without notice or amendment of these rules. Fees shall be deposited with the court prior to the commencement of trial or hearing.

Any party(s) requesting a daily transcript in a civil case shall pay the fees therefore to the court reporter contracted with the court prior to the commencement of each day of trial.

(Effective 1/1/95; Amended 7/1/01; Amended 7/1/03; Amended 1/1/07; Amended 1/1/13)

### **11.06 Availability of Court Reporting Services.**

A. Pursuant to Rule 2.956 of California Rules of Court, the following enumerates the departments and proceedings for which the services of official court reporters are typically available:

Department 1: criminal proceedings

Department 2: criminal proceedings, juvenile proceedings, regularly scheduled law and motion calendar, and habeas corpus evidentiary hearings.

Department 3: family support cases in which the Central Sierra Child Support Agency is involved.

B. Any party requiring the services of the official reporter for trial or any other hearing shall file a statement with the court requesting those services at least seven (7) court days prior to the trial or hearing. If the nature of the hearing does not allow for such notice, notice must be given at the earliest possible time, but no later than twenty-four (24) hours in advance of the hearing. All fees for the Court Reporter must be paid prior to the hearing. Proof of payment shall be presented to the Court Reporter at the time of the hearing.

C. The clerk shall notify any party having filed such a statement if the services of an official reporter will not be available. Pursuant to California Rules of Court, Rule 2.956, if the services of an official court reporter are not available for hearing or trial, a party may arrange for the presence of a certified shorthand reporter to serve as an official pro tempore reporter. It is the requesting party's responsibility to pay the pro



tempore reporter's fee directly to the reporter for attendance at the proceedings. The official reporter may be contacted for assistance in securing a pro tempore reporter.

(Effective 1/1/95; Amended 1/1/96; Amended Effective 1/1/06; Amended 1/1/07; Amended 1/1/09; Amended 1/1/10; Amended 7/1/11; Amended 1/1/13)

### **11.07 Interpreters and Translators.**

- A. The court will make a reasonable effort to maintain and make available a list of interpreters and translators for all languages, the blind, and the hearing impaired. A request by any party to a civil action for the use of interpreters or translators for hearing impaired shall be made in compliance with statutory time requirements. Failure to maintain such a list, or failure to have on such list the type of interpreter or translator requested will not, standing alone, ordinarily constitute basis for continuance.
- B. Except as to interpreters for the deaf and hearing impaired governed by Evidence Code §754, a party requesting an interpreter or translator in a non-criminal matter shall pay directly to the interpreter or translator the per diem rate and mileage.

(Effective 1/1/95)

### **11.08 Contacting Court's Legal Research Staff.**

No party, or attorney for a party, in any action or proceeding pending in this court shall contact or attempt to contact any member of the court's legal research staff concerning such pending matter, without the prior approval of the judge to whom the matter has been assigned, or if the matter has not been assigned, the Presiding Judge.

(Effective 1/1/95)

### **11.09 Appearances by Telephone.**

- A. The Court hereby adopts the procedures outlined in California Rules of Court, Rule 3.670 for telephonic appearances.
- B. Parties who choose to appear by telephone shall use the court's selected telephone conferencing vendor, Court Call.
- C. Telephonic appearances are allowed in regularly scheduled law and motion matters.

(Effective 1/1/95; Amended 1/1/00; Amended Effective 1/1/06; Amended 7/1/10; Amended 1/1/13)

**11.10 Attorney's Fees in Actions on Promissory Notes, Contracts Providing for Payment of Attorney's Fees, and Foreclosures; Attorney's Fee Schedule.**

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:

A. (Default action on note or contract) Exclusive of costs:

25% of first \$1,000 with minimum fee of \$150.00

20% of next \$4,000

15% of next \$5,000

10% of next \$10,000

5% of next \$30,000

2% of the amount over \$50,000

B. Notwithstanding subdivision (A), in a default action to obtain a judgment in which attorney's fees are awarded under Civil Code §2983.4 or §2988.9, in no event shall attorney's fees exceed one thousand (\$1,000) dollars, except in unusual circumstances. Any application for attorney's fees for an amount in excess of one thousand (\$1,000) dollars shall be filed before the default hearing and shall be accompanied by a declaration.

C. (Contested action on note or contract) The same amount as computed under subdivision (A), increased by such reasonable compensation computed on an hourly or per-day basis for any additional research, general preparation, trial, or other services as may be allowed by the court.

D. (Foreclosure of mortgage or trust deed) The same amount as computed under subdivision (A) or (B), increased by 10 percent.

E. (Foreclosure of assessment or bond lien relating to a public improvement) The same amount as computed under subdivision (A) or (B), except that the minimum fee shall be \$75 in an action involving one assessment or bond, and an additional \$20 for each additional assessment or bond being foreclosed in the same action.

F. Where a defendant is the prevailing party, the fee will be fixed by reasonable compensation computed on an hourly or per-day basis for research, general preparation, trial or other services rendered.

G. Where prevailing party is entitled to the recovery of a reasonable attorney's fee in an otherwise appropriate clerk's judgment, the clerk shall include an attorney fee computed, pursuant to the schedule set forth in subdivision (A) above.

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- H. In any case where a party claims fees in excess of those allowed by this rule, application for attorney fees shall be made to the court, supported by declarations setting forth the factual basis for the claimed attorney fees. The fee will thereupon be fixed by the court.

(Effective 1/1/95)

**11.11 Attorney's Fees in Residential Unlawful Detainer Actions.**

In actions for unlawful detainer for possession of residential property, the attorney's fees awarded by the court will not, under normal circumstances, exceed the following amounts:

- A. \$300.00 in cases by default where the defendant has filed no answer pursuant to Code of Civil Procedure §1170.
- B. \$350.00 in cases uncontested at trial where the defendant has filed an answer.
- C. \$500.00 in cases contested at trial.

(Effective 1/1/95; Amended 1/1/00)

**11.12 Form of Judgment.**

In drafting forms of judgment for the trial judge to sign, counsel shall:

- A. Clearly show the full names of the parties for whom, and against whom, the judgment is rendered, including their capacities as plaintiffs, defendants, cross-complainants and cross-defendants.
- B. Refer to such full names as they appear in the pleadings, or obtain an order amending the pleadings in respect to such names.
- C. Unless costs have already been awarded in a specific amount, leave a blank space for insertion of any costs, as follows:  
"...and costs in the sum of \$\_\_\_\_\_."

(Effective 1/1/95)

**11.13 Stipulated Judgment Form to be Separate from Stipulation.**

If the parties enter into a written stipulation for judgment, the form of the proposed judgment to be signed and filed shall be a separate document. A copy thereof may be attached as an exhibit to, or incorporated by recital in, such stipulation.

(Effective 1/1/95)

#### **11.14 Replacing Lost Papers.**

If an original pleading or paper previously filed with the court is lost, an order authorizing the filing of a copy in lieu of the original is required, and may be based upon declaration of the requesting attorney or pro per party, or the certificate of the clerk.

(Effective 1/1/95)

#### **11.15 Appeal from Decision of the Labor Commissioner Under Labor Code §98.2.**

- A. Any party filing a Notice of Appeal of the order, decision or award of the Labor Commissioner, pursuant to Labor Code §98.2, shall file with the Clerk of the Court:
1. A copy of the complaint and any answer filed with the Labor Commissioner; and
  2. A copy of the order, decision or award of the Labor Commissioner, which shall include a summary of the hearing and the reasons for the decision; and
  3. A declaration of proof of service of a copy of the Notice of Appeal upon the Labor Commissioner.
- B. Appellant shall file the papers prescribed in paragraph (A) with the Notice of Appeal or within 10 days thereafter. The court shall set the matter for hearing de novo upon the filing of said papers.
1. Appellant is deemed to be on notice that the trial judge will consider sanctions against the appellant for delay in prosecution of the appeal under Code of Civil Procedure §177.5 if the appellant fails to file such papers timely.
  2. If sanctions are imposed under Code of Civil Procedure §177.5, appellant shall file the papers prescribed in paragraph (A) within 30 days thereafter. If the appellant fails to file such papers timely, appellant is deemed to be on notice that the trial judge will consider sanctions against the appellant under Government Code §68606, including dismissal of the appeal.
- C. The Notice of Appeal filed pursuant to Labor Code §98.2 shall be treated as the first paper for the purpose of determining the filing date.

(Effective 1/1/95)

### **11.16 Fax Filing.**

A party may transmit a document by fax to a fax filing agency for filing with the court. The fax filing agency shall prepare the document in compliance with California Rules of Court, Rule 2.303, et seq.

Filing by fax is complete on transmission of the entire document to the Court by the fax filing agency. Filing that is completed after 5 p.m. is deemed to have occurred on the next court day.

(Effective 1/1/95; Amended 7/1/97; Amended 1/1/06; Amended 1/1/07; Amended 7/1/09; Amended 7/1/12)

### **11.17 Filing of Confidential Papers.**

Documents submitted for filing which are required to be kept confidential pursuant to statute or court order must contain the word “CONFIDENTIAL” in bold caps directly beneath the document title.

(Effective 1/1/96)

### **11.18 Extraordinary Writ.**

In seeking mandamus or prohibition relief, it is not necessary to obtain an alternative writ (Code of Civil Procedure Section 1088). The noticed motion procedure should be used whenever possible.

(Effective 1/1/00)

### **11.19 Electronic Recording.**

- A. The use of electronic recording is only authorized under the following conditions: (1) The official court reporter or contract court reporter is not available; (2) The proceeding to be recorded is (a) a limited civil case, (b) a misdemeanor case, or (c) an infraction case; and (3) The judge assigned to hear the matter orders the use of electronic recording. (Government Code §69957; Cal. Rules of Court, Rule 2.952.)
- B. Electronic recording will not constitute the official record of any other type of proceeding.
- C. Unless otherwise ordered by the court, a tape of an unauthorized proceeding will not be made available to the parties.

(Effective 7/1/06; Amended 1/1/08)

### 11.20 Case Intake Sheet

In each civil and family law matter, the plaintiff/petitioner must submit a Case Intake Sheet with the complaint/petition. The plaintiff/petitioner must serve a blank copy of the Party Information Sheet with the summons and complaint/petition. The defendant/respondent shall submit a Case Intake Sheet upon filing a responsive pleading. The Court will destroy the Party Information sheet after the initial file intake.

(Effective 1/1/08)

### 11.21 Submission of Orders & Settlement Agreements.

- A. **Stipulations:** All stipulations, including those made in habeas corpus matters, must be accompanied by a proposed order.
- B. **Requests for Continuances, Extensions of Time, and Other Motions Submitted on the Pleadings:** All requests for continuances, extensions of time, and other motions submitted on the pleadings, including in habeas corpus matters, shall be accompanied by a separate order and served on all parties according to the applicable rules and statutes.
- C. **Settlement Agreements:** All settlement agreements submitted to the court for approval shall be initialed by all parties on each page.
- D. **Format of Orders:** No order submitted shall have the judge's signature line on a page without substantive text, i.e. there shall be no "hanging orders."
- E. **Orders Involving Hearings Dates:** Parties must reserve hearing dates with the clerk prior to the submission of any order moving or setting a hearing date.

(Effective 1/1/08; Amended 7/1/08; Amended 1/1/09; Amended 1/1/10)

### 11.22 Drop Box Policy.

A depository will be available for anyone seeking to file documents with the court outside of normal office hours.

Any documents deposited in the drop box, which are court time stamped before 5:00 p.m. on the date of deposit will be deemed filed on the date of deposit, if they are appropriate for filing. If the document is inappropriate for filing, it will be returned to the filing party.

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The party depositing the document must assure the document to be deposited is date and time stamped with the court's stamp, prior to depositing said document in the drop box.

The party depositing the document shall include a copy of the document to be conformed and a self-addressed stamped envelope for return of the conformed copy.

(Effective 7/1/08)

### **11.23 Direct Calendaring of Cases.**

Cases subject to direct calendar assignment shall be assigned to a judicial officer for all purposes, who shall thereafter handle all proceedings in the case, except as otherwise provided or required by law.

At the time of filing of any case, the clerk shall affix to the face of the complaint or petition, by stamp or other writing, a notice regarding the judicial assignment.

Preemptory challenges under Code of Civil Procedure section 170.6, in a civil proceeding, for the plaintiff/petitioner shall be made within fifteen (15) days of the notice of assignment and, for the defendant/respondent, shall be within fifteen (15) days of filing the first pleading or first appearance in the matter. Preemptory challenges under Code of Civil Procedure section 170.6, in a criminal proceeding, shall be made by the People within ten (10) days of the notice of assignment and, for the defendant, shall be made within ten (10) days of the first appearance in the matter.

Nothing herein shall be construed to interfere with the Presiding Judge's authority to assign or reassign cases.

(Effective 7/1/08; Amended 7/1/11)

### **11.24 Habeas Corpus.**

All requests for continuances, extensions of time, and all other requests to be heard on the pleadings, including motions, made after the issuance of an Order to Show Cause, must be served upon the opposing party.

The opposing party shall have ten (10) days from the date of service of the request in which to file an opposition to the same. Upon expiration of said time period, the court will issue a written ruling.

(Effective 7/1/08; Amended 7/1/10)

### **11.25 Photography and Recording in Courthouse.**

Unless approved by a written order of a Judge of the Superior Court, filming, videotaping, photographing, and electronic recording by any manner is not permitted in any area of the courthouse, including, but not limited to, entrances, exits, and hallways. Application for filming, videotaping, photographing, and recording in said areas shall be directed to a Judge of the Superior Court.

Cameras and recording devices shall be turned off on court premises, unless expressly permitted by Court order.

Filming, videotaping, and photographing the interior of the Courthouse, including the courtrooms, through windows or the glass portions of the courtroom doors is prohibited.

No microphones or cameras, including those contained in cellular phones and other portable electronic devices, shall be permitted in any courtroom, unless the judge hearing the matter within the courtroom has expressly authorized the same via a written order, pursuant to California Rules of Court, Rule 1.150.

A copy of the order approving media coverage must be presented to the Bailiff, stationed at the entrance of the Courthouse, prior to any coverage commencing. If such an order is not presented, media coverage may be prohibited.

(Effective 1/1/09; Amended 7/1/10; Amended 7/1/12)

### **11.26 Ex Parte Hearings in Civil and Family Law Matters**

Ex parte hearings in civil and family law matters are heard, as follows:

Monday: 11:00 a.m.  
Tuesday: 1:30 p.m.  
Wednesday: 11:00 a.m.  
Thursday: 11:00 a.m.  
Friday: 1:30 p.m.

Parties may set ex parte hearings by calling 209-257-2603 between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

This rule does not modify or relieve a party from complying with the requirements for ex parte applications, as designated in the California Rules of Court.

(Effective 7/1/09)



### **11.27 Filing of Papers.**

- A. All papers, including moving, opposition, reply papers, proofs of service, matters on shortened time, and ex parte matters must be filed with the clerk of the court. No more than two (2) copies may be submitted for endorsed filing.

All moving and supporting papers shall be filed in conformance with the time requirements set forth in Rule 3.1300 of the California Rules of Court.

Documents submitted for filing which are required to be kept confidential pursuant to statute or court order must contain the word “**CONFIDENTIAL**” in bold caps directly beneath the document title.

- B. Failure to comply with the requirements of this rule concerning filing and serving opposing and reply papers may, in the discretion of the court, be deemed cause for acting on the matter without consideration of the document filed in violation of the rule and cause for imposing sanctions. (Cal. Rules of Court, Rule 2.30, Code of Civil Procedure §177.5 and §575.2.)

- C. Unless previously filed, proofs of service must be filed five court days before the hearing or the matter may be dropped from the law and motion calendar.

(Effective 7/1/01; Amended 1/1/07; Renumbered effective 1/1/10)

### **11.28 Reserved Hearings**

The court will drop any reserved hearings from calendar after the proper time for filing the motion or petition has expired.

(Effective 1/1/10)

### **11.29 Courtroom Attire**

Persons in the courtroom should not dress in an inappropriate manner such as to be distracting to others of usual sensibilities. Counsel shall so instruct parties they represent, witnesses they call and persons accompanying them.

Attorneys should be neatly and appropriately dressed in business attire for all court appearances. By way of example, and not by way of limitation, the court deems it inappropriate for any attorney to appear in court wearing jeans or tennis shoes.

(Effective 1/1/10)

### **11.30 Untimely Small Claims Appeals.**

The Clerk shall not accept any Small Claims Notice of Appeal submitted after the statutory period for filing a Notice of Appeal has expired, unless a Writ of Mandate has issued directing the Clerk to file the untimely Notice of Appeal.

(Effective 7/1/11)

## **CHAPTER 12 - CLAIMS OF MINORS AND INCOMPETENT PERSONS**

### **12.00 Application for Appointment of Guardian Ad Litem.**

Petitions for appointment of a guardian ad litem for a minor or incompetent person shall be submitted to the clerk.

When an application is made for appointment of a guardian ad litem and the nominee for appointment is a plaintiff in the same action with the ward or in some manner was a participant in the transaction or occurrence giving rise to the alleged injury to the ward, the nominee will ordinarily not be appointed unless the application is accompanied by:

- A. A declaration under penalty of perjury setting forth facts establishing that no other parent, relative, or friend can or will accept the appointment of guardian ad litem for the minor in the action; and
- B. A declaration under penalty of perjury by the attorney for the nominee stating that the attorney, having investigated the circumstances, has represented to the nominee and represents to the court that there is no conflict of interest between the nominee and the minor if the nominee is appointed the guardian ad litem.
- C. If an attorney's contract is submitted for approval at the time of appointment of a guardian ad litem, approval thereof will not be considered approval of a fee, which shall be subject to rule 12.02. If a lien on any recovery is provided for in such a contract, such will be allowed only to the extent of costs and services actually and reasonably provided on behalf of the ward.

(Effective 1/1/95)

## **12.01 Compromise of Claims.**

### **A. Petitions to Compromise.**

A petition for court approval of a compromise pursuant to Code of Civil Procedure Section 372, Probate Code Section 2504, or Probate Code Section 3500, shall be made using Judicial Council Form MC-350, Petition to Approve Compromise of Claim. All Petitioners shall also submit a completed [Judicial Council Form MC-351](#), Order Approving Compromise of Claim.

### **B. Order to Deposit Money.**

If the petition seeks to have settlement proceeds deposited into a blocked account, the petitioner must also file a completed [Judicial Council Form MC-355](#), Order to Deposit Money Into Blocked Account. If the court approves the deposit into a blocked account, the petitioner must deliver three (3) copies of the order and three (3) copies of [Judicial Council Form MC-356](#), Receipt and Acknowledgment of Order For the Deposit of Money Into Blocked Account, to each depository in which funds are deposited.

### **C. Withdrawal of Funds.**

Requests for withdrawal of funds deposited into a blocked account must be made using [Judicial Council Form MC-357](#), Petition For Withdrawal of Funds From Blocked Account. Petitioners must also submit a completed [Judicial Council Form MC-358](#), Order for Withdrawal of Funds From Blocked Account. Except as otherwise ordered by the court for good cause shown, where the attorney for the petitioner was allowed fees at the time of settlement, no attorney fees incidental to securing such order will be awarded.

### **D. Presence of Petitioner and Minor or Incompetent Person at Hearing.**

The presence of the petitioner and minor or incompetent person at the hearing on petition for approval of compromise shall be required, unless, in advance of the hearing, good cause is shown to the court by letter request seeking to excuse that person's attendance. The court shall consider as factors in weighing such a letter request, without limitation, the following:

1. Amount of settlement;
2. Policy limits;
3. Extent of injury and need for future medical care related to injury;
4. Extent of residual injuries (including cosmetic and psychological);
5. Liability;
6. Travel distance for minor or incompetent person and his or her guardian, including consideration of any disability making travel difficult; and
7. Interruption of education.

Note: Generally, where the petitioner is not represented by counsel, an appearance will be required.

**E. Filing Fee.**

In any case in which the filing fee was waived, it shall be ordered paid out of the settlement proceeds by court order before orders approving compromise and deposit are filed.

(Effective 1/1/95; Amended 1/1/03)

**12.02 [NUMBER RESERVED FOR FUTURE USE]**

**CHAPTER 13 - FAMILY LAW**

**13.00 Matters Heard; Financial Declarations.**

**A. Matters heard on the family law calendar shall include the following:**

1. All orders to show cause, motions, and other family law matters preliminary to trial; all defaults under the Family Code; and all required settlement conferences and trials;
2. All orders to show cause and motions relating to enforcement or modification of family law orders or judgments;
3. All orders to show cause and motions relating to child custody, support, visitation, or attorney's fees and costs under the Uniform Parentage Act (Family Code §7600 et seq.) and the Uniform Child Custody Jurisdiction Act (Family Code §3400 et seq.);
4. All proceedings under the Uniform Interstate Family Support Act (Family Code §4900, et seq.);
5. All applications for restraining orders enjoining domestic violence under the Family Law Act, the Uniform Parentage Act, and the Domestic Violence Prevention Act (Family Code §6200 et seq.);
6. Family law discovery matters;
7. All applications for issuance of writs of execution and habeas corpus, or warrants in lieu thereof, in family law cases;

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8. All proceedings under the Family Conciliation Court Law (Family Code §1810 et seq.); and
9. Adoptions and all matters relating thereto, including proceedings pursuant to Family Code §7800 et seq. or §7660 et seq.

**B. Income and Expenses and Property Declarations.**

Except as excused by law, no case shall be heard unless current Income and Expense and Property Declarations as required by Rule 5.128, (forms FL-150 or FL-155 and FI-160) have been completed by each side. Any pending hearing date shall be set forth clearly in the top right-hand corner of page one of the Income and Expense Declaration form.

So much of the declarations shall be completed as are applicable to the issues to be determined at the hearing. If a party is receiving public assistance benefits, that fact shall be disclosed in No. 1 of the Income and Expense Declaration. The court may impose sanctions as permitted by law if delay results from the failure of either party to comply with these requirements.

The Income and Expense Declarations, Information Forms, and Property Declarations shall be deemed to be received in evidence at the hearing, subject to amendment and cross-examination. Examinations on matters covered by the Income and Expense Declarations, Information Forms, and Property Declarations will be heard only under exceptional circumstances within the court's discretion and normally will be limited to testimony regarding unusual items not adequately explained in the Income and Expense Declarations, Information Forms, and Property Declarations.

Documents supporting each party's wages, income, and other matters set forth in the Income and Expense Declaration, such as a copy of the three most recent pay stubs representing at least one full month's wages and deductions and a W-2 form shall be attached to the Income and Expense Declaration filed by the party. In addition, the parties shall exchange copies of their most recently filed federal and state personal income tax returns at least five court days prior to the date set for hearing unless otherwise ordered by the court.

**C. Orders to Show Cause.**

In addition to the requirements of the California Rules of Court, a blank copy of the forms Responsive Declaration re: Request for Order, Income and Expense Declaration, and Property Declaration prescribed by the California Rules of Court shall be served upon the opposing party when he or she is served with the moving party's Request for Order.

(Effective 1/1/95; Amended Effective 1/1/06; Amended 7/1/12)

### **13.01 Family Law Motion and Order to Show Cause Calendar.**

#### **A. Date, Time, and Place of Hearing and Orders Shortening Time.**

1. The date, time, and place of hearing on any family law motion or order to show cause shall be scheduled through the clerk's office.
2. All orders to show cause, notices of motion, and responsive declarations set for hearing on the family law calendar shall state on the face sheet immediately below the title of the document the issues to be heard.
3. An order shortening time for service and/or hearing will not be granted unless supported by a separate written affidavit or declaration demonstrating good cause. If an order shortening time is requested, the supporting affidavit or declaration shall state, pursuant to California Rules of Court, Rules 3.1200-3.1207, whether the opposing party is represented by counsel and whether that party has been contacted and has agreed to the requested order shortening time. Reasonable notice, which is presumed to be not less than 24 hours, shall be given to the opposing party prior to application. If the opposing party has not been contacted or agreed to the order shortening time, the supporting affidavit or declaration shall demonstrate 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 show emergency circumstances, unless it is solely to enable a responding party to obtain affirmative relief on a hearing date previously set by the opposing party. The moving party shall deliver his or her moving papers to the other party at the earliest reasonable opportunity in advance of the ex parte appearance, using the most expeditious means available, including, but not limited to, personal delivery or facsimile transmission.

#### **B. Time Limitation on Filing Moving Papers, Declarations, or Points and Authorities; Place of Filing; Meet-and-Confer Rule.**

1. Unless otherwise ordered or good cause is shown, all moving papers, points and authorities, and declarations, including financial declarations, relating to a family law motion or order to show cause, shall be filed with the court and served on the opposing party or counsel pursuant to Rules of Court, Rule 3.1300 and Code of Civil Procedure Section 1005. All papers opposing a noticed motion or order to show cause shall be filed with the court and served on each party at least 9 Court days prior to hearing. Unless good cause is shown, failure to comply may result in refusal by the court to consider any papers not timely filed or in the imposition of sanctions as permitted by law.
2. Counsel shall confer before the date of hearing to make a reasonable attempt to resolve disputed issues and to exchange all relevant documents. Failure to

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comply with this rule in good faith may result in dropping the matter from the calendar and/or the imposition of sanctions.

(Effective 1/1/95; Amended 7/1/01; Amended 7/1/06; Amended 1/1/07; Amended 7/1/09; Amended 1/1/11; Amended 7/1/11)

**13.02 Settlement Conferences and Meet-and-Confer Rule.**

Counsel and the parties shall personally appear for a settlement conference to be scheduled at the time the long cause hearing date is determined. Counsel and the parties shall participate in good faith in the settlement conference until released by the settlement judge or until the long cause hearing date is confirmed by the judge. Failure to participate in good faith in the settlement conference may be a basis for the imposition of sanctions or changes in the calendar status of the action. All motions for continuances or to drop the matter shall be heard by the presiding judge.

Counsel shall meet and confer before the date of the long cause hearing, or any other contested hearing, in a reasonable attempt to resolve the disputed issues and to exchange all relevant documents.

Upon application of any party, or on the court's own motion, the judge may, in his/her discretion, specially set a settlement conference in any family law matter.

(Effective 1/1/95; Amended 7/1/08)

**13.03 Statement of Issues in Long Cause Cases.**

Both parties shall file and serve a statement setting forth each issue in dispute, and the legal and factual basis in support of the party's contentions as to each disputed issue, at least 20 days prior to a long cause hearing. The original of each party's statement shall be filed with the court. If both parties fail to file timely a statement of issues, the mandatory settlement conference shall take place, but the matter shall be dropped from the trial calendar. Failure by one party will allow the complying party to continue or drop the hearing and may result in the imposition of sanctions.

(Effective 1/1/95; Amended 1/1/96)

**13.04 Failure to Serve.**

Absent a written order resetting the matter to a new date, if service is not effected by the date specified by law or in the order to show cause, the matter will be dropped from the calendar and counsel must file new papers to reset the matter.

(Effective 1/1/95)

**13.05 Continuances on Short Cause Law and Motion and Order to Show Cause Calendar.**

Refer to Local Rule 4.06.

If a motion for continuance is to be made in court, the court shall be notified prior to the hearing.

(Effective 1/1/95; Amended 7/1/11)

**13.06 Lack of Appearance.**

Any matter in which there is no appearance at the time of calendar call shall be ordered off calendar, unless the courtroom clerk has been notified that there will be a late appearance.

(Effective 1/1/95)

**13.07 Matters Exceeding 5-10 Minutes; Special Setting.**

- A. Unless leave of court is obtained by stipulation and order prior to the date of the hearing, all orders to show cause and noticed motions shall be heard initially on the law and motion calendar. The matters shall be set by the clerk.
- B. Hearings on the law and motion calendar are limited to 5-10 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 15 minutes, they shall, at the time the matter is called, so inform the court. The court may then set the matter as may be appropriate under the circumstances.

(Effective 1/1/95; 1/1/96; Amended 7/1/04)

**13.08 Child Custody/Visitation; Referral for Report.**

**A. Process of Referral to Mediation.**

In any contested proceeding involving issues of custody and/or visitation, the court will refer the parties to mediation as follows:

1. Upon filing an application for any order to show cause or notice of motion where child custody and visitation are at issue.
2. Upon stipulation and order of the court.
3. On the court's own motion in the course of regular law and motion, domestic violence restraining order, ex parte, or other court proceedings.



4. Immediate referral may be made in an emergency with imminent danger to a child involving sudden and serious physical or emotional abuse, domestic violence, sexual abuse, neglect, or substance abuse, or if there is a risk of parental flight or other emergency circumstances deemed appropriate by the court.

**B. Mediation Process.**

Referral to a mediator selected by the court for a maximum time of three hours. Mediation shall be confidential. The parties must attend a Parent Orientation prior to the mediation, unless they have participated in mediation before the referral.

The mediator shall prepare and have the parties sign any agreement that is reached through mediation. This agreement will then be forwarded to the court and copies provided to counsel, pursuant to Section 3186(b) of the Family Code. If mediation is successful and an agreement on all issues is reached, the mediation process is completed.

If the parties are unsuccessful in reaching an agreement, the mediator will so notify the court. The mediator will provide the court with a list of unresolved issues and may recommend that an attorney be appointed for the children or that the parties be referred for a child custody evaluation. The parties shall return to court and the court may refer the parties for an evaluation or make other orders as may be appropriate.

**C. Evaluation Report and Recommendation.**

The court, in its discretion, may appoint an evaluator (different from the individual who performed mediation). The evaluation report and recommendation is not confidential. The evaluator is allowed 10 hours in which to complete the evaluation. The evaluator will interview the parents and the children and will provide the court with a written report and recommendation on the issue of custody, visitation and/or a proposed parenting plan. The evaluation report and recommendation will be reviewed and considered by the court. The court may order the parties to reimburse the court for the costs of the evaluation. If reimbursement is ordered, payment must be received before an evaluation will be scheduled.

1. When the court refers the matter for an evaluation, it is considered a court appointment pursuant to Evidence Code 730 and will be read and considered by the court at motion hearing or at trial.
2. When the report is presented to the court for its consideration on the regular law and motion calendar, or a specially set hearing without witnesses, the

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court may adopt, partially adopt, or reject the report. If either party contests the court's ruling at this stage of the proceedings, that party may request an evidentiary hearing. If custody/visitation is the only issue or if the parties wish to bifurcate that issue, the court may order the matter set for trial on a preferential trial date basis.

3. The party who wishes to have the evaluator present at the evidentiary hearing/trial must notify the evaluator at least 20 days prior to the evidentiary hearing/trial date and subpoena that person at least five court days prior to the evidentiary hearing/trial date. The party who subpoenas the evaluator to testify is responsible for paying the evaluator's for his or her appearance and testimony at the evidentiary hearing/trial.
4. Any deposition of an evaluator shall be noticed at least 10 days prior to the deposition date or by agreement between the evaluator and the party. Further, the party seeking the deposition is responsible for any and all evaluator fees in connection with the deposition testimony.

**D. Selection of Mediators/Evaluators.**

Mediators and evaluators shall be selected and appointed from a list of qualified professionals. Assignments or appointments are made on a rotational basis.

**E. Peremptory Challenge of Mediator or Evaluator.**

In light of the small pool of mediators/evaluators, the court will not permit a peremptory challenge). However, a challenge for cause may be presented to the court within five days of the appointment. The challenge for cause may be made on an ex parte basis, giving the opposing side at least 24 hours notice.

**F. Confidential Documents.**

The following documents are deemed to be confidential and are not available for inspection by the parties or their attorneys through the evaluator: CII records, medical reports; mental health professional's reports; drug test analysis; restricted law enforcement reports; mediation discussions; and NCADD (National Council of Alcohol and Drug Dependence) reports.

Parties seeking to inspect such reports must petition the court for an order permitting such inspection. To the extent that the contents of such records have been disclosed in another manner, or have otherwise been made discoverable, such documents will no longer be deemed confidential.

**G. Mediation and Evaluation Complaint Procedure.**

The court is committed to the delivery of quality mediation and evaluation services. Complaints must be in writing and directed to the Court Executive Officer, Amador Superior Court, 500 Argonaut Lane, Jackson, CA 95642. You will receive a written response within 10 business days of receipt of the written complaint.

**H. Other Issues.**

Issues concerning the need for counseling (Family Code §4608.1), for appointment of counsel for a child, for psychological examination or reevaluation, or any other subject involving the best interests of a child may at the discretion of the court be referred to mediation prior to the court making an order.

**I. Inspection of Related Court Files by Evaluator.**

The appointed evaluator may inspect other related and relevant Court files in conjunction with the preparation of his or her report.

**J. Ex Parte Communication Prohibited.**

Ex Parte communication between the mediator and either party is hereby prohibited, unless a stipulation regarding such contact is reached and approved by the Court.

**K. "Report" Defined.**

For purposes of these rules, the word "report" includes evaluations, recommendations, and total and partial agreements, applicable to a case, whether submitted by the evaluator appointed by the court, or mental health expert appointed pursuant to Evidence Code §730.

**L. Payment of Evaluation Costs by Parties.**

The parties shall pay the cost of evaluation within thirty (30) days of the Court's referral.

**M. Submission of Mediator and Evaluator Fees to the Court.**

All requests for payment of mediator fees and evaluation fees, when said fees are waived for the parties, are to be submitted within 30 days of submission of the mediator or evaluator report to the court.

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All requests for payment of fees incurred as a result of testimony of a mediator or evaluator must be submitted within thirty (30) days of the completion of the proceeding in which the testimony is given.

(Effective 1/1/95; 1/1/96; Amended 7/1/04; Amended 1/1/06; Amended 1/1/08; Amended 7/1/08; Amended 1/1/09; Amended 7/1/12)

**13.09 Appointment of Counsel for Minor Child(ren) Pursuant to Family Code §3150.**

- A. Counsel appointed by the court pursuant to Family Code §3150 shall normally have the following duties as a necessary part of that attorney's representation of the child:
1. Interview the child; and
  2. Review the court file and all accessible records available to the parties and make any further investigations as he or she deems necessary to ascertain facts relevant to the custody or visitation hearings.
- B. Counsel appointed by the court pursuant to Family Code §3150 shall normally have the following rights as designated by the court upon appointment:
1. Reasonable access to the child with adequate notice;
  2. Notice after appointment of any and all proceedings, including any request for examinations affecting the child;
  3. Full access to all court pleadings and records, as well as any medical and school records for the child;
  4. The right to veto any physical or psychological examination or evaluation, for purposes of trial, which has not been ordered by the court;
  5. The right to assert on behalf of the child any privilege for discovery purposes;
  6. The right to seek independent psychological and/or physical examination or evaluation of the child upon application to the court;
  7. Upon noticed motion to all parties and the local child protection services agency, request the court to authorize the release of relevant reports or files concerning the child represented by counsel. All such records shall be reviewed in camera to determine whether they are relevant to the pending action and the extent to which they should be released to counsel for the child.

COUNSEL SHALL NOT DISCLOSE THE CONTENTS OR EXISTENCE OF THESE FILES OR RECORDS TO ANYONE UNLESS OTHERWISE PERMITTED BY LAW.

- C. Unless otherwise ordered, full payment of the reasonable costs of counsel appointed pursuant to Family Code §3150 as determined by the court shall be shared by the parties in equal amounts.

(Effective 1/1/95; Amended 7/1/06; Amended 1/1/09; Amended 1/1/13)

### **13.10 Report of Expert Appointed Pursuant to Evidence Code §730.**

Whenever an expert appointed by the court pursuant to Evidence Code §730 renders a report, the expert shall concurrently provide a copy of his or her report to the court, and to each attorney and unrepresented party.

(Effective 1/1/95)

### **13.11 Temporary Support Orders.**

#### **A. Duration of Support Orders.**

Unless otherwise specifically ordered, all temporary orders shall remain in effect until further order of the court.

#### **B. Stipulations for Temporary Orders.**

Stipulations concerning temporary child support orders shall comply with Family Code §4065 and shall contain a declaration by the parties that the right to support has not been assigned to the county pursuant to Welfare and Institutions Code §11477 and that no public assistance application is pending.

In cases involving recipients of public assistance, the signature of the district attorney must appear on the stipulation.

#### **C. Temporary Child Custody.**

Factors which may be considered by the judge when making a temporary order for custody include, but are not limited to, the following:

1. The child normally will be left in the home where he or she has been living on a regular basis unless there are compelling circumstances dictating otherwise, such as evidence of harm or violence to the child.
2. The closer the child is to the age of majority, the more likely the child's preference will be followed, but the choice must be in the child's best interest

and is not to be motivated either by reward to the child or by the playing of one parent against the other.

3. If either parent has left the home and has taken the child without the consent of the other or without an order of the court, that parent shall state the reasons therefor.
4. If violence has taken place or seems likely, the court encourages a victim or spouse to leave the home until after a court hearing may be held; the court will not penalize a parent for so doing.

**D. Temporary Support Schedule.**

1. In setting temporary spousal support, the Court applies the Santa Clara guideline support formula. However, the Court considers the facts and circumstances of each case and may deviate from the guideline support amount when appropriate.
2. If the parties stipulate to child support and the stipulated amount is below the statewide guidelines, the parties must complete a Stipulation to Establish or Modify Child Support and Order (FL-350). The Court prefers the parties to attach a computer printout from an approved child support calculator to the stipulation.

(Effective 1/1/95; Amended 7/1/11)

**13.12 Stepparent Adoptions.**

In stepparent adoption matters, there is a general order requiring the Court Investigator to conduct a home study in conjunction with the preparation of the Court Investigator's Report. (Family Code §9001.)

(Effective 7/1/11)

**13.13 Stipulations Modifying Existing Orders.**

**A. General.**

In any family law matter in which a modification of an existing order is sought by stipulation, both parties and their respective attorneys must sign the stipulation.

**B. Recipients of Public Assistance Benefits.**

If the custodial parent has assigned support rights to the County under Welfare and Institutions Code §11477, the Local Child Support Agency, and a supporting

non-custodial parent may stipulate, without the signature of the custodial parent, to an order modifying the method of payment of, or to facts supporting a change in the amount of child support; provided however, that reasonable notice be given to the custodial parent. Any such stipulation must conform with the requirements of Family Code §4065.

**C. Custody and Support Stipulations.**

Stipulations for modification of custody or support orders shall disclose whether a party is a recipient of public assistance. Stipulations for modification of child support orders shall conform with the requirements of Family Code §4065.

(Effective 1/1/95; Amended 7/1/10)

**13.14 Uncontested Trials in Dissolution and Legal Separation Matters.**

**A. Documents and Fees Required.**

Prior to an uncontested dissolution or legal separation being set for hearing, the following documents shall be filed.

1. Either (I) a Request and Declaration Re Default, pursuant to California Rules of Court, Rules 5.122 and 5.124, using Form FL-170; or (II) an executed written stipulation that the matter may be heard on an uncontested basis, which may be on the Appearance, Stipulation, and Waivers form (Judicial Council Form FL-130); and
2. Where there are issues of child support or spousal support, or where an award of attorney fees is requested, current Income and Expense Declarations completed as prescribed in subsection (B) of this rule.
3. A Proof of Service of the Preliminary Declaration of Disclosure and relevant attachments under Family Code §2104 (b) and a completed Property Declaration.
4. If proceeding by default and a division of property and/or debts is requested, a completed Property Declaration.
4. If proceeding by Appearance, Stipulation and Waivers, and the Respondent has not previously paid his or her fee for his or her Response to the Petition or Answer to the Complaint, the Respondent's fee for such must be paid when submitting the Appearance, Stipulation and Waiver for filing.

**B. Income and Expense and Property Declarations.**

Income and Expense and Property Forms and Declarations shall be on Forms FL-150 or FL-155 and FL-160 , shall be dated where specified, and shall be completed as follows:

1. Income and Expense Declaration, including the best estimate of the opposing party's income, if known, shall be fully completed (I) if the case involves child support or spousal support, whether or not an agreement in writing has been reached by the parties, or (II) if there is any request for attorney's fees, costs, or other payment of obligations which has not been resolved by written agreement of the parties.
2. If there are community assets or joint obligations not disposed of by written agreement of the parties, the value of the assets or obligations must be set forth in the Property Declaration and must be proved at the hearing.
3. Item No. 5 of the Income and Expense Declaration -- Expense Information form shall be fully completed whenever a party is represented by counsel and attorney's fees or costs are requested by either party.
4. The Child Support Information Sheet shall be completed whenever child support is an issue.

**C. Proceedings Involving Recipients of Public Assistance Benefits.**

Notwithstanding any other rule, if a party is receiving public assistance benefits:

1. That fact shall be disclosed in Item No. 1 of the Income and Expense Declaration; and
2. All orders submitted to the court shall comply with Family Code §4200.

**D. Proposed Judgment.**

At hearing of the uncontested matter, counsel shall provide the original of the proposed judgment, including any marital settlement agreement, to the judge. In the event of a stipulated judgment, the stipulation must be signed by both parties and their respective attorneys in compliance with Family Code section 2338.5.



**E. Contents of Proposed Judgment.**

The proposed judgment shall comply with Rule 13.16(B), infra. Blank spaces may be left for insertion of the amount of child and spousal support.

(Effective 1/1/95; Amended 7/1/01; Amended Effective 1/1/06; Amended 7/1/10; Amended 7/1/11; Amended 7/1/12)

**13.15 Contested Trials.**

**A. Purpose of Rules; Duties of Counsel.**

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. Counsel, vested with full authority from their clients to dispose of these matters, shall 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 had in appropriate cases, but only on motion for good cause shown. The parties may not stipulate to waive the requirements of these rules. Either side may move to strike the Memorandum to Set, 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 side may be requested, as permitted by law.

**C. Compliance with Other Rules.**

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

**D. Memorandum to Set.**

The memorandum to set shall be filed before any contested case may be set for trial. However, this shall not apply to post-judgment motions, which may be set for long cause hearing by stipulation or court order. It shall be the responsibility of the party filing the At-Issue Memorandum to insure that a response has been filed before filing the At-Issue Memorandum.

Alternatively, matters may be set for trial at a Family Law Case Management Conference. In those cases, a memorandum to set is not required.

**E. Settlement Conferences and Meet-And-Confer Rule.**

Counsel and the parties shall personally appear for a settlement conference to be scheduled at the time the trial date is determined. Counsel and the parties shall participate in good faith in the settlement conference until released by the settlement judge or until the trial date is confirmed by the settlement judge. Failure to participate in good faith in the settlement conference may be a basis for the imposition of sanctions or change in the calendar status of the action. All motions for continuances or to drop the matter shall be heard by the presiding judge.

Counsel shall meet and confer before the date of the settlement conference, or any other contested hearing, in a reasonable attempt to resolve the disputed issues and to exchange all relevant documents.

Upon application of any party, the presiding judge may, in his/her discretion, specially set a settlement conference in any family law matter. In addition, the parties may request the matter be specially set for a settlement conference at the Family Law Case Management Conference.

**F. Statement of Issues, Contentions and Proposed Disposition of the Case.**

Where a matter is set for contested trial, either short or long cause, both parties shall lodge with the Court and serve a "Statement of Issues, Contentions and Proposed Disposition of the Case" at least 20 days prior to the trial date, and if there is a settlement conference, at least two days prior thereto. The original of each party's statement shall be lodged with the Clerk. If both parties fail to timely file a statement pursuant to this part, the matter shall not be permitted to proceed to trial. However, a court assisted settlement conference shall remain available. Failure by one party to timely file a Statement pursuant to this rule will allow the complying party to continue or drop the trial date and may result in the imposition of sanctions. The imposition of sanctions pursuant to this rule shall be heard upon noticed motion.

**G. Pretrial Statement and Reply Pretrial Statement.**

Statements under Rule 13.15(F) shall include a full and complete statement of property, income and expenses, and shall set forth the following information in the following order, as it applies to the party filing, except as hereafter provided:

1. Caption. The caption shall contain the dates and times of the settlement conference and the trial.

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2. Statistical Information. Date of marriage and date of separation, the names and dates of birth of the minor children and any unusual facts shall be stated.
3. Agreements and Stipulations. Each party shall set out the terms of all pretrial agreements and stipulations entered into by the parties.
4. Custody and Visitation. Each party shall set forth specific proposals for custody and visitation of the minor children. The recommendation of the mediator's report, if any, shall be summarized.
5. Separate Property and Debts. List each item of separate property and separate debts, the date each was acquired, the basis upon which each is claimed as separate rather than community property, the current market value or debt balance, the nature, extent, and terms of payment of any encumbrance against any such separate property, the manner in which title thereto is presently vested, and the record title date.
- 6. Community Property.**
  - (a) Assets.

List each item of community property, the date it was acquired, the basis upon which it is claimed as community rather than separate property, the current market value, the nature, extent, and terms of payment of any encumbrance against the property, the manner in which title thereto is presently vested, and the record title data. The community value, including fair market value, less encumbrances, shall be stated.
  - (b) Debts.

Separately list all debts and obligations of the spouses, which are liabilities of the community. Specify the identity of the creditor, the purpose for which the debt was incurred, the date upon which the debt was incurred, the balance currently due thereon, the terms of payment, and the security, if any, held by the creditor.
  - (c) 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 shall fully identify the policy or fund, including policy, serial or account numbers, the present values and basis for calculation, 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.

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(d) Tracing.

If a segregation of community property and separate property interests in a single asset is to be an issue in the case, the statement shall 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.

(e) Credits.

All claims for reimbursement for separate funds paid on community debts post-separation, commonly known as "Epstein credits," or for claims of rent owed by a party to the community for use of a community asset post-separation, commonly known as "Watts charges," shall be set forth in detail with dates and dollar amounts.

(f) Proposal for Property Division.

Set forth a proposed equal division of community property of the parties. A computer printout or Propertizer may be used or the following form:

Proposals for Property Division

<u>Petitioner</u>	<u>Respondent</u>
Asset Value	Asset Value
1.	1.
2.	2.
3. Debts	3. Debts
4. Epstein	4. Epstein
5. Watts	5. Watts
TOTAL \$ _____	TOTAL \$ _____

Total Awarded to Petitioner:  
Total Awarded to Respondent: +  
Total Community Property: =  
One-half Thereof:  
Total Awarded Petitioner/Respondent

Equalization Payment Due Petitioner/  
Respondent: \$

7. Legal Analysis of Tracing, Characterization, and Credit.

All issues of tracing, characterization, reimbursement, credits and apportionment shall include a discussion of the applicable law.

8. Current Income and Expenses. Specify and set forth current income and expenses by completing and filing an Income and Expense Declaration (Judicial Council Form FL-150). Previously filed Income and Expense

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Declarations that are no longer current shall not be considered as compliance with this requirement. Rule 13.00(B) shall apply with respect to supporting documentation.

9. Child Support. Each party shall set forth a proposal for child support in conformance with Family Code §4055 along with the computations upon which the party relies.
10. Spousal Support. Any proposal for spousal support shall include a statement of the appropriate factors under Civil Code §4801(a) to be considered and a proposal for the duration of support.
11. Attorney Fees. The party requesting an award of attorney fees, in addition to completing line 16 on the Income and Expense Declaration (Judicial Council Form FL-150) shall submit a statement of the time spent, amount charged, amount already paid, and the source of the funds.
12. Sanctions. A party requesting attorney fees and sanctions pursuant to Family Code §271 or the Code of Civil Procedure §128.5 shall provide a statement of why such sanctions are appropriate under the requirements of the relevant code section.

(Effective 1/1/95; Amended 1/1/97; Amended 1/1/06; Amended 1/1/08;  
Amended 1/1/10)

### **13.16 Judgments and Orders.**

#### **A. Duty to Prepare.**

1. After Law/Motion Hearing.

The party directed to prepare the "Finding and Order After Hearing" (Judicial Council Form FL-340) shall do so in compliance with Rules of Court, Rule 3.1312.

2. After Contested Trial.

- (a) The party directed by the court shall prepare the judgment in accordance with the court's decision and shall submit it to the opposing counsel with a place for the latter's signature under the legend "Approved As Conforming To Court Order."
- (b) If the opposing party does not so approve within 20 days, the preparing party shall send the order to the court with a cover letter explaining why it was submitted without such approval and a proof of service of the letter

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and proposed order on the opposing party. If the opposing party does not explain his/her objection with specificity in writing to the court within 15 days of the date of service by the preparing party, the court will sign the submitted order. If there is written objection with specificity, the court will then decide whether to adopt the proposed judgment or what changes shall be required, with or without a hearing, at the court's discretion.

3. Statement of Decision.

If either or both parties request a statement of decision, the rules pertaining to Statements of Decision under California Rules of Court, Rule 3.1590 and Code of Civil Procedure §632 shall apply.

**B. Contents.**

Except as otherwise agreed between the parties and subject to the approval of the court:

1. Child Support - Amount and Duration. All judgments providing child support shall state the name, date of birth, and amount of support for each child and shall state, "child support payments shall continue until further order of court, or until the child marries, dies, is emancipated, reaches age 19, or reaches age 18 and is not a full-time non-self-supporting high school student, whichever occurs first.
2. Spousal Support. All judgments shall state the amount of spousal support, if any, and shall state, "payable until the remarriage of the recipient spouse, the death of either party or further order of the court," unless otherwise ordered or stipulated.
3. Real Property. All judgments shall contain the legal description and Assessor Parcel Number (APN) of all interests in real property affected by the court's decision.

**C. Recipients of Public Assistance Benefits.**

If a party is receiving public assistance benefits for a minor child, the judgment shall require the child support to be paid to the District Attorney in compliance with Civil Code §4702.

(Effective 1/1/95; Amended 1/1/06; Amended 1/1/07; Amended 7/1/10)

**13.17 [NUMBER RESERVED FOR FUTURE USE]**

### **13.18 Continuance Fees**

Continuance fees will be charged for continuances in all family law matters, pursuant to Government Code section 70617 (c)(1), except in the following cases:

- A. A statute, rule, or case law precludes charging said fee.
- B. In law and motion matters, for each motion or order to show cause, one continuance from the original date calendared will be allowed at no charge.

(Effective 7/1/08; Amended 7/1/12)

### **13.19 [NUMBER RESERVED FOR FUTURE USE]**

### **13.20 [NUMBER RESERVED FOR FUTURE USE]**

### **13.21 Additional Duties, Family Law Facilitator**

In addition to the services required to be provided under Family Code §10004, the Family Law Facilitator may, upon the direction of the presiding judge, perform the following additional duties for pro per litigants:

1. Meet with litigants to mediate issues of child support, spousal support, and maintenance of health insurance, subject to Family Code §10012 giving priority to actions where one or both parties are unrepresented by counsel.
2. Draft stipulations to include all issues agreed to by the parties, which, in addition to those duties specified in Family Code §10003, may include other non-specified issues.
3. Where 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. Assist the clerk in maintaining records.
5. Prepare formal orders consistent with the court's announced order in cases where both parties are unrepresented by counsel.
6. Serve 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. Develop programs for bar and community outreach through educational programs, videotapes, and other innovative means that will assist unrepresented and financially disadvantaged litigants in gaining meaningful access to the family

court with respect to issues of child support, spousal support, medical support, family support and other related issues.

(Effective 1/1/98)

**13.22 Counsel Appointed to Represent Child in Custody or Visitation Proceedings: Complaint Procedure.**

- A. Any party to a family law custody or visitation proceeding may lodge a written complaint with the Court Executive Officer concerning the performance of the attorney appointed to represent the child in said proceeding. The types of complaints, which may be lodged with the Court Executive Officer, include, but are not limited to: the failure of the attorney to meet with the child, the failure of the attorney to facilitate visitation, and the failure to attend appointments with mediators and therapists, if necessary. However, the Court Executive Officer cannot entertain complaints going to the merits of the case. Complaints going to the merits of the case include, but are not limited to, complaints regarding whether the attorney is acting in the best interest of the child and complaints regarding discretionary litigation tactics.
- B. At the time of appointment of counsel by the Court, the Court shall advise each adult, in general terms, of the procedure for lodging complaints with the Court Executive Officer concerning the performance of an appointed attorney, and that complaint forms for that purpose are available at the office of the Court Clerk. In the case of a minor client, the notice shall be given by the Court to the current caretaker of the child. If the minor is 12 years of age or older, the notice shall also be given by the Court to the minor.
- C. The Court Executive Officer shall review all complaints received. If the Court Executive Officer determines that the complaint presents reasonable cause to believe that the claim is meritorious, the Court Executive Officer shall notify the attorney in question of the complaint and shall give the attorney an opportunity to respond in writing to the complaint.
- D. The Court Executive Officer shall review the complaint and the response, if any, to determine whether the complaint is valid. The Court Executive Officer may obtain additional information prior to making a determination on the complaint.
- E. If the Court Executive Officer finds that the complaint is meritorious, the Court Executive Officer may take any actions deemed appropriate to resolve the complaint. The Court Executive Officer does not have the authority to remove court appointed attorneys. The power to remove a court appointed attorney lies exclusively with the judge assigned to hear the case.



- F. The Court Executive Officer shall notify the attorney and the complaining party in writing of its determination concerning the allegations of the complaint.

(Effective 7/1/06)

### **13.23 Family Law Case Management.**

- A. The goal of Family Law Case Management is to expedite timely and just resolutions in family law actions. In each dissolution action, the Petition and Summons shall be served within 60 days of filing. The response shall be served within 30 days of service of the Petition and Summons on the respondent. Notwithstanding these case management rules, any party may file a motion on the Civil Law and Motion calendar. Likewise, when appropriate, any party may file an At-Issue memorandum requesting the setting of a trial date. The Family Law Case Management calendar is not the Law and Motion calendar.
- B. Each dissolution, nullity, or legal separation action filed after the effective date of this rule shall be included in the Family Law Case Management calendar and shall, thereafter, be subject to court supervision until the entry of judgment or dismissal. Upon filing a dissolution, nullity, or legal separation action, the court shall provide the petitioner with a Family Law Case Management Notice. Said Notice shall set forth the date and time of the first Case Management Conference, which is typically 120 days from the filing of a Petition. The petitioner is required to serve said Notice on the respondent with the Summons and Petition. Proof of Service of the Summons and Petition should reflect service of the Notice as well.
- C. Gradually, all cases filed before the effective date of this rule will be included in the Case Management program. The court will send notice to all parties upon inclusion in the program.
- D. At least fifteen (15) days prior to each Family Law Case Management Conference, the parties shall file with the court and serve on all other parties, a Family Law Case Management Conference Statement. Parties may elect to file a joint statement. The form for the Family Law Case Management Statement is available on the court's website, [www.amadorcourt.org](http://www.amadorcourt.org), and at the clerk's office.
- E. Counsel for each party and each unrepresented party appearing in the action shall attend the Family Law Case Management Conference and be familiar with and prepared to discuss all issues in the case. Counsel and unrepresented parties may arrange to appear telephonically.
- F. At the Family Law Case Management Conference, the court shall take appropriate action to facilitate prompt case resolution. Such actions include, but are not limited to:
1. Setting the case for a settlement conference and/or trial;
  2. Continuing the case for further case management conference;

3. Setting for special settlement conferences;
  4. Referring the parties to family law resources; and/or
  5. Ordering counsel or parties to engage in and report back on meet and confer discussions.
- G. At 2:00 p.m. on the first court day before the scheduled conference, the court will post proposed rulings on the court's website, [www.amadorcourt.org](http://www.amadorcourt.org). The proposed rulings are for informational purposes only. The Court will consider any new information presented at the hearing. However, if there are no appearances at the hearing, the Court will adopt the proposed ruling posted on the Court's website.

(Effective 1/1/10; Amended 7/1/10; Amended 7/1/11)

## **CHAPTER 14 – JUVENILE**

### **14.01 Appointment of Counsel in Juvenile Dependency Proceedings.**

#### **A. Purpose and Applicability.**

This rule is established to comply with Section 317.6 of the Welfare and Institutions Code and Rule 5.660 of the California Rules of Court. On proper application and showing, the requirements of these Rules pertaining to competence of counsel can be waived or modified when necessary to provide appointed counsel in juvenile dependency cases (Court automatically appoints counsel for children).

#### **B. General Competency Requirement.**

All attorneys appointed by the court in juvenile dependency proceedings must meet minimum standards of competence as set forth in this rule.

#### **C. Screening for Competency.**

1. All attorneys who are appointed by the court to represent parties in juvenile court proceedings shall meet the minimum standards of training and/or experience set forth in this rule. Each appointed attorney of record for a party to a dependency matter pending before the Court on the effective date of these rules, who believes he or she meets the minimum standards of competency shall complete and submit to the Court, within 30 days of the effective date of these rules, a Certification of Competency. After the effective date of these rules, any appointed 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.

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2. Attorneys who meet the minimum standards of training and/or experience as set forth in this rule, as demonstrated by the information contained in the Certification of Competency submitted to the Court, shall be deemed competent to be appointed by the Juvenile Court in dependency cases, unless a Judge of the juvenile court determines a particular appointed counsel does not meet minimum competency standards.
3. If certified counsel 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 or the Court determines counsel does not meet the competency requirements, the Court shall notify counsel that he or she will be decertified. The attorney shall have thirty (30) days from the date of mailing the notice of decertification to submit evidence of competency. 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.
4. 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 be appointed in a juvenile proceeding in this county.
5. **Renewal of Attorney Competency Certification:** In order to retain his or her certification of competency, counsel shall file a declaration certifying that counsel has completed at least eight (8) hours of continuing education related to dependency proceedings within the last three (3) years. The declaration must be filed on or before January 15 of each year.

**D. Minimum Standards of Education and Training.**

1. Each attorney appointed by the Court to represent a party 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 minimum training and education requirements set forth in Rule 5.660 of the California Rules of Court, or has at least 24 hours of experience within the last year in dependency proceedings in which the appointed counsel has demonstrated competence in the appointed counsel's representation of his or her clients in said proceedings.
2. In the case of court-appointed attorneys new to the field of representation of parties to dependency proceedings, the local County Bar Association shall establish a mentor program to provide "mentor attorneys," who are experienced in the field of dependency representation, and who meet the competency requirements set forth in this Rule, to advise and, as necessary, assist such new counsel in the field of dependency representation. Such

mentor attorneys may attend dependency court proceedings and provide such other assistance, in and out of court, to the new attorney in order to assist in providing competent representation to parties in dependency cases.

**E. Standards of Representation.**

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

1. The standards set forth in California Rule of Court 5.660 shall be the minimum standards of representation of clients in dependency proceedings.
2. Attorneys representing children are strongly encouraged to visit such children who are the subjects of dependency proceedings, whether placed in their own homes or in out-of-home placements, in the children's placement environment as an integral part of preparation for upcoming disposition or review hearings. It is important for the child to meet with the attorney outside of the courthouse setting. Further, the attorney should make an independent assessment of how the child is being cared for on a day-to-day basis. In the event that the attorney receives any information that the child is at risk in his/her placement, the attorney or his or her representative shall visit the child wherever the child may be placed and, if substantiated, take the appropriate action.

**F. Procedures for Reviewing and Resolving Complaints.**

1. Any party to a juvenile court proceeding may lodge a written complaint with the Court concerning the performance of his or her appointed attorney in a Juvenile Court proceeding.
2. At the time of appointment of counsel by the Court, the Court shall advise each adult, in general terms, of the procedure for lodging complaints with the Court concerning the performance of an appointed attorney, and that complaint forms for that purpose are available at the office of the Court clerk. In the case of a minor client, the notice shall be given by the Court to the current caretaker of the child. If the minor is 12 years of age or older, the notice shall also be given by the Court to the minor.
3. The Court shall review all complaints received. If the Court determines that the complaint presents reasonable cause to believe that the attorney may have failed to act competently, the Court shall notify the attorney in question of the complaint and shall give the attorney an opportunity to respond in writing to the complaint.
4. The Court shall review the complaint and the response, if any, to determine whether the attorney acted incompetently. The Court may obtain additional information prior to making a determination on the complaint.

5. If the Court finds that the attorney acted incompetently, the Court may replace the attorney, impose sanctions in a manner provided by law, or refer the matter to the State Bar of California for further action.
6. The Court shall notify the attorney and the complaining party in writing of its determination concerning the allegations of the complaint.

(Effective 1/1/97; Amended 7/1/97; Amended 1/1/07; Amended 1/1/08)

#### **14.02 Appointment of Guardian Ad Litem for Minors.**

(Welfare and Institutions Code Section 326.5)

##### **A. Purpose and Applicability.**

This rule is established to comply with Welfare and Institutions Code §326.5 and California Rules of Court, Rule 5.660. This rule shall apply in any case in which a petition is filed pursuant to Welfare and Institutions Code §300 et seq. based upon neglect or abuse of a child or in which a prosecution is initiated under the Penal Code arising from neglect or abuse of a child.

##### **B. Appointment of Guardian Ad Litem in Welfare and Institutions Code Section 300 et seq. Cases.**

If a petition is filed pursuant to Welfare and Institutions Code §300 et seq. based upon neglect or abuse of a child, the court will appoint a guardian ad litem for the child. The guardian ad litem will be the attorney appointed to represent the child pursuant to Welfare and Institutions Code §§317 and 317.6. If the court implements a Court Appointed Special Advocate (CASA) program, a CASA volunteer may be appointed as guardian ad litem.

##### **C. Appointment of Guardian Ad Litem in Cases initiated under the Penal Code.**

If an attorney has already been appointed for a child under the provisions of Welfare and Institutions Code §§317 and 317.6, that attorney shall be appointed guardian ad litem for the child in any prosecution initiated under the Penal Code.

If there has not been an attorney appointed pursuant to Welfare and Institutions Code and 317.6, the court shall appoint an attorney as guardian ad litem. If the court implements a Court Appointed Special Advocate (CASA) program, a CASA volunteer may be appointed as guardian ad litem.

##### **D. Qualifications and Competency of Guardians Ad Litem.**

Any guardian ad litem appointed under this rule shall be an attorney who meets the minimum standards of competence set forth in Rule 14.01, unless the court

implements a Court Appointed Special Advocate (CASA) program. If the court implements a CASA program, a CASA volunteer appointed as a guardian ad litem shall satisfy the training and competency requirements set forth in California Rules of Court, Rules 5.655 and 5.660.

(Effective 1/1/02; Amended 1/1/07)

### **14.03 Court-Appointed Special Advocate (CASA).**

#### **A. Program.**

A referral to the Child Advocates Office may be made by the Judicial Officer, or any party to the case at any point in delinquency and dependency proceedings. Upon acceptance of the case by the Child Advocates Office, the court will be asked to sign an Order Appointing a CASA. When appointing a CASA prior to the jurisdictional hearing in a dependency proceeding, the judicial officer shall be particularly specific as to the duties of the child's advocate because of the risk that the volunteer may become involved in the investigative process. Where the referral is not made by the court at an appearance hearing, the Child Advocates Office will notice all parties of the CASA program's intent to request appointment and the name of the specific CASA volunteer to be assigned to the case.

#### **B. Referral Criteria.**

1. Severe physical sexual abuse cases where the child is not released to a parent or relative, and the child is seriously traumatized;
2. Special needs cases (e.g., education developmental, medical, mental health needs) that involve conflicting opinions as to assessment and/or treatment for child, or where treatment plans or resources will be difficult to arrange;
3. Cases of re-abuse that involve a number of issues or a number of interested parties;
4. Children 10 years and under who have experienced multiple placements and whose parents have consistently failed to show progress toward or interest in fulfilling treatment plans or goals for family reunification;
5. Children age 0-8 years old in foster care, where CASA might expedite the case toward family reunification or adoption, if reunification is not appropriate; and
6. Short-term CASA intervention/involvement is required in case resolution or clarification of issues by gathering or researching information: e.g., contacting out-of-state relatives or investigating medical concerns to assist the court in reaching a decision.

7. In delinquency matters, CASA referrals will be made as deemed appropriate.

### **C. Requests for Referrals**

Any party, attorney representing a party or child, the welfare worker, or other person having an interest in the welfare of the child can request the Court make a referral to CASA. A request for CASA Referral must be submitted in writing to the Court for each child referred. The person requesting such a referral must give two (2) working days telephone notice to the child welfare worker, attorneys of record for the parents/guardians, and attorney for the child. If the child welfare worker is making the referral, the Court Officer will provide notice.

Unless the attorney of record or the child welfare worker objects to the referral, the court will send the referral to CASA for evaluation.

Any objections to the referral must be in a brief written statement as to why the referral is not appropriate, without discussing the subject matter of the litigation. The basis for an objection will not be treated as confidential. After receipt of the objection, the Court will review the case and make an independent decision as to whether a referral to CASA is appropriate.

### **D. Status of CASA Volunteers.**

1. The Court-Appointed Special Advocate (CASA)/Guardian Ad Litem is appointed as a sworn officer of the court, serves at the pleasure of the court, and is bound by all court rules under the authority of Welfare and Institutions Code §102(c). CASA volunteers are appointed only on behalf of children and only for proceedings held in the dependency court.
2. Pursuant to Welfare and Institutions Code §§100(9.5), 102(c), 104 and 106, the Child Advocates Office and individual CASA volunteers have a right to be properly and timely noticed for all proceedings held in cases on which they have been appointed. The advocate has the right to be personally present at all hearings, sit at counsel table with the child and accompany the child into any chamber's conferences that are held. AD advocate may not be excluded from any proceeding by virtue of the fact that he or she might be called upon to give testimony in the case at some later date.
1. Under provisions of California Rules of Court, Rule 5.655 (g)(1)(E), CASA programs must have access to an attorney, whether retained or pro bono, to provide advice and direction on legal issues. The Child Advocates Office has recruited pro bono attorneys willing to volunteer their services on selected dependency cases. Pro bono attorneys retained in such a capacity have the right to be heard in any proceedings and may examine the child and other witness, as necessary.

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2. CASA volunteer's personnel file is confidential under provisions of Rule 5.655. No one shall have access to the file or any of its contents, except the volunteer, the CASA Program Director, and the Presiding Judge of the Juvenile Court. A volunteer's personnel records, however, are subject to the court's subpoena power. All subpoenas are to be served in the Child Advocates Office.

(Effective 7/1/03; Amended 1/1/07; Amended 1/1/10; Amended 1/1/13)

#### **14.04 Court Appointed Attorney Fees: Dependency.**

Interim claims for attorney fees must be submitted at least every ninety (90) days while the matter is pending. Final claims must be submitted within thirty (30) days of completion of the case. For the purposes of this rule, completion of the case is defined as the final disposition hearing or an order relieving the counsel of record, whichever occurs first.

Untimely claims may, in the discretion of the court, be denied.

(Effective 1/1/09)

### **CHAPTER 15--TRAFFIC**

#### **15.01 Trial by Declaration.**

Pursuant to §40902 of the Vehicle Code, a defendant may elect to have a trial by written declaration upon any alleged infraction, as charged by the citing officer, involving a violation of the Vehicle Code or any local ordinance adopted pursuant to that code, other than an infraction cited pursuant to Article 2 (commencing with §23152 of Chapter 12 of Division 11. This provision also applies to a defendant who receives a notice of delinquent parking violation filed under §40230.

In order to elect a trial by declaration, a defendant must deposit with the clerk of the court the amount of bail indicated on the courtesy notice. The defendant shall then file his or her written declaration or declarations under penalty of perjury within the time specified in the courtesy notice. No appearance by the defendant shall be required. The clerk shall then set the matter for trial and provide notice to the defendant and the arresting officer.

The citing officer may submit his or her sworn testimony by written declaration no later than two days prior to the date set for trial. No appearance by the citing officer shall be required although the officer may elect to appear in person.

The court may receive into evidence the notice to appear issued, pursuant to California Vehicle Code §40500, a business record or receipt, the written declaration



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of the defendant, a sworn declaration of the citing officer or, if the citing officer elects to appear in person, the sworn testimony of the officer.

In the event the defendant is found not guilty or if the charges are otherwise dismissed, the amount of the bail posted shall be promptly refunded to the defendant.

In the event the defendant is dissatisfied with a decision of the court in a proceeding pursuant to this rule, the defendant shall, within 10 days of the mailing of the clerk's notice of the court's decision, notify the clerk in writing, of a request for a trial de novo; in which case the court shall then set a regular trial requiring the appearance of all parties to be heard in open court.

(Effective 1/1/95; Amended 7/1/98; Renumbered Effective 1/1/06)

### **15.02 Continuances.**

Prior to the date upon which the defendant promised to appear and without depositing bail, the defendant may request a continuance of the written promise to appear. Similarly, a traffic officer may request a continuance of the matter based upon his or her unavailability. All requests for continuances must be submitted at least ten (10) court days prior to the date of the hearing.

(Effective 1/1/06; Amended 1/1/09)

## **CHAPTER 16—DOMESTIC VIOLENCE COORDINATION RULES**

### **16.01 Court Communication.**

This chapter sets forth the communication protocol for Domestic Violence and Child Custody Orders, as mandated by California Rules of Court, Rule 5.450.

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 such orders have already been issued as to the same parties and/or children in any other department.

(Effective 7/1/08)

### **16.02 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 conflicting orders are issued inadvertently, the order of the criminal court controls.

(Effective 7/1/08)

### **16.03 Modification of Criminal Orders.**

A court issuing a criminal court protective order may, after consultation with the appropriate department of the family and/or juvenile court, modify the criminal court protective order to allow or to restrict contact between the restrained person and his or her children, spouse, or other protected person.

(Effective 7/1/08)

### **16.04 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 conditions:

- A. Any order permitting contact between the restrained person and his or her children shall provide for the safe exchange of the children.
- B. Any order permitting contact between the restrained person and his or her children shall not contain language, either printed or handwritten, that violates a “no contact order” issued by the criminal court.
- C. Safety of all parties shall be the court’s paramount concern. The family and/or juvenile court order shall specify the date, time, place, and manner of transfer of the child, as provided in Family Code §3100.

(Effective 7/1/08)

## **CHAPTER 17—PROBATE**

### **17.01 Probate Tentative Rulings**

- A. The Court operates a tentative ruling proceeding for probate matters. On the afternoon of the court day before a probate matter is calendared for hearing, the court shall prepare a tentative ruling for each matter on calendar. Tentative rulings for the next court day will be available after 3:00 p.m. on the court’s website, [www.amadorcourt.org](http://www.amadorcourt.org).
- B. Parties satisfied with the tentative ruling need not appear at the scheduled hearing, unless ordered to do so by the court. Parties intending to appear and contest the tentative ruling must notify the court and the opposing party of such an intent by 4:00 p.m. on the first court day before the hearing. Unless opposing counsel has been notified of such intent, oral argument will not be permitted.
- C. When appearance has been ordered by the court, limited oral argument will be entertained.

- D. Absent oral argument, the tentative ruling will become the ruling of the court.
- E. If the tentative ruling continues the hearing, the petitioner must provide notice of the continued hearing.
- F. Excluded from said tentative rulings are hearings on conservatorships and guardians, minor's compromises, contested matters, matters set at a time other than the regular probate calendar, any matters requiring an appearance, and such matters as the court may determine in its sole judgment.
- G. The implementation of the tentative ruling procedure is dependent upon Court resources. As such, upon commencement of the tentative ruling procedure, the Court will post a notice of the same on the Courthouse public notice board and on the Court's website.

(Effective 1/1/09)

### **17.02 Accountings in Guardianships and Conservatorships.**

Pursuant to Probate Code §2620 (c)(3), the private professional or licensed guardian or conservator may elect to lodge with the Court the originals of the account statements referenced in §2620 (c)(1), (2), and (3). The originals of the account statements shall be released by the Court as provided in §2620 (c)(3).

(Effective 1/1/09)

### **17.03 Successor Conservators and Guardians.**

Successor conservators and guardians shall file an Inventory and Appraisal of the estate within 90 days of the date of appointment. (see Probate Code §2610.)

(Effective 7/1/09)

### **17.04 Investigator Fees.**

Unless investigator fees are waived due to hardship per Probate Code section 1851.5 or 1513.1, the court will assess fees for the cost of investigations in guardianship and conservatorship cases. Petitioners in guardianship cases who do not qualify for waiver of investigation fees may request permission from the court to make monthly payments due to hardship.

Bills will be sent to conservators and guardians or parents, and copies will be set to their attorneys. Upon receipt of the bill, payment must be remitted to the Court within 30 days, unless a proper objection to the same is received.

(Effective 7/1/09)

### **17.05 Death of Conservatee.**

Within 30 days of the death of the conservatee, the conservator must file a notice of death of the conservatee with a copy of the conservatee's death certificate attached and must serve a copy of the notice on the Court Investigator's Office.

Within 60 days of the conservatee's death, the conservator must file a final accounting with the court.

(Effective 7/1/09)

### **17.06 Conservator's Duty to Purchase Book and View Video.**

Before Letters of conservatorship are issued, all conservators (except corporate or institutional conservators) must obtain a copy of the Handbook for Conservators published by the Judicial Council of California and view a film on the duties and responsibilities of a conservator. Proper proof of the purchase of the handbook and attendance of the film viewing will be required. Viewing of the film is free of charge and may be scheduled with the probate clerk.

(Effective 1/1/10)

### **17.07 Appointment of Investigator in Conservatorship Matters.**

Upon filing a Petition for Appointment of Conservator, the petitioner is required to file an Order Appointing Court Investigator (form GC-330) for the Court's review and approval.

The Court is not required to prepare an Order Appointing Court Investigator (form GC-331) for the review investigations required by Probate Code §§2684 and 2686. The Court adopted a general order appointing the Amador County Court Investigator to conduct review investigations and investigations concerning the appointment of a successor conservator.

The Court is not required to prepare an Order Settling Biennial Review Investigation and Directing Status Report before Review (GC-332) when it orders biennial review investigations and directs status reports under Probate Code §1850 (a). The Court adopted a general order appointing the Amador County Court Investigator to perform the biennial review investigations and prepare status reports.

(Effective 7/1/11)

### **17.08 Capacity Declarations.**

All capacity declarations (Form GC 335) are deemed confidential.

(Effective 7/1/12)

## **CHAPTER 18—APPELLATE DIVISION**

### **18.01 Record in Misdemeanor and Infraction Appellate Division Cases.**

The original trial court file shall be used as the record on appeal in all misdemeanor and infraction appeals. (CRC 8.860, 8.863, 8.914, 8.910.)

(Effective 7/1/09)

### **18.02 Electronic Recording as Part of Appellate Record.**

Upon stipulation of the parties or order of the court, in all misdemeanor and infraction appeals, in which electronic recording is utilized, the original electronic recording or a copy of said recording, made by the trial court, may be transferred to the appellate division as part of the record on appeal, without first being transcribed. (CRC 8.868, 8.917.)

(Effective 7/1/09)

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