

# MARIPOSA COUNTY SUPERIOR COURT

LOCAL RULES OF COURT  
EFFECTIVE JANUARY 1, 2019



JUDGES OF THE SUPERIOR COURT:  
Honorable Michael A. Fagalde  
Honorable F. Dana Walton

*(Version 2.0)*

## IMPORTANT INSTRUCTION FOR USING THESE RULES

The California Rules of Court are not printed as part of the Mariposa County Superior Court Local Rules, but are considered incorporated within them. Proceedings in the Superior Court of Mariposa County (“Court”) are governed by the California Rules of Court as supplemented by the Local Rules (also referred to as “Rules”). **EACH LOCAL RULE MUST BE READ IN CONJUNCTION WITH THE CALIFORNIA RULES OF COURT (CRC).**

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## **SECTION 1-GENERAL RULES**

### **RULE 1.1 COURT ORGANIZATION**

#### **a. Adoption and Amendment of Rules**

These rules shall be known and cited as “Local Rules for the Superior Court of California, County of Mariposa.” These rules shall become effective on January 1, 2019, and on that date all other rules previously adopted by this Court are repealed, provided that no action heretofore taken in compliance with such rules shall be made invalid or ineffective by such repeal. (1/1/99, 1/1/19)

#### **b. Hours of Judicial Business**

1. The Court will be open for judicial business from 8:00 a.m. until 5:00 p.m. on all court days.
2. The clerk’s office: The hours of operation are posted at the Courthouse and on the Court’s website. The clerk’s office hours may be amended per Government Code section 68106. (1/1/99, 1/1/19)

### **RULE 1.2 SANCTIONS FOR VIOLATIONS OF LOCAL RULES**

If a party or an attorney fails, refuses, or neglects to comply with these rules, the California Rules of Court, or any other rules or statutory requirements, the Court may, after notice and an opportunity to be heard, impose any and all sanctions authorized by law. (1/1/19)

### **RULE 1.3 COURT REPORTERS**

#### **a. The Court schedules court reporting services for the following proceedings:**

1. Misdemeanor and infraction proceedings (subject to the availability of the official reporter);
2. All felony proceedings;
3. Juvenile Dependency and Juvenile Delinquency proceedings; and
4. Family Support proceedings. (1/1/19)

#### **b. In Probate, Family Law, and Civil Proceedings lasting less than one hour, court reporting services will be provided, if available, by the court’s official reporter subject to the deposit of the fee provided in the court’s civil fee schedule and pursuant to Government Code section 68086. (1/1/19)**

1. Reporter services at Trial and for Long Cause Hearings are generally not provided at the expense of the Court. Parties may arrange for the presence of a certified shorthand reporter to serve as an official pro tempore reporter, the costs therefore are recoverable as taxable costs by the prevailing party as otherwise provided by law. (1/1/19)
2. Any party granted a fee waiver by the Court will be exempt from the requirement to pay for court reporting services. (1/1/19)

#### **RULE 1.4 COURT ATTIRE**

No person shall appear in Court in shorts, without a shirt, barefoot, or wearing a tank top. Bailiffs of the Court are to remove any person violating this rule. This rule does not limit any judge from prescribing appropriate attire in the courtroom. (1/1/19)

#### **RULE 1.5 SEXUAL HARASSMENT**

It is the policy of the Court to ensure that all persons are free from sexual harassment as that term is defined by law. Any person who perceives he/she is the victim of sexual harassment in the courthouse or any person who witnesses sexual harassment of another person should immediately notify the Court Executive Officer who may conduct an investigation. (1/1/19)

#### **RULE 1.6 PHOTOGRAPHING OR RECORDING COURT PROCEEDINGS**

The use of photographic, video or audio recording or transmission equipment in any courtroom is prohibited without advance permission by the Judge. This includes the use of laptops and/or electronic devices by counsel or any other member of the public. The use of laptops or other electronic devices will be regulated by each individual Judicial Officer. Violators are subject to Contempt of Court (California Rules of Court, Rule 1.150) and/or confiscation of the device(s).

The use of photographic, video or audio recording equipment in any part of the courthouse other than the courtroom is prohibited without advance permission by the Judge.

Television cameras, video cameras and/or camera operators, still photographers, media reporters or any combination thereof shall not block the ingress or egress to and from the courthouse. (1/1/19)

#### **RULE 1.7 EX PARTE APPLICATIONS IN CIVIL CASES**

Ex parte applications and orders in civil cases are governed by California Rules of Court, Rules 3.1200-3.1207. (Ex parte requests for orders in Family Court cases are governed by

California Rules of Court, Rules 5.151-5.170 and Local Rule 4.3(d). The party seeking an ex parte order shall submit the application and all supporting papers and fees to the clerk for filing no later than 3:00 p.m. on the court day preceding the hearing. (1/1/19)

**RULE 1.8 EX PARTE OR INFORMAL COMMUNICATION WITH THE COURT**

The Court will not consider any ex parte communications from counsel or self-represented parties unless made in the manner prescribed by these Rules, by the California Rules of Court, or by the laws of this State. Except as permitted by law, lawyers and parties shall avoid ex parte communications on the substance of a pending case with a judicial officer before whom such case is pending. Copies of letters or other communications between counsel should not be sent to any judicial officer. (1/1/19)

**RULE 1.9 FOREIGN LANGUAGE INTERPRETERS**

- a. In all proceedings, except juvenile or criminal proceedings, counsel or self-represented litigants requiring the assistance of a foreign language interpreter for a non-English speaking party or witness at a hearing or trial must make all necessary arrangements prior to the hearing or trial for the presence of the appropriate interpreter. (1/1/19)
- b. In juvenile or criminal proceedings, where an interpreter is required at a hearing or trial for a non-English speaking party or witness, the Court must be provided with written notice of the date of the hearing, the name of the person for whom the interpreter is requested, the person's role in the proceeding, and the foreign language spoken, including the dialect where applicable. The court will make arrangements for the foreign language interpreter to be present at the hearing or trial and will pay for the related costs. Counsel must immediately notify the Court in writing upon learning that the services of the interpreter are not required. Failure to timely notify the Court of the cancellation of the need for an interpreter may result in an order for reimbursement to the court for any cancellation fee the Court is required to pay to the interpreter. (1/1/19)

**RULE 1.10 AUDIO/VISUAL AND OTHER EQUIPMENT FOR USE DURING HEARING OR TRIAL**

It is the responsibility of the parties to obtain, set up, and operate all audio/visual and other equipment necessary for use during any hearing or trial. Any such equipment proposed to be used shall be approved in advance by the Court. (1/1/19)

**RULE 1.11 DANGEROUS, HAZARDOUS OR BULKY EXHIBITS**

- a. Permission must be obtained from the Judge assigned to a hearing or trial before a party may bring dangerous, hazardous, or bulky exhibits into the courthouse. If possible, the party should substitute a photograph, technical report, or dummy object for proposed exhibits which are either:



1. Inherently dangerous, such as:
  - a. Firearms;
  - b. Any type of explosive powder;
  - c. Explosive chemicals, toluene, ethane;
  - d. Explosive devices such as grenades or pipe bombs;
  - e. Flammable liquids such as gasoline, kerosene, lighter fluid, paint thinner, ethyl-ether;
  - f. Canisters containing tear gas, mace;
  - g. Rags which have been soaked with flammable liquids;
  - h. Any corrosive liquid;
  - i. Liquid drugs such as PCP or methamphetamine;
  - j. Samples of any bodily fluids, liquid or dried;
  - k. All controlled substances as defined in §11007 of the California Health and Safety Code; or
  - l. Any corrosive or radioactive substance.
2. Large and cumbersome, such as a ladder, sewer pipe, or automobile chassis.  
(1/1/19)

- b. If any party believes the exhibit should be brought into the courtroom without substitution, an application for permission must be made in writing and shall describe the materials to be brought into the courtroom and the reason a substitution should not be made. The option of viewing the materials at another location may be considered by the Court. (1/1/19)
- c. When a dangerous, hazardous, or bulky exhibit that has been marked and identified or received in evidence poses a security, storage or safety problem, the Court may order that all or a portion of it be returned to the party that offered it. In the case of exhibits offered by the prosecutor in a criminal case, the Court may order that the exhibits be returned to the law enforcement agency involved. The order shall require that a full and complete photographic record of the exhibit or the portion returned by substituted for the exhibit. The party who offered the exhibit shall provide the photographic record. The party or agency to whom the exhibit is returned shall be responsible for maintaining and preserving the exhibit until there is a final disposition of the action or proceeding. All exhibit tags and other identifying markings or information concerning each exhibit shall remain in place and shall not be disturbed. Each exhibit shall be maintained intact and in the same condition as during trial. In the event further proceedings of any Court having jurisdiction of the matter require the presence of the exhibit, the party or agency to whom it was returned shall promptly deliver the exhibit to the appropriate court, with notice to all parties. (1/1/19)

## SECTION 2-FILING PROCEDURES

### **RULE 2.1 TIME OF FILING PAPERS**

All papers necessary to a hearing in default cases, including default dissolutions, a return of service on orders to show cause (except wherein the Court has by order shortened time for service), probate matters, adoptions, compromise of claims of minors, including proof of notice, posting affidavits of publication, agreements in dissolution actions, etc. shall be filed no later than the second court day preceding the date set for hearing. (1/1/99, 1/1/19)

### **RULE 2.2 COMPLETION OF FILE IN DEFAULT AND UNCONTESTED MATTERS**

No hearing shall be set in a default or uncontested matter until all requisite pleadings and documents have been filed and the clerk has entered the default, unless it is a matter requiring court entry of default, in which case the return of service must be filed before the request for hearing. (1/1/99, 1/1/19)

### **RULE 2.3 FILING OF ORDERS**

All written orders shall be filed in the office of the clerk immediately after they are signed. (1/1/99, 1/1/19)

### **RULE 2.4 WAIVER OF FEES AND COSTS**

All parties should refer to California Rules of Court, Rule 3.50-3.58. (1/1/99, 1/1/19)

### **RULE 2.5 FAX FILING AND SERVICE**

Parties may file pleadings by fax through (209) 742-6860 pursuant to California Rules of Court, Rules 2.300-2.306. (1/1/19)

- a. All fax filings shall be accompanied by the Facsimile Transmission Cover Sheet (form MC-005) as the first page transmitted, followed by any special handling instructions.
- b. If a party wants copies of any filed documents, the party must make its request on the Facsimile Transmission Cover. The Court charges \$.50 per page, plus postage (\$1.00 if the document is less than six pages, \$3.00 if the document exceeds six pages.) (1/1/19)

## SECTION 3-CIVIL CASES

### **RULE 3.1 COMPLAINTS**

At the time the case is filed, the clerk shall append to the initial pleading a document entitled “Notice of Inclusion in Civil Case Management Program” and “Notice of Case Management Conference” stating the date, time and place of the first Case Management Conference date. (1/1/19)

### **RULE 3.2 CROSS-COMPLAINTS**

Cross-complainants shall serve all cross-defendants with a copy of the initial “Notice of Inclusion in Civil Case Management Program” and “Notice of Case Management Conference” document and shall serve notice of any other pending Case Management Conference hearing date. (1/1/19)

### **RULE 3.3 CASE MANAGEMENT CONFERENCE**

- a. No later than fifteen (15) calendar days before the scheduled Case Management Conference, each party shall file with the Court and serve on all other parties a completed Case Management Statement (Judicial Council form CM-110). (1/1/19)
- b. Unless notified by the Court that no appearance is necessary, all parties or their attorneys must be present at the conference or appear by telephonic conference call, and must be prepared to discuss all elements of the case inquired into on the Case Management Form and the subjects listed in California Rule of Court, Rule 3.727. (1/1/19)
- c. At the Case Management Conference, the Court will enter a Case Management Order setting a schedule for subsequent proceedings, and otherwise providing for management of the case as specified in California Rules of Court, Rule 3.728. (1/1/19)

### **RULE 3.4 CIVIL LAW AND MOTION**

#### **a. Failure to Appear**

Failure of moving counsel to appear at the time set for which the matter is assigned, unless excused by the Judge, shall be deemed cause for placing such matters off calendar, for proceeding to hear the matter in the absence of counsel, or for assignment of costs and sanctions as the Court in its discretion may determine. (1/1/99, 1/1/19)

**b. Waiver of Right to Appear**

A party may waive their right to appear at any Law and Motion hearing by providing the Court and all counsel with written notice of their intent not to appear and to waive oral argument. If the party has filed documents in support or in opposition to a law and motion matter, the Court will consider the non-appearing party's position based upon the documents filed. A written notice of intent not to appear shall be deemed a waiver of oral argument. One party's notice of intent not to appear shall not impair any other party's right to appear and argue for their respective position. (1/1/19)

**c. Telephonic Appearances**

Except when personal appearance is required, appearance by telephone is permitted and encouraged under the circumstances and procedures set forth in California Rules of Court, Rule 3.670. The Court participates in telephonic appearance services provided by CourtCall. Further information for parties desiring to appear by telephone is available on the Court's website. (1/1/19)

**d. Evidence at Hearings**

As stated in California Rules of Court, Rule 3.1306, oral testimony is not allowed at a law and motion hearing except by order of the Court for good cause shown. If counsel seeks permission to introduce oral testimony, the statement required by Rule 3.1306 must include an explanation as to why the evidence cannot be presented by declaration or affidavit. (1/1/19)

**RULE 3.5 SETTLEMENT CONFERENCES**

**a. Requirement of Settlement Conferences**

A settlement conference is required in all civil trial matters except domestic and short cause matters (one day or less). The time and date of the mandatory settlement conference will be set at the Case Management Conference. At the request of any party or on the Court's own motion, the Court may set a settlement conference in addition to the mandatory conference. (1/1/99, 1/1/19)

**b. Persons Attending**

Trial counsel, parties, and persons with full authority to settle the case must personally attend the conference, unless excused by the Court for good cause shown. If any consent to settle is required for any reason, the party with that authority must be personally present at the conference. If, however, an insurance carrier has no claims offices within California and the Court has been notified, the personal attendance of a representative of the

insurer shall not be required, but a representative of the insurer shall be required to be immediately available by telephone until released by the Court, regardless of the time zone. The Court may impose sanctions in the event of an unexcused absence of a principal or insurer. (1/1/19)

Where the consent of a spouse, business partner, or other person is necessary to achieve settlement, counsel shall, prior to the date set for the settlement conference, obtain the attendance of that person, even if not a party to the litigation. (1/1/19)

**c. Each Party to Be Prepared**

Each plaintiff or party seeking affirmative relief or recovery shall be prepared to make his or her minimum request, and each defendant shall be prepared to make his or her highest offer. (1/1/99, 1/1/19)

In each case counsel who attends the conference shall be thoroughly familiar with the case and shall be prepared to discuss it. (1/1/99, 1/1/19)

**d. Settlement Statement**

All counsel or self-represented litigants shall, at least five (5) Court days prior to the scheduled settlement conference, file with the Clerk of the Superior Court and serve on each party, a mandatory settlement conference statement containing the following:

1. The names of all parties, including interveners and their representatives;
2. A detailed discussion of all facts and laws pertinent to the issues of liability and damages involved in the case;
3. A good faith settlement demand and itemization of economic and non-economic damages by each plaintiff;
4. A good faith offer of settlement by each defendant. (1/1/99, 1/1/19)

**e. Participation in Good Faith**

For a meaningful conference, all attorneys and/or the parties must agree to participate in good faith. Any failure of an attorney or self-represented litigant to prepare for, appear at, and participate in a settlement conference, unless good cause is shown for such failure, may result in sanctions. (1/1/99, 1/1/19)

**f. Failure to Appear**

If at the time of the scheduled settlement conference, plaintiff or those parties seeking affirmative relief fail to appear, the Court may order the trial date vacated and/or impose monetary sanctions. Written notice thereof will be mailed to all parties or their counsel of record as ordered by the Court. If the defendant or other responsible party fails

to appear at the settlement conference and good cause is not shown, the Court may impose sanctions by way of costs, actual expenses, and counsel fees and order the case to proceed to trial on the date assigned. (1/1/99)

**g. Failure of Settlement Conference**

In the event settlement negotiations are not successful, counsel should expect and be prepared to proceed to trial on the date scheduled. (1/1/99, 1/1/19)

**h. Notice of Settlement or Dismissal**

If a case is settled or otherwise disposed of, the plaintiff must immediately file written notice of the settlement or other disposition with the Court. The Court may impose sanctions for the failure to provide it with timely notice of settlement. (1/1/19)

A request for dismissal must be filed by Plaintiff within forty-five (45) days after the date of settlement unless the settlement agreement conditions dismissal on the satisfactory completion of terms that are not to be performed within forty-five (45) days of the settlement. If the settlement contains such terms, then the settlement must specify the date by which the dismissal is to be filed. If the Plaintiff fails to file a timely request for dismissal, the Court will either: 1) dismiss the case; or 2) require Plaintiff or Plaintiff's counsel to appear and show cause why sanctions should not be ordered for failure to file the required request for dismissal. (1/1/18)

**RULE 3.6 JURY TRIALS (CIVIL)**

**a. Deposit of Jury Fees**

The deposit of advance jury fees, and of daily fees and mileage, shall be made as required by California Code of Civil Procedure section 631. (1/1/99, 1/1/19)

**b. Failure to Post**

Failure to deposit advance or daily fees as required will be deemed a waiver of trial by jury. The Court, in its discretion, may proceed to trial without a jury, dismiss an empaneled jury, upon such terms as may be just, proceed with a jury. (1/1/19)

**c. In Limine Motions**

1. The following motions in limine are deemed granted. Written motions should not be submitted on these issues:
  - a. Motion excluding evidence of collateral source;
  - b. Motion excluding evidence of, or mention of, insurance coverage; and

c. Motion excluding offers to settle and/or settlement discussions. (1/1/19)

2. All other motions in limine shall be filed and served on opposing counsel no later than 4:00 p.m., six (6) court days prior to the scheduled trial date. Written opposition to in limine motions, if any, shall be filed and served on opposing counsel no later than 4:00 p.m., three (3) court days prior to the scheduled trial date. Failure to submit written opposition to In Limine motions will not preclude oral opposition to the motions at the time of trial. (1/1/19)

**d. Jury Instructions**

1. Use of Pre-Approved Instructions

To the extent possible parties must use instructions promulgated or sponsored by the California Judicial Council. (1/1/19)

2. Service of Jury Instructions

At the commencement of trial counsel shall serve upon all other parties participating in the trial and deliver to the trial judge a written request captioned in the action and entitled "Instructions Requested by (name of party)," to which shall be attached an edited copy of all instructions requested, with one instruction per page and a five-inch margin at the top of the page which may, however, include typical CACI headings, which will not be read to the jury. The parties may submit additional typewritten or printed instructions which shall contain the authorities relied upon, shall be sequentially numbered and shall follow the standard CACI format. The parties should be prepared to provide to all jurors and alternates a copy of all written instructions, if so required by the trial judge. (1/1/19)

**RULE 3.7 DESTRUCTION OF EXHIBITS IN CIVIL MATTERS**

All exhibits, depositions, or administrative records retained by the Court in any civil matter shall be disposed of in accordance with California Code of Civil Procedure sections 1952-1952.3. (1/1/19)

**SECTION 4-FAMILY LAW**

**RULE 4.1 MATTERS HEARD ON FAMILY LAW CALENDAR**

These Rules apply to all matters related to the Family Law Act, the Uniform Parentage Act, the Domestic Violence Prevention Act, and the Uniform Child Custody Jurisdiction Act. (1/1/99, 1/1/19)

## **RULE 4.2 ISSUANCE OF RESTRAINING/PROTECTIVE ORDERS**

### **a. Criminal Record Information to be made Available to the Family Court**

Subject to available resources, the Family Court Judge or Commissioner shall review Criminal Court records for existing restraining/protective orders involving the same restrained and protected parties, before issuing a permanent CLETS Civil Restraining Orders. (1/1/19)

### **b. Provisions for Safe Access to Children**

Any order of the Family Court that permits contact between a restrained person subject to CLETS restraining orders and his or her children shall contain specific language setting forth the schedule for such contact and the safe exchange of the children. Such an order shall not contain language that conflicts with a Criminal Protective Order that provides for no contact, or limits access to, the other parent. (1/1/19)

### **c. Request to Modify Criminal Protective Order**

The Family Court judge or commissioner may recommend a modification by utilizing the Application to Modify Criminal Protective Order form. The judge or commissioner may direct an attorney or self-represented litigant to complete the application form and attach a copy of a Minute Order reflecting the Judge or Commissioner's recommendation to the Criminal Court. (1/1/19)

## **RULE 4.3 MEDIATION**

### **a. Mandatory Mediation**

Parents who are not in agreement regarding custody and/or visitation will be required to attend mediation before the Child Custody Recommending Counselor (CCRC) in an effort to resolve the dispute. The Court may make temporary orders pending mediation. The purpose of mediation is to develop a custody and time-sharing agreement which is in the child(ren)'s best interest. Parties referred to mediation shall promptly keep all appointments with the mediator and make a good faith effort to come to an agreement. (1/1/19)

### **b. Who May Attend Mediation**

Generally, the only persons in attendance at a mediation session are the two parents and the mediator. However, the mediator has discretion to allow other persons to participate in the mediation process. (1/1/19)



**c. Conduct of Mediation**

Mediation proceedings shall be held in private and are confidential. All verbal communications from the parties to the mediator shall be deemed confidential unless such information impacts issues of safety to the parties or the children. The mediator is authorized to make a written recommendation to the Court regarding custody and visitation. The Court may, without further foundation, consider the report and recommendation of the mediator. (1/1/19)

**d. Ex Parte Communications**

As more fully stated in Rule 5.235 of the California Rules of Court, when ex parte communications are permitted by the mediator, any such communications shall be in writing and shall be served on the opposing party. This requirement does not apply to communications between parties made to the mediator. (1/1/19)

**RULE 4.4 CONTESTED CASES-CUSTODY AND VISITATION**

Following mediation, if there are still unresolved issues regarding custody and visitation, the Court may schedule a hearing. The Court may order a custody evaluation pursuant to California Rules of Court, Rule 5.220 before hearing the case. Following a hearing, the Court may make temporary orders pending the completion of a custody evaluation. (1/1/19)

**RULE 4.5 CUSTODY AND/OR VISITATION EVALUATIONS**

- a. Where the parties stipulate to such an evaluation, such stipulation shall be approved only where the Court deems it warranted. (1/1/19)
- b. The parties may stipulate to an evaluator. However, absent such stipulation, the Court will appoint an evaluator of its selection, or may for good cause appoint someone other than as stipulated. Any evaluator appointed by the Court shall meet the requirements set forth in California Rules of Court, Rule 5.225. (1/1/19)
- c. At the time an evaluation is ordered the parties will be ordered to pay the cost of the evaluation according to the Court's assessment of the relative ability to pay of each party. (1/1/19)
- d. The final report of the evaluator may not be used for any purpose other than as evidence at a custody or visitation hearing, unless otherwise ordered by the court. The Court's copy of the report shall be placed in a confidential part of the court file, not to be opened except by a judicial officer or as may be otherwise ordered by the Court after prior notice to all parties. (1/1/19)

#### **RULE 4.6 CHILD AND/OR SPOUSAL SUPPORT**

##### **a. Income and Expense Declaration**

Within 30 calendar days of a hearing or trial where support is at issue each party must file a current Income and Expense Declaration (form FL-150). Wage earners must attach legible copies of their paycheck stubs for the most recent two months. In the event no paycheck stubs are available, other appropriate documentation must be attached. Self-employed parties shall attach their most recent profit and loss statements, balance sheets, quarterly sales tax reports, their last filed tax return, or similar documentation evidencing income from all sources. (1/1/19)

##### **b. Tax Return**

The Court may also ask each party to provide legible copies of their last three state and federal income tax returns. (1/1/19)

#### **RULE 4.7 APPLICATIONS FOR EMERGENCY ORDERS (EX PARTE ORDERS)**

##### **a. Notice**

The moving party or moving self-represented party must give notice of an *ex parte* application to the opposing attorney or self-represented party in accordance with California Rules of Court, Rule 5.165. (1/1/19)

##### **b. Contents of Notice and Application**

Requests for emergency orders will not be considered by the Court unless they conform with the requirements of California Rules of Court, Rule 5.151. (1/1/99, 1/1/19)

#### **RULE 4.8 ORDERS AFTER HEARING**

Counsel should come to a hearing with a written Order After Hearing (OAH) prepared to present it to the Court at the conclusion of the hearing. If the Court makes decisions that require further drafting of the OAH, the Court shall designate one counsel to prepare the written OAH. This draft OAH should be submitted to opposing counsel for approval as to form and forwarded to the Court. Faxed or emailed OAH's are acceptable. All OAH's must be submitted to the Court within 14 days following the hearing; failure to do so may result in the imposition of sanctions.

If opposing counsel does not respond to the request for approval as to form within five days, the proposed OAH may be submitted directly to the Court with an attached declaration indicating counsel's attempts at notifying opposing counsel. (1/1/19)

**RULE 4.9 STIPULATIONS MODIFYING EXISTING ORDERS**

In any matter in which a modification of an existing order is sought by stipulation, the stipulation must be signed by both parties and their respective attorneys, if any. The stipulation shall then be presented to the judge for the judge’s consideration and signature. (1/1/19)

**RULE 4.10 TRIAL**

**a. Settlement Conference**

All contested dissolutions will be set for a settlement conference. The parties and the attorneys shall attend the conference (1/1/19)

**b. Settlement Conference Statement**

At least 10 court days before the settlement conference each party or their attorney shall file and serve on the other party, or the opposing attorney, a Settlement Conference Statement with contents as indicated below:

**1. Caption**

The caption shall contain the time and date of the Settlement Conference and the Trial.

**2. Income and Expense Declaration**

A current signed and dated Income and Expense Declaration (form FL-150).

**3. Community Property (Assets and Liabilities)**

A current signed and dated Schedule of Assets and Debts (form FL-142), along with a proposed division of the community property assets and debts.

**4. Separate Property**

Where one party claims that an asset is his or her separate property and the other party has not stipulated to that fact, the Statement should include a description of the assets, the means and date of acquisition, the encumbrance at the time of acquisition and a statement as to how the title is held.

**5. Child Custody and Visitation**

A description of the most recent custody and visitation orders and any requested modifications of those orders.

6. Support

Current child and/or spousal support orders and the date(s) of the most recent orders. Each party shall set forth specific proposals regarding modifications to existing child and/or spousal support orders.

7. Statement of Facts and Legal Argument

On any contested legal issue, a recitation of the relevant facts and a brief discussion of the relevant law. (1/1/19)

**SECTION 5-PROBATE**

**RULE 5.1 ORDERS**

All orders in probate matters must be complete. The order shall be drawn so that its substance may be determined without having to refer to the petition on which it is based. (1/1/19)

Except in the case of confirmation of sales, contested matters and orders requiring information from a governmental agency, the moving party shall submit the proposed order at least three Court days prior to the hearing date. (1/1/19)

**RULE 5.2 NOTICES**

- a. In a petition for probate of a will, all persons and organizations named in the will or codicils shall be listed. (1/1/19)
- b. If a named devisee predeceased the decedent, that information must be provided in the notice. In cases where the devisee dies after the decedent, the date of death must be stated and notice must be mailed in care of his or her personal representative if one has been appointed, or alternatively, to another appropriate representative. (1/1/19)
- c. A declaration specifying good faith efforts to identify and locate heirs or beneficiaries is required where the petitioner cannot determine the name or address of an heir or beneficiary to whom notice is required. (1/1/19)
- d. If there are no known heirs of the decedent and no heirs of a predeceased spouse, a declaration to that effect shall be filed setting forth the basis for the declaration and the efforts made to locate all such heirs. (1/1/19)

- e. The trustee of a living trust who is a beneficiary of a will shall be listed as a devisee and noticed. (1/1/19)
- f. The Clerk of the Court does not handle the preparation, mailing or publication of notices. Notices must be prepared and submitted at the time of filing the applicable petition, and the moving party is responsible for all required mailings and newspaper publications. (1/1/19)

**RULE 5.3 DECLINATION TO SERVE**

If the person named in the decedent's will as executor declines to act as such, his or her written and signed declination to act must be filed with the Court unless there is evidence that he or she is incompetent and/or refuses to act. (1/1/19)

**SECTION 6-CRIMINAL**

**RULE 6.1 CRIMINAL COURT PROTECTIVE ORDERS**

**a. Where the Restrained and Protected Person Have Children Together**

When the Criminal Court issues Criminal Protective Orders protecting Victim(s), the Criminal Court judge shall inquire of the defendant (restrained person) whether there are any children of the relationship between the defendant and the victim (protected person), and whether there are any Court orders for custody/visitation of those children. If there are children, the Criminal Court judge shall consider whether peaceful contact should be allowed for purposes of visitation of the defendant with the children. The Criminal Court judge shall also inquire as to whether there are any other protective/restraining orders involving the defendant and the victim. The Court shall examine all available databases for existing protective or restraining orders, before issuing permanent orders. (1/1/19)

**b. When the Protected Persons Include Minor Children of the Restrained Person**

When the Criminal Court issues No Contact and/or Stay Away Orders from the minor children of the defendant the judge shall notify the Victim, if present in court, and the defendant of his or her rights to seek a modification and of the orders and of the necessity of returning to the Criminal Court to modify the Criminal Court Protective Order. (1/1/19)

**c. When the Victim is Present at the Time the Order is Issued**

If the Victim is present in the Criminal Court when the Criminal Protective Order is issued, the Court shall provide the victim with a copy of the Criminal Protective Order.

If the victim is not present in Court, the Court will provide a copy to the District Attorney who shall send a copy to the Victim at his or her last known address. (1/1/19)

**d. Modification of Criminal Court Protective Orders**

1. The District Attorney's Office may, at any time, place the issue before the Court at the request of a Victim or the Family, Juvenile or Probate Court.
2. The Probation Department may place the issue before the Court at the request of a defendant, Victim, or the Family, Juvenile or Probate Court.
3. The defendant or his/her counsel may place the issue before the Court.
4. Upon proper request pursuant to this protocol, the Court shall place the matter on calendar on its own motion.
5. Copies of any applicable CLETS Civil Restraining Orders and Custody and Visitation Orders shall be attached to the Application to Modify Criminal Protective Order. The Application shall include the case numbers of both the Criminal Court case and any Family, Juvenile, or Probate cases involving the defendant and the Victim. The Court Clerk will place copies of the application in the applicable Court files. The requesting person will be responsible for personal service of the Application five (5) days before the hearing on the defendant, and all other appropriate parties and agencies, including the District Attorney's Office, the defendant's attorney of record, the defendant. If the requesting person is someone other than the Victim, the District Attorney's Office shall send a copy of the Application to the Victim at his or her last known address. (1/1/19)

**e. Procedure After the Criminal Court Hearing on Modification**

After the hearing on Modification of the Protective Order, the Court shall send to the applicable Family, Juvenile, or Probate Court, for inclusion in its files, a copy of the Modified Protective Order or Order Denying Motion to Modify Criminal Protective Order (or Minute Order). The District Attorney shall send a copy of the Modified Protective Order, or the Order Denying the Motion to Modify Criminal Protective Order (or Minute Order) to the Victim at his or her last known address. (1/1/19)

**RULE 6.2 CONTINUANCES OF CASES SET FOR TRIAL**

No criminal trial will be continued, even by stipulation of the parties, except pursuant to Penal Code section 1050. (1/1/19)

**RULE 6.3 PLEAS AT THE TIME OF TRIAL**

It shall be the policy of this Court that when a defendant has not made a motion to change his or her plea at the Trial Readiness Conference, only pleas to all counts in the complaint or information will be accepted, except where the counts are pled in the alternative. (1/1/19)

**RULE 6.4 JURY TRIALS (CRIMINAL)**

**a. Defendant's Clothing**

The attorney representing an in-custody defendant shall make timely and appropriate arrangements to ensure that the defendant is suitably dressed for trial. (1/1/19)

**b. Motions in Limine**

All motions that may not be heard and disposed of within one-half hour on the morning of trial shall be made in writing and scheduled to be heard before the judge assigned to the trial at 1:30 p.m. on the day before the trial is scheduled to commence. These motions must be filed with the court and served on opposing counsel no later than three (3) days before the scheduled trial date. (1/1/19)

**c. Criminal Jury Instructions**

Counsel shall file, on the first day of the trial, and prior to commencement of jury selection, a list of all CALCRIM instructions requested. Special instructions shall be accompanied by points and authorities on separate paper from the proposed instruction. All blanks on form instructions shall be filled in so that the proposed instruction is complete. (1/1/19)

**SECTION 7-JUVENILE**

**RULE 7.1 PREHEARING DISCOVERY**

**a. Informal Discovery**

Prehearing discovery shall be reciprocal and shall be conducted on an informal basis, pursuant to California Rules of Court, Rule 5.546. In the case of contested hearings, the parties shall exchange lists of all witnesses to be called at least five days prior to the hearing. Except, as protected by privilege, all relevant material shall be disclosed in a timely fashion to all parties in the case. (1/1/19)

**b. Formal Discovery**

A party may petition the Court for discovery only after having exhausted all informal means. A motion for discovery shall state the relevancy and materiality of the information sought and the reason why informal discovery was not adequate to secure that information. The motion shall be served upon all parties at least five court days before the hearing date. Any responsive papers shall be filed at least two court days before the hearing. (1/1/19)

**RULE 7.2 APPOINTMENT OF COUNSEL IN JUVENILE DEPENDENCY PROCEEDINGS**

**a. General Competency Requirements**

All attorneys appearing in juvenile dependency proceedings must meet the minimum standards of competence as set forth in California Rules of Court, Rule 5.660(d). (1/1/19)

**b. Screening for Competency**

1. Any attorney appearing in a dependency matter for the first time shall complete and submit a Certificate of Competency to the Court within 10 days of his or her first appearance. (1/1/19)
2. Notwithstanding the submission of a Certificate of Competence, the Court may determine, based on the conduct and performance of counsel before the Court in a dependency proceeding that a particular attorney does not meet minimum competency standards. In such case, the Court shall proceed as set forth in section **XXXX** of this rule. (1/1/19)
3. In the case of an attorney who maintains his or her principal office outside of this county, proof of certification by the Juvenile Court of the California county in which the attorney maintains an office shall be sufficient evidence of competence to appear in a juvenile proceedings in this county. (1/1/19)

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

1. In order to retain his or her certification to practice before the Juvenile Court, each attorney who has been previously certified by the Court shall submit a new Certificate of Competence to the Court on or before January 31<sup>st</sup> of the third year after the year in which the attorney is first certified and then every third year thereafter. The attorney shall attach to the renewal Certificate of Competence evidence that he or she has complied with the California Rules of Court, Rule 5.660(d). (1/1/19)



2. When a certified attorney fails to submit evidence that he or she has completed at least the minimum-required training and education to the Court by the due date, the Court shall notify the attorney that he or she will be decertified. The attorney shall have 20 days from the date of the mailing of the notice to submit evidence of his or her completion of the required education and training. If the attorney fails to submit the required evidence, the Court shall order, except in cases where a party is represented by retained counsel, that certified counsel shall be substituted for the attorney who failed to complete the required training. In the case of retained counsel, the Court shall notify the party that his or her counsel has failed to meet the minimum standards required by the California Rules of Court. The determination whether to substitute counsel shall be solely within the discretion of the party so notified. (1/1/19)

**d. 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 the case of a complaint concerning the performance of an attorney appointed to represent a minor, the complaint may be lodged on the child's behalf by the social worker, a caretaker, relative, foster parent, or Court Appointed Special Advocate (CASA). Any such complaint, and the response to that complaint, shall be lodged separately in the Court's file in a sealed envelope. (1/1/19)
2. Counsel shall be provided with a copy of the complaint. The Court shall review any complaint within 10 days of receipt. (1/1/19)
3. If the Court determines the complaint does not present reasonable cause that the attorney has failed to act competently or has violated Local Rules, the Court shall lodge its decision in the file and shall notify the attorney and the complaining party in writing of its determination. (1/1/19)
4. If the Court determines the complaint does present reasonable cause that the attorney may have failed to act competently or has violated Local Rules, the Court shall either request an informal response from the attorney or conduct a hearing to make a determination on the issue. If ordered, the hearing shall be held as soon as is practical. The complainant and attorney shall each be given at least five days' notice of the hearing. Based upon the findings of any such hearing, the Presiding Judge of the Juvenile Court may take appropriate action as determined by the Court to be necessary. The Court shall notify the attorney and the complaining party in writing of its determination of the complaint. (1/1/19)

### **RULE 7.3      STANDARDS OF REPRESENTATION**

All attorneys appearing in a dependency proceeding shall meet the following minimum standards of representation:

- a. The attorney shall thoroughly and completely investigate the allegations of the petition or other moving papers and the court reports filed in support thereof. This shall include conducting a comprehensive interview with the client, contacting social workers and other professionals associated with the case to ascertain if the allegations and/or reports are supported by accurate facts and reliable information; and obtaining such other facts, evidence or information as may be necessary to effectively present the client's position to the Court. (1/1/19)
- b. If the client is a minor child who is placed outside of the home, in addition to interviewing the child, absent exceptional circumstances, the attorney shall also interview the child's caretaker(s). (1/1/19)
- c. The attorney shall vigorously represent the client within applicable legal and ethical boundaries. This shall include the duty to work cooperatively with other counsel, CASA, and the Court, to explore ways to resolve disputed matters without a hearing if it is possible to do so in a way which is consistent with the client's interests, and to comply with local rules and procedures as well as the statutorily mandated time lines. (1/1/19)

### **RULE 7.4      TIME LINES**

Attorneys for all parties shall adhere to the statutory time lines for all hearings. Time waivers will be accepted and continuances granted only upon a showing of exceptional circumstances. (1/1/19)

### **RULE 7.5      PROCEDURES FOR INFORMING THE COURT OF THE INTERESTS OF A DEPENDENT CHILD**

At any time during a dependency proceeding any interested person may advise the Court that the minor may have an interest or right which needs to be protected or pursued in another judicial or administrative forum. Notice to the Court shall be given by the filing of a declaration with service on all parties. The person giving notice shall set forth the nature of the interest or right which needs to be protected or pursued, the name and address, if known, of the administrative agency or judicial forum in which the right or interest may be affected and the nature of the proceedings being contemplated or conducted there. The Court will respond as appropriate, pursuant to the California Rules of Court, Rule 5.660(g). (1/1/19)

## SECTION 8-WRITS AND APPEALS

### **RULE 8.1 WRITS OF HABEAS CORPUS**

Writs of Habeas Corpus are to be filed in the Criminal Division of the Superior Court. (1/1/19)

### **RULE 8.2 CRIMINAL WRITS OTHER THAN HABEAS CORPUS**

- a. Petitions for writs of mandate or prohibition in misdemeanor or infraction cases are to be filed in the Appellate Division of the Superior Court. (1/1/19)
- b. Petitions for writs of mandate or prohibition in felony cases are to be filed in the Fifth District Court of Appeal in Fresno. (1/1/19)
- c. Petitions for writs of error coram nobis are to be filed in the Criminal Division of the Superior Court. (1/1/19)

### **RULE 8.3 CIVIL WRITS**

Writs seeking judicial review of administrative proceedings are to be filed in the Civil Division of the Superior Court. (1/1/19)

### **RULE 8.4 APPEALS**

- a. Appeals from felonies, unlimited jurisdiction civil matters, family law matters and probate matters are to be filed in the Superior Court but will be processed by the Fifth District Court of Appeal in Fresno. (1/1/19)
- b. Appeals from misdemeanors and infractions are to be filed in the Criminal Division of the Superior Court. (1/1/19)
- c. Appeals in small claims cases are to be filed in the Civil Division of the Superior Court. (1/1/19)