# ***INVITATION TO COMMENT***

The Superior Court of California, County of Solano, invites comments on proposed revisions to the court's local rules, effective January 1, 2010.

## CONTENTS

- Text of Proposed Changes to Local Rules (233 pages)
- Response Form to Proposed Revisions (1 page)

**DEADLINE FOR COMMENT: 5:00 p.m. on Monday, November 9, 2009**

**Superior Court of California**
**County of Solano**

**Rule 1 – General Provisions~~Consolidation and Direct Calendaring~~**

**1.1 ADOPTION OF LOCAL RULES ~~CONSOLIDATION OF THE SOLANO COUNTY COURTS~~**

The Superior Court of California, County of Solano ~~The Solano County Superior Court, the Northern Solano Municipal Court, and the Vallejo Benicia Municipal Court, having consolidated all of the courts in Solano County under the direction and control of one presiding judge~~ hereby adopts these ~~consolidated~~ local rules pursuant to California Government Code section 68070 and Code of Civil Procedure sections 575.1 and 575.2. ~~Hereafter in these rules the consolidated courts of Solano County shall be referred to as the Solano County Courts.~~ Unless otherwise stated in an individual rule, the term "court" as used in these local rules shall mean the Superior Court of California, County of Solano.

*(Rule 1.1 amended effective January 1, 2010; adopted effective January 1, 1998.)*

**1.2 DIVISIONS OF THE COURT; ASSIGNMENT OF SUPERVISING JUDGES**

The court shall be divided into five judicial divisions: the Criminal Division, the Civil Division, the Family and Probate Division, the Juvenile Division, and the Appellate Division. ~~Effective January 1, 1998, the Solano County Courts shall be divided into three divisions: the Criminal Division, the Civil Division and the Family Division.~~ The court's P~~p~~residing J~~j~~udge shall appoint the presiding judge of the Juvenile Division and the supervising judges of all other divisions. ~~be the supervising judge of the Criminal Division with the supervising judges of the other divisions being appointed by the presiding judge.~~

*(Rule 1.2 amended effective January 1, 2010; adopted effective January 1, 1998.)*

~~**1.3 DESIGNATION OF CASES TO DIVISIONS**~~

~~The Criminal Division shall be responsible for all felony criminal cases. The Civil Division shall be responsible for all civil cases regardless of whether the cases involve the jurisdiction of the superior court or the municipal court. The Family Division shall be responsible for all family law cases, probate cases, mental health cases, adoption cases, and juvenile cases. The balance of cases in the court which include misdemeanor criminal cases, traffic infraction cases, small claims cases, unlawful detainer cases, and extraordinary writs shall be assigned to the various judicial officers as deemed appropriate by the presiding judge.~~

~~*(Rule 1.3 adopted effective January 1, 1998.)*~~

**Superior Court of California**
**County of Solano**

**Rule 1 – General Provisions~~Consolidation and Direct Calendaring~~**

## 1.3 ~~1.4~~ DIRECT CALENDARING

All matters ~~civil cases and all criminal cases~~ pending in the court ~~Solano County Courts~~ on January 1, 1998, or~~and~~ filed after January 1, 1998, shall be directly calendared to be heard by one judge for all purposes. ~~Cases that are pending in 1997 and are thereafter set to be heard for any hearing in 1998 shall be assigned to a judge for all purposes at the time of setting the matter for hearing in 1998. These rules anticipate that many of the assignments to one judge for all purposes will be accomplished in open court at the hearing when the matter is assigned to a hearing date.~~ If t~~T~~he name of the judge is ~~shall be~~ announced in open court, this announcement~~and~~ shall be deemed adequate and appropriate notice to the parties and attorneys present of the assignment for all purposes.

*(Rule 1.3 amended and renumbered effective January 1, 2010; adopted as Rule 1.4 effective January 1, 1998; former Rule 1.3, which concerned the designation of cases to divisions, repealed effective January 1, 2010.)*

## ~~1.5 CASES OTHER THAN FELONY CRIMINAL AND CIVIL CASES~~

~~All cases other than felony criminal cases and civil cases are subject to the assignment of the presiding judge, or of supervising judges as delegated by the presiding judge.~~

~~*(Rule 1.5 adopted effective January 1, 1998.)*~~

## 1.4~~1.6~~ REASSIGNMENT UPON DISQUALIFICATION OF JUDICIAL OFFICER~~JUDGE~~

When a judicial officer~~judge~~ is disqualified, either on a peremptory challenge, for cause, or by the judicial officer's ~~judge's~~ own determination, the matter shall be referred to the presiding judge for reassignment. The reassignment shall be made by the presiding judge, or the supervising or presiding judge of the division, upon the delegation of that authority by the presiding judge.

*(Rule ~~1.6~~ 1.4 amended and renumbered effective January 1, 2010; adopted as Rule 1.6 effective January 1, 1998.)*

## 1.5 CASES OTHER THAN FELONY CRIMINAL AND CIVIL CASES [REPEALED]

*(Rule 1.5 repealed effective January 1, 2010; adopted effective January 1, 1998.)*

## 1.6 [RENUMBERED]

*(Rule 1.6 renumbered as Rule 1.4 effective January 1, 2010.)*

**1.7 CIVIL CASE RULES AND CRIMINAL CASE RULES ~~CIVIL CASE RULES AND CRIMINAL CASE RULES~~[REPEALED]**

~~The specific rules that address the direct calendaring of felony criminal cases are set out in RULE 2 of these rules. The specific rules that address the direct calendaring of civil cases are set out in RULE 3 of these rules.~~

*(Rule 1.7 repealed effective January 1, 2010; adopted effective January 1, 1998.)*

**Superior Court of California**
**County of Solano**

**Rule 2 – Felony Criminal Cases**

## 2.1 APPLICATION OF RULES

These rules apply to all felony criminal cases pending on, or filed on or after, January 1, 1998. ~~, and filed thereafter in the Solano County Superior Court, Northern Solano Municipal Court, and the Vallejo Benicia Municipal Court.~~ For the purpose of these rules the term "felony criminal cases" does not include traffic infraction cases or ~~,~~ misdemeanor criminal cases. ~~, civil cases, family law cases, small claims cases, unlawful detainer cases, probate cases, mental health cases, adoption cases, juvenile cases, and extraordinary writs.~~

*(Rule 2.1 amended effective January 1, 2010; adopted effective January 1, 1998.)*

## 2.2 DIRECT CALENDARING OF CRIMINAL CASES

When a felony criminal case is filed either by complaint or indictment, the matter shall be assigned, after arraignment, to one judge for all purposes. All felony criminal cases shall be heard first in an arraignment department of the court and from that department the case shall~~, if the matter is to be set for a hearing after January 1, 1998,~~ be assigned to one of the judges in the Criminal Division of the court and the parties shall be notified in open court and on the record of the name of the judge and that notification shall be considered adequate and appropriate for all purposes. The assignment of a felony criminal case to a judge as provided in this paragraph shall be by a random process, and the assignment to the judge shall be deemed for all purposes.

*(Rule 2.2 amended effective January 1, 2010; adopted effective January 1, 1998.)*

## 2.3 NOTIFICATION OF THE PARTIES OF ASSIGNMENT TO ONE JUDGE FOR ALL PURPOSES

If the parties are not notified of the assignment to one judge for all purposes in open court then the Clerk of the Court, after a judge is selected, shall send a written notification to all parties by first class mail and file in the court file a verification of mailing.

*(Rule 2.3 adopted effective January 1, 1998.)*

## 2.4 PEREMPTORY CHALLENGE OF JUDGE ASSIGNED FOR ALL PURPOSES

Upon a peremptory challenge of a judge assigned for all purposes to a felony criminal case the case shall be reassigned pursuant to rule 1.5~~1.6~~ of these r~~R~~ules.

*(Rule 2.4 amended effective January 1, 2010; adopted effective January 1, 1998.)*

## 2.5 PLEADINGS [REPEALED]

~~The pleadings in felony criminal cases shall continue to designate whether the case is a Solano County Superior Court case, a Northern Solano Municipal Court case, or a Vallejo-Benicia Municipal Court case.~~

*(Rule 2.5 repealed effective January 1, 2010; adopted effective January 1, 1998.)*

## 2.6 DESIGNATION OF JUDGE ON ALL PLEADINGS [REPEALED]

~~In addition to the requirements of the California Rules of Court, all documents filed in felony criminal cases, with the exception of the original filing of the complaint, or indictment, shall have clearly typed in all capital letters on the face page of each document, under the case number, the name and the department number of the judge assigned to the case for all purposes.~~

~~For Example:~~

~~**ASSIGNED FOR ALL PURPOSES TO:**~~

~~**JUDGE DWIGHT C. ELY**~~

~~**DEPARTMENT FIVE**~~

*(Rule 2.6 repealed effective January 1, 2010; adopted effective January 1, 1998.)*

## 2.7 ADDITIONAL INFORMATION ON THE FACE OF THE PLEADING [REPEALED]

~~Consecutively below the name of the assigned judge and department number as provided in Rule 2.6, above, shall be the name of the document, then the nature or title of any attached document other than an exhibit, the time of the hearing to which the document applies, the title of the motion or hearing to which the document applies, then the date of the hearing to which the document applies, then the Trial Date (and if a trial has not been set, indicate "None").~~

~~For Example:~~

~~**NO. 12345**~~
~~**ASSIGNED FOR ALL PURPOSES TO:**~~
~~**JUDGE DWIGHT C. ELY**~~
~~**DEPARTMENT FIVE**~~

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~~POINTS AND AUTHORITIES SUPPORTING DEFENDANT'S MOTION TO SUPPRESS PURSUANT TO PENAL CODE SECTION 1538.5~~

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~~TITLE OF THE MOTION OR HEARING: Motion to Suppress~~
~~DATE OF HEARING: March 14, 2000~~
~~TIME OF HEARING: 8:30 A.M.~~
~~TRIAL DATE: None, (or specific date), whichever is applicable.~~

*(Rule 2.7 repealed effective January 1, 2010; adopted effective January 1, 1998.)*

## 2.8 SOLANO COUNTY COURTS CASE NUMBER [REPEALED]

~~The Solano County Courts case number shall be on each paper filed as indicated in Rule 2.6, above. A party shall not add any numbers, letters or other designations to the Solano County Courts case number either as a prefix or a suffix, on any pleading filed with the court.~~

*(Rule 2.8 repealed effective January 1, 2010; adopted effective January 1, 1998.)*

## 2.9 PROOF OF APPEARANCE AND STATE BAR NUMBER ON PLEADINGS [REPEALED]

~~Any attorney appearing in a felony criminal case who is not employed by a Solano County public law office shall complete and file a form on his or her first appearance which states the name, office address, telephone number, facsimile transmission number, and state bar number of the attorney. The form provided for in this paragraph shall be on a form provided by the court.~~

~~All pleadings filed by any attorney in a felony criminal case, shall have the attorney's name, address, telephone number, facsimile transmission number, state bar number of the~~

~~attorney, and the name of the attorney's client at the top left of the first page of the pleading.~~

*(Rule 2.9 repealed effective January 1, 2010; adopted effective January 1, 1998.)*

**Superior Court of California**
**County of Solano**

**Rule 3 – Civil Cases**

## 3.1 APPLICATION OF RULES

These rules apply to all civil cases, limited and unlimited, filed in the Superior Court of California, County of Solano, and may apply to other matters as provided elsewhere in the rules. For the purposes of these rules the term "civil cases" does not include criminal cases, traffic infraction cases, matters filed under the California Family Code, small claims cases, unlawful detainer cases, probate cases, mental health cases, adoption cases, juvenile cases and extraordinary writs.

*(Rule 3.1 amended effective January 1, 2010; ~~amended effective January 1, 2009; previously amended October 1, 2002;~~ adopted effective January 1, 1998; previously amended effective October 1, 2002; previously amended effective January 1, 2009.)*

## 3.2 DIRECT CALENDARING OF CIVIL CASES

When a civil case is filed, or received and filed as a transfer from another county, the Clerk of the Court shall assign the case to one of the judges in the Civil Division of the court and shall notify the plaintiff. The assignment to a judge shall be deemed to be for all purposes. The method of selection of the judge to be assigned to a case shall be subject to the approval of the Supervising Judge of the Civil Division and shall be designed to equally distribute the workload among the judges of the Civil Division and best serve the court. This rule does not apply to limited jurisdiction collection actions that qualify under California Rules of Court 3.740, except that a judge may be assigned in those cases upon any of the following events: (1) failure to file proof of service or obtain order for publication of summons within 180 days of the filing of the complaint; (2) failure to obtain default judgment within 360 days of the filing of the complaint, if no responsive pleading has been filed; or (3) upon the filing of a responsive pleading by a defendant.

*(Rule 3.2 amended effective January 1, 2009; adopted effective January 1, 1998.)*

## 3.3 NOTIFICATION OF PLAINTIFF OF ASSIGNMENT TO ONE JUDGE FOR ALL PURPOSES

Upon the filing of the complaint, the ~~If the notification to the plaintiff regarding the assignment to one judge for all purposes is not done in open court and on the record, then~~ the clerk shall notify plaintiff, plaintiff's attorney, or an agent of the plaintiff of the assignment to one judge for all purposes; and, if in person, the person receiving notice shall sign an acknowledgement of the notification on a form to be prepared by the Clerk of the Court indicating thereon that the notification is received on behalf of plaintiff. The clerk shall file the acknowledgement of the notification in the court file with an attached

proof of personal service. If the notification of the plaintiff, his attorney or agent is not in person and acknowledged in writing, then the clerk shall mail a notice to plaintiff at his or her address of record by first class mail and file a proof of mailing in the court file. Plaintiff shall promptly notify all parties in the case at the time the assignment is made and notify all parties who later enter the case and file with the court a proof of service of such notification of the assignment to a judge for all purposes within five (5) days after the notice is served.

*(Rule 3.3 adopted effective January 1, 1998.)*

## 3.4 DESIGNATION OF COURT

The pleadings in civil cases shall continue to designate whether the case is an unlimited or limited civil action. If the case is a limited civil action, the pleadings shall designate the proper judicial district.

*(Rule 3.4 amended effective October 1, 2002; adopted effective January 1, 1998.)*

## ~~3.5 DESIGNATION OF JUDGE~~

~~In addition to the requirements of the California Rules of Court, all documents filed in civil cases, with the exception of the original summons and complaint or petition, shall have clearly typed on the face page of each document the case number, and under the case number, the name of the judge assigned to the case for all purposes, and the department number. For example:~~

~~**NO. 12345**~~
~~**ASSIGNED FOR ALL PURPOSES TO**~~
~~**NAME OF JUDGE**~~
~~**DEPARTMENT NUMBER**~~

~~*(Rule 3.5 adopted effective January 1, 1998.)*~~

## ~~3.6 ADDITIONAL INFORMATION ON THE FACE OF A PLEADING~~

~~Consecutively below the name of the assigned judge and department number as provided in Rule 3.5, above, shall be the name of the document, the title of the motion or hearing to which the document applies, then the nature or title of any attached document other than an exhibit, then the date of the hearing to which the document applies, then the time of the hearing to which the document applies, the Arbitration Hearing Date, then the Discovery Cut-Off date (and if a trial date has not been set, indicate "N/A"), then the Discovery Motion Cut-Off date (and if a trial has not been set, indicate "N/A"), then the Trial Date (and if a trial date has not been set, indicate "None"). For example:~~

~~**NO. 12345**~~
~~**ASSIGNED FOR ALL PURPOSES TO**~~
~~**NAME OF JUDGE**~~
~~**DEPARTMENT NUMBER**~~

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~~POINTS AND AUTHORITIES SUPPORTING DEFENDANT'S~~
~~DEMURRER TO PLAINTIFF'S COMPLAINT,~~

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~~TITLE OF THE MOTION OR HEARING: Demurrer to Plaintiff's Complaint~~
~~DATE OF HEARING: January 8, 1999~~
~~TIME OF HEARING: 8:30 AM~~
~~ARBITRATION HEARING DATE: N/A (or specific date), whichever is applicable~~
~~DISCOVERY CUT OFF: N/A, (or specific date), whichever is applicable~~
~~DISCOVERY MOTION CUT OFF: N/A, (or specific date), whichever is applicable~~
~~TRIAL DATE: None, (or specific date), whichever is applicable~~

~~*(Rule 3.6 adopted effective January 1, 1998.)*~~

## 3.5~~3.7~~ PEREMPTORY CHALLENGE OF JUDGE ASSIGNED FOR ALL PURPOSES

A peremptory challenge to a judge assigned for all purposes to a civil case pursuant to the direct calendaring system in the Superior Court of California, County of Solano shall be filed within 15 days of the party's first appearance in the action.

*(Rule 3.5 renumbered effective January 1, 2010; previously adopted as Rule 3.7 ~~adopted~~ effective January 1, 1998; former Rule 3.5, which concerned the designation of judges on pleadings, repealed effective January 1, 2010 .)*

~~**3.8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SOLANO CASE NUMBER**~~

~~The Superior Court of California, County of Solano case number shall be on each paper filed as indicated in Rule 3.5 above. A party shall not add any numbers, letters or other designations to the Superior Court of California, County of Solano case number either as a prefix or a suffix, on any pleading filed with the court.~~

~~*(Rule 3.8 adopted effective January 1, 1998.)*~~

~~**3.9 PROOF OF APPEARANCE AND STATE BAR NUMBER ON PLEADINGS**~~

~~All pleadings filed by any attorney in a civil case shall have the attorney's name, address, telephone number, facsimile transmission number, state bar number of the attorney, and the name of the attorney's client at the top left of the first page of the pleading.~~

~~*(Rule 3.9 amended effective January 1, 2007; adopted effective January 1, 1998.)*~~

**3.6~~3.10~~ DEPOSIT OF JURY FEES**

Pursuant to Code of Civil Procedure section 631, a~~A~~dvance jury fees in the amount of one hundred and fifty dollars ($150.00) shall~~must~~ be deposited with the Clerk of the Court at least twenty-five (25) calendar days prior to the date initially set for trial. The court may deem that the demanding party has waived jury if there is not compliance with the deposit of jury fees provided for in this paragraph.

*(Rule ~~3.10~~ 3.6 amended and renumbered effective January 1, 2010; ~~amended effective October 1, 2002;~~ adopted as Rule 3.10 effective January 1, 1998; previously amended effective October 1, 2002; former Rule 3.6, which concerned additional information to be included on the face of a pleading, repealed effective January 1, 2010.)*

**3.7~~3.11~~ FORFEITURE OF JURY FEES**

a. **WAIVER OF JURY TRIAL~~.~~**
If, after jury fees have been deposited, a party waives jury, such waiver must be of record at least seven (7) calendar days prior to the assigned date of trial, otherwise said jury fee deposit shall be forfeited.
*(Subd (a) amended and relettered effective January 1, 2010; adopted as unlettered portion of Rule 3.11 effective January 1, 1998.)*

b. **CONTINUANCE OF JURY TRIAL DATE~~.~~**

Whenever a continuance of jury trial is obtained within seven (7) calendar days prior to the assigned date of trial, the jury fee deposit shall be forfeited.
*(Subd (b) amended and relettered effective January 1, 2010; adopted as unlettered portion of Rule 3.11 effective January 1, 1998.)*

c. **SETTLEMENT OF CASE SET FOR TRIAL.**
If a case assigned for trial is settled, but written dismissal or notice of settlement is not filed at least seven (7) calendar days prior to the assigned date of trial, the jury fee deposit shall be forfeited.
*(Subd (c) relettered effective January 1, 2010; adopted as unlettered portion of Rule 3.11 effective January 1, 1998.)*

d. **CCP SECTION 631.3**
For purposes of Rule 3.11 and per Code of Civil Procedure section 631.3, it is deemed necessary for the court to have at least seven (7) calendar days notice of waiver of jury, continuance or settlement of the case in order to notify the jurors that the trial will would not proceed at the time set.
*(Subd (d) amended and relettered effective January 1, 2010; adopted as unlettered portion of Rule 3.11 effective January 1, 1998.)*

*(Rule 3.7 3.11 amended and renumbered effective January 1, 2010; adopted as Rule 3.11 effective January 1, 1998; former Rule 3.7 renumbered as Rule 3.5 effective January 1, 2010.)*

## CIVIL LAW AND MOTION, TENTATIVE RULING SYSTEM, FILES, EXHIBITS, POST TRIAL BRIEFS AND ORDERS REGARDING ORDERS TO SHOW CAUSE, TEMPORARY RESTRAINING ORDERS AND INJUNCTIONS

### 3.12 CALIFORNIA RULES OF COURT GOVERN

California Rules of Court, rules 3.1110 through 3.1320 shall govern this court unless otherwise set forth herein.

*(Rule 3.12 amended effective July 1, 2009; adopted effective January 1, 1998.)*

### 3.83.13 NOTIFICATION TO COURT OF DROPS, CONTINUANCES AND STIPULATIONS

When a matter is to be dropped, continued or stipulated to, counsel for the moving party shall promptly notify the department of the court to which the matter is assigned. No

matters will be continued after announcement of a tentative ruling thereon, except by order of the court for good cause.

No matter shall be continued unless the department of the court to which the matter is assigned approves of the continuance date. Any continuance requested within forty-eight (48) hours of the hearing date shall be directed to the department in which the hearing is scheduled for approval.

In the absence of a showing of good cause by counsel, no matter shall be continued on the law and motion calendar pursuant to stipulation of counsel, or otherwise, more than twice.

*(Rule 3.8 amended and renumbered effective January 1, 2010; adopted as Rule 3.13 ~~adopted~~ effective January 1, 1998; former Rule 3.8, which concerned the court case number, repealed effective January 1, 2010.)*

## 3.9 ~~3.14~~ TENTATIVE RULINGS ~~– TELEPHONIC RECORDATION~~

### a. AVAILABILITY OF TENTATIVE RULINGS

~~On the afternoon of the court day before each calendar, the judges will cause to be recorded telephonically and posted to our web site a tentative ruling on each matter on the next day's calendar. The t~~A tentative rulings on a civil matter will be available on the court day immediately preceding the scheduled hearing on that matter by telephoning a tape-recorded message at (707) 207-7331 or by signing onto the court's ~~our~~ web site at www.solano.courts.ca.gov ~~www.solanocourts.com~~ and clicking "Tentative Rulings and Probate Exam Notes" after 2:00 p.m. Thus, for example, for a matter on a Monday calendar, one may call the recorded message or check the court's ~~our~~ web site after 2:00 p.m. on the preceding Friday afternoon.~~, and so forth.~~ Tentative rulings will not be posted for unlawful detainer matters.

*(Subd (a) amended and relettered effective January 1, 2010; adopted as Rule 3.14 effective January 1, 1998; previously amended effective October 1, 2002.)*

### b. NOTIFICATION OF INTENT TO APPEAR AT HEARING

The tentative ruling shall become the ruling of the court unless a party desiring to be heard so advises the judicial assistant of the department hearing the matter at the telephone number indicated in the tentative ruling no later than 4:30 p.m. on the court day preceding the hearing, and further advises that such party has notified the other side of its intention to appear and argue.

*(Subd (b) relettered effective January 1, 2010; adopted as Rule 3.15 effective January 1, 1998.)*

c. **ARGUMENT ON TENTATIVE RULING**

Where an appearance has been requested or invited by the court, limited argument will be entertained, not to exceed 20 minutes per case. Appearances may be made telephonically, in accordance with California Rules of Court, rule 3.670 and Solano County Local Rules, rule 4.14(h), unless the court orders a personal appearance.

*(Subd (c) relettered effective January 1, 2010; adopted as Rule 3.16 effective January 1, 1998; previously amended effective January 1, 2009.)*

*(Rule 3.9 ~~3.14~~ amended and renumbered effective January 1, 2010; ~~effective October 1, 2002;~~ adopted as Rule 3.14 effective January 1, 1998; previously amended effective October 1, 2002; former rule 3.9, which concerned proof of appearance and state bar numbers on pleadings, repealed effective January 1, 2010.)*

~~**3.15 TENTATIVE RULINGS – HEARING**~~

~~The tentative ruling shall become the ruling of the court unless a party desiring to be heard so advises the judicial assistant of the department hearing the matter at the telephone number indicated on the tentative ruling telephone tape recorded message no later than 4:30 p.m. on the court day preceding the hearing, and further advises that such party has notified the other side of its intention to appear and argue.~~

~~*(Rule 3.15 adopted effective January 1, 1998.)*~~

~~**3.16 TENTATIVE RULING – ARGUMENT**~~

~~Where an appearance has been requested or invited by the court, limited argument will be entertained, not to exceed 20 minutes per case. Appearances may be made telephonically, in accordance with California Rules of Court, rule 3.670 and Solano County Local Rules, rule 4.14(h), unless the court orders a personal appearance.~~

~~*(Rule 3.16 amended effective January 1, 2009; adopted effective January 1, 1998.)*~~

**3.10 ~~3.17~~ ORDERS AFTER HEARING**

Unless otherwise directed by the court, the prevailing party shall prepare the order~~s~~ after hearing. The attorney or self-represented party preparing~~drawing~~ the order shall submit it to opposing counsel or self-represented party for approval as to form. If opposing counsel or self-represented party fails to approve or state objections in writing to the preparing party within ten (10) days, ~~in writing,~~ the proposed order is to be submitted to

the court for signature. The court may then sign the order without approval as to form, and may impose sanctions upon ~~counsel~~ counsel or the self-represented party for failing to respond to the request for approval as to form, if the court finds sanctions to be appropriate. Such orders shall specify immediately below the number of the case, the name of the judge assigned for all purposes, the title of the order and the date the matter had been calendared for the hearing from which the order results.

*(Rule 3.10 ~~3.17~~ amended and renumbered effective January 1, 2010; adopted as Rule 3.17 ~~–~~effective January 1, 1998; former Rule 3.10 renumbered as Rule 3.6 effective January 1, 2010.)*

~~**3.18 MEMORANDUM OF POINTS AND AUTHORITIES PAGE LIMITS**~~

~~Except in a summary judgment or summary adjudication motion, no opening or responding memorandum may exceed 15 pages. In a summary judgment or summary adjudication motion, no opening or responding memorandum may exceed 20 pages. No reply or closing memorandum may exceed 10 pages. Any party filing a memorandum exceeding these page limits shall obtain prior written approval from the court. A memorandum of points and authorities that exceeds fifteen (15) pages shall also include an opening summary of argument.~~

~~**(Rule 3.18 amended effective January 1, 2009; adopted effective January 1, 1998.)**~~

**3.11~~3.19~~ FAILURE TO NOTIFY COURT WHEN ATTORNEY CANNOT BE PRESENT SHALL BE DEEMED SUFFICIENT CAUSE TO ORDER OFF CALENDAR**

If an attorney cannot be present on time at the call of the matter on calendar, he or she must, prior to the call, inform the courtroom clerk of that department of the reason for and extent of such delay. Failure to appear or furnish such information shall be deemed sufficient cause for ordering the matter off calendar or for proceeding to hear the matter in the absence of counsel, as the court, in its discretion, may determine.

*(Rule 3.11 renumbered effective January 1, 2010; adopted as Rule 3.19 ~~adopted~~ effective January 1, 1998; former Rule 3.11 renumbered as Rule 3.7 effective January 1, 2010.)*

**3.12~~3.20~~ OFF CALENDAR**

A law and motion matter that has gone off calendar may be restored thereto only upon notice, excepting in an extraordinary situation, to be determined by the court in its discretion.

*(Rule 3.12 ~~3.20~~renumbered effective January 1, 2010; adopted as Rule 3.20 effective January 1, 1998; former Rule 3.12, which concerned the California Rules of Court, repealed effective January 1, 2010.)*

## 3.13 ~~3.21~~ EX PARTE MATTERS

Ex parte matters will be heard daily, but only upon appointment scheduled through the judge's assistant. Said application shall comply with California Rules of Court 3.1200-3.1207 and all parties must be notified no later than 10:00 a.m. the court day before the ex parte appearance. All other hearings shall be scheduled through master calendar, telephone (707) 207-7332.

*(Rule 3.13 renumbered effective January 1, 2010; ~~3.21 amended effective July 1, 2009;~~ adopted as Rule 3.21 effective January 1, 1998; previously amended effective July 1, 2005; previously amended effective July 1, 2009; former Rule 3.13 renumbered as Rule 3.8 effective January 1, 2010.)*

~~**3.22 APPROVAL AS TO FORM**~~

~~Unless otherwise directed, the prevailing party shall prepare orders after hearing. In any contested matter, the attorney drawing the order will first submit it to opposing counsel for approval as to form. If opposing counsel fails to approve or state objections within ten (10) days, in writing, the proposed order is to be submitted to the court for signature. The court may then sign the order without approval as to form, and may impose sanctions upon counsel for failing to respond to the request for approval as to form, if the court finds sanctions to be appropriate.~~

~~*(Rule 3.22 adopted effective January 1, 1998.)*~~

~~**3.23 ACCESS TO FILES AND EXHIBITS**~~

~~No papers, documents or exhibits on file in the office of the clerk of this court shall be allowed to be taken from the custody of the clerk except upon order of court.~~

~~*(Rule 3.23 adopted effective January 1, 1998.)*~~

~~**3.24 BRIEFS AND MEMORANDA OF POINTS AND AUTHORITIES**~~

~~All briefs or memoranda of points and authorities shall be filed with the Clerk of the Court.~~

~~*(Rule 3.24 amended effective January 1, 2007; adopted effective January 1, 1998.)*~~

**3.14 ~~3.25~~ ORDERS REGARDING ORDERS TO SHOW CAUSE, TEMPORARY RESTRAINING ORDERS, AND INJUNCTIONS**

All written orders, including orders to show cause, temporary restraining orders and injunctions, signed by a judge shall be filed forthwith. An endorsed filed copy of such order shall be served upon each party to be notified thereof. Except as otherwise directed by the court for good cause shown, the proof of such service of orders to show cause and temporary restraining orders shall be filed before 3:00 p.m. of the third court day prior to the hearing.

*(Rule 3.14 renumbered effective January 1, 2010; adopted as Rule 3.25 ~~adopted~~ effective January 1, 1998; former Rule 3.14 renumbered as Rule 3.9 effective January 1, 2010.)*

## 3.15 ~~3.26~~ MOTIONS TO CONSOLIDATE

Motions to consolidate cases shall be heard in the department to which the case with the lowest file number is assigned.

In the event that cases are consolidated, the pleadings filed thereafter shall be filed in the case file with the lowest file number and the consolidated case shall be assigned for all purposes to the judge to which the case with the lowest file number is assigned.

*(Rule 3.15 renumbered effective January 1, 2010; adopted as Rule 3.26 ~~adopted~~ effective January 1, 1998; former Rule 3.15, which concerned tentative rulings, renumbered as part of Rule 3.9 effective January 1, 2010.)*

## 3.16 ~~3.27~~ MOTIONS PAPERS

Motions papers must be received within seventy-two (72) hours of reserving a law and motion date. If papers are not received within seventy-two (72) hours, the date reserved will be canceled.

*(Rule 3.16 renumbered effective January 1, 2010; adopted as Rule 3.27 ~~adopted~~ effective October 1, 2002; former Rule 3.16, which concerned tentative rulings, renumbered as part of Rule 3.9 effective January 1, 2010.)*

## 3.17 ~~3.28~~ MANDATE ACTIONS ARISING UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

a. ~~A.~~ **WHERE FILED~~:~~**
Mandamus actions challenging an agency decision under the California Environmental Quality Act (Publ.Res. Code §21000 et seq.) shall be filed in the Civil Clerk's Office of the Court location in which the action is pending. Each action shall be accompanied by an initial filing form designating the action as Environmental Law – CEQA (Publ.Res. Code § 21167.1), and shall be assigned to the designated CEQA department for all purposes.
*(Subd (a) adopted effective July 1, 2005.)*

b.~~B.~~ **ORDERING THE ADMINISTRATIVE RECORD~~:~~**
In accordance with Publ.Res. Code § 21167.6, within ten (10) business days after the action is filed, petitioners shall personally serve on the appropriate public agency their request for preparation of the administrative record or notice of election to prepare the record themselves.
*(Subd (b) adopted effective July 1, 2005.)*

c. ~~C.~~ **MEDIATION~~:~~**
In accordance with Publ.Res. Code § 66031, within five (5) days after the deadline for respondent or defendant to file a response to the action, plaintiff or petitioner shall prepare and lodge with the designated CEQA department a notice form for the c~~C~~ourt's signature inviting mediation. The Clerk shall then mail the notice of invitation to the parties.
*(Subd (c) adopted effective July 1, 2005.)*

d. ~~D.~~ **PREPARING THE ADMINISTRATIVE RECORD~~:~~**

(1)~~1.~~ **Preparation by the Public Agency~~:~~**

(a) Within twenty (20) calendar days after receipt of a request to prepare the administrative record, the public agency responsible for such preparation shall personally serve on petitioners a preliminary notification of the estimated cost of preparation, setting forth the agency's normal costs per page, other reasonable costs, if any, the agency anticipates, and the likely range of pages. This notice shall also state, to the extent then known, the location(s) of the documents anticipated to be incorporated into the administrative record, shall designate the contact person(s) responsible for identifying the agency personnel or other person(s) having custody of those documents, and shall provide a listing of dates and times when those documents will be made available to petitioners or any party for inspection during normal business hours as the record is being prepared. This notice shall be supplemented by the agency from time to time as additional documents are located or determined appropriate to be included in the record.
*(Subd (a) relettered effective January 1, 2010; adopted as Subd (d)(1) effective July 1, 2005.)*

(b) ~~2.~~ Upon receipt of this preliminary notification, petitioners may elect to prepare the record themselves provided they notify the agency

within five (5) calendar days of such receipt. If petitioners so elect, then within forty (40) calendar days of service of the initial notice to prepare the administrative record, petitioners shall prepare and serve on all parties a detailed index listing the documents proposed by petitioners to constitute the record. Within seven (7) calendar days of this notification, the agency and/or other parties shall prepare and serve the petitioners and all parties with a document notifying them of any document(s) or item(s) that such parties contend should be added to, or deleted from, the record. The agency shall promptly notify petitioners of any required photocopying procedures and/or conditions with which petitioners must comply in their preparation of the record.
*(Subd (b) relettered effective January 1, 2010; adopted as Subd (d)(2) effective July 1, 2005.)*

(c) ~~3.~~ If petitioners do not so elect, then within forty (40) calendar days after service of the request to prepare the administrative record, the agency shall prepare and serve on the parties a detailed index listing the documents proposed by the agency to constitute the record and provide a supplemental estimated cost of preparation. Within seven (7) calendar days of receipt of this notification, petitioners and/or any other parties shall prepare and serve the agency and all parties with a document notifying the agency of any document(s) or item(s) that such parties contend should be added to, or deleted from, the record.
*(Subd (c) relettered effective January 1, 2010; adopted as Subd (d)(3) effective July 1, 2005.)*

*(Subd (1) amended effective January 1, 2010; adopted effective July 1, 2005.)*

(2) ~~4.~~ **Preparation by Petitioners~~:~~**

(a) Within twenty (20) calendar days after receipt of petitioners' notice of election to prepare the record themselves, the public agency responsible for certification of the record shall personally serve on petitioners a preliminary notification designating, to the extent then known, the location(s) of the documents anticipated to be incorporated into the administrative record, the contact person(s) responsible for identifying the agency personnel or other person(s) having custody of those documents, and the dates and times when those documents will be made available to petitioners

or any party for their inspection and copying. This notice shall also state any required photocopying procedures and/or conditions with which petitioners must comply in their preparation of the record. This notice shall be supplemented by the agency as additional documents are located or determined appropriate to be included in the record.
*(Subd (a) adopted effective July 1, 2005.)*

(b) Within forty (40) calendar days after service of petitioners' notice of election, petitioners shall prepare and serve on all parties a detailed index listing the documents proposed by petitioners to constitute the record. Within seven (7) calendar days of this notification, the agency and/or other parties shall prepare and serve the petitioners and all parties with a document notifying them of any document(s) or item(s) that such parties contend should be added to, or deleted from, the record.
*(Subd (b) adopted effective July 1, 2005.)*

*(Subd (2) renumbered effective January 1, 2010; adopted as Subd (d)(4) effective July 1, 2005.)*

*(Subd (d) amended effective January 1, 2010; adopted effective July 1, 2005.)*

e. ~~E.~~ **FORMAT OF ADMINISTRATIVE RECORD~~:~~**

(1)~~1.~~ **Type of Paper~~:~~**
The Administrative Record ("Record") shall be prepared in compliance with California Rules of Court, rule 2.100 et seq. ~~on paper, white or unbleached, of not less than 13 pound weight, 8½ by 11 inches, using a photocopying process that will produce clear and permanent copies legible to printing. Only one side of the paper shall be used and the margin shall be not less than 1¼ inches on the left side of the page.~~ Alternatively, original copies of the environmental documents may be lodged as part of the Record, provided that original copies are also provided to all parties in the lawsuit. ~~The pages of the Record shall be numbered consecutively and bound on the left margin. The use of recycled paper is encouraged.~~
*(Subd (1) adopted effective July 1, 2005.)*

(2)~~2.~~ **Volume Designation~~:~~**
The Record shall be provided in one or more volumes of not more than 300 pages per volume, separately bound. The cover of each volume of the Record shall be the same size as its pages and contain the same material as

the cover of a brief, but shall be prominently entitled "ADMINISTRATIVE RECORD." The first volume of the Record shall have at the beginning an index of each paper or record in the order presented in the Record, referring to each paper or record by title or description, and the volume and page at which it first appears.
*(Subd (2) adopted effective July 1, 2005.)*

(3) ~~3.~~ **Detailed Index**~~:~~
The detailed index listing of the documents agreed to by the parties as the records to be included in the Record shall be prominently entitled "Detailed Index of Administrative Record" and filed with the Civil Filing Clerk at the court location in which the action is pending. A second, courtesy copy of the Detailed Index of Administrative Record shall be separately lodged in the designated CEQA Department.
*(Subd (3) adopted effective July 1, 2005.)*

(4) ~~4.~~ **Organization**~~:~~
The Record should be organized with the following documents (as applicable) at the front of the Record, in the following order:

(a) ~~a.~~ The Notice of Determination;

(b) ~~b.~~ The resolution(s) adopted by the lead agency approving the project, including any resolution(s) or ordinance(s) adopted in compliance with Public Resources Code sections 21081 and 21081.6;

(c) ~~c.~~ The Draft or revised Draft Environmental Impact Report ("EIR") and initial study;

(d) ~~d.~~ The comments received and the responses to those comments prepared for the Draft EIR or Negative Declaration, including any modifications to the environmental documents and project made after the comment period;

(e) ~~e.~~ The remainder of the Final EIR (e.g., the Technical Appendices and other technical materials);

(f) ~~f.~~ The staff reports prepared for the approving bodies of the lead agency;

(g) ~~g.~~ Transcripts and/or minutes of hearings; and

(h) ~~h.~~ The remainder of the Administrative Record, preferably in chronological order.

This listing of documents is not intended to dictate the content of the Record, but instead is intended to describe a uniform order for documents typically contained in a Record. The lead agency is encouraged to use tabs to separately identify each of these portions of the Record. The parties are referred to Public Resources Code section 21167.65(e) as to what the Record should contain.

*(Subd (4) adopted effective July 1, 2005.)*

*(Subd (e) adopted effective July 1, 2005.)*

f. ~~F.~~ **CERTIFYING AND LODGING THE RECORD**

Upon completion of preparation of the Record, it must be certified by the agency before it is filed with the c~~C~~ourt. If the agency has prepared the Record, it shall make such certification and shall personally serve and lodge the Record in the designated CEQA department no later than sixty (60) days after the request. If the petitioners have elected to prepare the Record, petitioners must transmit it to the agency for certification. After such certification, petitioners shall prepare and file a Notice of Lodgment of Administrative Record with the Civil Filing Clerk at the court location in which the action is pending, and personally serve and lodge the Record and Notice of Lodgment in the designated CEQA Department no later than sixty (60) days after service of the notice of election to prepare. If the agency refuses to make a complete certification, it shall make a partial certification, specifying any alleged defects in the record. Any extension of the 60-day time period may be obtained by filing a stipulation of the parties and obtaining c~~C~~ourt approval of the extensions prior to the expiration of the 60-day period. Also, an extension may be obtained from the c~~C~~ourt upon a properly noticed hearing scheduled prior to the expiration of the 60-day period.

*(Subd (f) adopted effective July 1, 2005.)*

g. ~~G.~~ **DISPUTES REGARDING THE CONTENTS OF THE ADMINISTRATIVE RECORD**

Once the Record has been filed, any disputes about its accuracy or scope should be resolved by appropriate noticed motion. For example, if the agency has prepared the Record, petitioners may contend that it omits important documents or that it contains inappropriate documents; if the petitioners have prepared the record, the agency may have similar contentions. A motion to supplement the certified Record with additional documents and/or to exclude certain documents from the record may be noticed by any party and should normally be filed concurrently with the filing of petitioners' opening memorandum of points and

authorities in support of the writ. Opposition and reply memoranda on the motion should normally be filed with the opposition and memoranda, respectively, regarding the writ. The motion should normally be calendared for hearing concurrently with the hearing on the writ.
*(Subd (g) adopted effective July 1, 2005.)*

h. ~~H.~~ **NOTICE OF HEARING**
The petitioners shall notice a hearing date on the petition for writ of mandate, consistent with Public Resources Code section 21167.4. The hearing shall be noticed for not later than 160 days from the date of filing of the petition.
*(Subd (h) adopted effective July 1, 2005.)*

i. ~~I.~~ **BRIEFING SCHEDULE AND LENGTH OF MEMORANDA~~:~~**

(1)~~1.~~ Unless otherwise ordered by the c~~C~~ourt, petitioners shall file directly in the designated CEQA department and serve personally, by overnight mail or, if previously agreed, by fax, an opening memorandum of points and authorities in support of the petition within thirty (30) days from the date the administrative record is served.
*(Subd (1) adopted effective July 1, 2005.)*

(2)~~2.~~ Respondent and Real Party in Interest shall file directly in the designated CEQA department and serve personally, by overnight mail, or if previously agreed, by fax, opposition points and authorities, if any, within thirty (30) days following service of petitioners' memoranda of points and authorities.
*(Subd (2) adopted effective July 1, 2005.)*

(3)~~3.~~ Petitioners shall have twenty (20) days from service of the opposition's points and authorities to file directly in the designated CEQA department and serve personally, by overnight mail, or if previously agreed, by fax, a reply memorandum of points and authorities.
*(Subd (3) adopted effective July 1, 2005.)*

(4) ~~4.~~ The parties may agree upon a shorter time frame for briefing by written stipulation filed with the c~~C~~ourt.
*(Subd (4) adopted effective July 1, 2005.)*

(5) ~~5.~~ Any request for permission to file a memorandum in excess of the 15-page limit shall be made pursuant to Rule 3.1113, California Rules of Court.
*(Subd (5) adopted effective July 1, 2005.)*

(6) ~~6.~~ Settlement Meeting: The initial notice required by Public Resources Code section 21167.8 shall provide that, if the parties agree, the first meeting will be continued so as to take place no later than 35 days after the Record is served. If the parties do not agree to this continued first meeting date, then the first meeting shall take place in accordance with Public Resources Code section 21167.8 and a second meeting is ordered to take place within five (g) days after the Record is served. The parties shall agree as to the time and place of any meeting pursuant to Public Resources Code section 21167.8. Other meetings may be scheduled by the parties. The statement of issues required by 21167.8(f) shall identify those portions of the Record that are directly related to the contentions and issues remaining in controversy. The c~~C~~ourt will utilize these statements in focusing on the legal and factual contentions and issues to be resolved. However, such contentions and issues must be consistent with the pleadings to be properly resolved by the c~~C~~ourt.
*(Subd (6) adopted effective July 1, 2005.)*

*(Subd (i) adopted effective July 1, 2005.)*

j. ~~J.~~ **TRIAL NOTEBOOK**
Petitioner shall prepare a trial notebook which shall be filed with the designated CEQA Department fourteen (14) days before the date of the hearing. The trial notebook shall consist of the petition, the answer(s), the briefs, any motions set to be heard at trial, the statement of issues, and any other document(s) agreed upon by the parties.
*(Subd (j) adopted effective July 1, 2005.)*

*(Rule 3.17 renumbered and amended effective January 1, 2010; ~~3.28~~ adopted as Rule 3.28 effective July 1, 2005; former Rule 3.17 renumbered as Rule 3.10 effective January 1, 2010.)*

## 3.18 ~~3.29~~ FILING OF NOTICES OF UNAVAILABILITY

The court shall not accept for filing a "Notice of Unavailability of Counsel" or other document or pleading whose sole purpose is to advise the court and/or other parties of an attorney's or party's unavailability. *Carl v. Superior Court of Orange County* (2007) 157 Cal.App.4th 73.

*(Rule 3.18 renumbered effective January 1, 2010; ~~3.29~~ adopted as Rule 3.29 effective January 1, 2009; former Rule 3.18, which concerned page limits for memoranda of points and authorities, repealed effective January 1, 2010.)*

**3.19 [RENUMBERED]**

*(Rule 3.19 renumbered as Rule 3.11 effective January 1, 2010.)*

**3.20 [RENUMBERED]**

*(Rule 3.20 renumbered as Rule 3.12 effective January 1, 2010.)*

**3.21 [RENUMBERED]**

*(Rule 3.20 renumbered as Rule 3.13 effective January 1, 2010.)*

**3.22 APPROVAL AS TO FORM [REPEALED]**

*(Rule 3.22 repealed effective January 1, 2010; adopted effective January 1, 1998.)*

**3.23 ACCESS TO FILES AND EXHIBITS [REPEALED]**

*(Rule 3.23 repealed effective January 1, 2010; adopted effective January 1, 1998.)*

**3.24 BRIEFS AND MEMORANDA OF POINTS AND AUTHORITIES [REPEALED]**

*(Rule 3.24 repealed effective January 1, 2010; adopted effective January 1, 1998; previously amended effective January 1, 2007.)*

**3.25 [RENUMBERED]**

*(Rule 3.25 renumbered as Rule 3.14 effective January 1, 2010.)*

**3.26 [RENUMBERED]**

*(Rule 3.26 renumbered as Rule 3.15 effective January 1, 2010.)*

**3.27 [RENUMBERED]**

*(Rule 3.27 renumbered as Rule 3.16 effective January 1, 2010.)*

**3.28 [RENUMBERED]**

*(Rule 3.28 renumbered as Rule 3.17 effective January 1, 2010.)*

**3.29 [RENUMBERED]**

*(Rule 3.29 renumbered as Rule 3.18 effective January 1, 2010.)*

**Superior Court of California**
**County of Solano**

**Rule 4 – Administration of Civil Litigation**

## 4.1 SCOPE AND POLICY

a. ~~(a)~~ **SCOPE OF RULE 4** ~~**DEFINITION OF SCOPE:**~~
~~These rules are~~Rule 4 is intended to implement the Trial Court Delay Reduction Act (Government Code Section 68600 et seq) and shall apply to all civil actions filed on or after July 1, 1992, and all civil actions filed before July 1, 1992, in which an at-issue memorandum is filed, or in which the court orders that the action is at issue.

Except as may be provided elsewhere in these rules, t~~T~~he term "civil actions" as used in Rule 4 ~~hereinabove~~ does not include ~~criminal cases, traffic infraction cases,~~ matters filed under the California Family Code, small claims cases, unlawful detainer cases, matters filed under the Probate Code~~probate cases~~, mental health cases, adoption cases, juvenile cases, and extraordinary writs.
*(Subd (a) amended effective January 1, 2010; adopted effective January 1, 1998; previously amended effective July 1, 2005.)*

b. ~~(b)~~ **POLICY AND CASE DISPOSITION STANDARDS** ~~**DEFINITION OF POLICY:**~~
It is the policy of this court that all civil cases shall be resolved as expeditiously as possible, consistent with the obligation of the courts to give full and careful consideration to the issues presented, and consistent with the right of the parties to adequately prepare and present their cases to the court. Furthermore, it is the policy of the court ~~the Superior Court of California, County of Solano~~ that all actions subject to these rules shall be actively managed, supervised and controlled by the court from the time of filing of the first document invoking the court's jurisdiction through final disposition. The case disposition standards are as follows:

(1) ~~**UNLIMITED.**~~ The case disposition time standards for unlimited actions are as follows: 75% of all cases shall be concluded within one year of the filing of the initial pleading, 85% of all cases shall be concluded within eighteen (18) months of the filing of the initial pleading, and 100% within twenty-four (24) months.

(2) ~~**LIMITED.**~~ The case disposition time standards for limited actions are as follows: 90% of all cases shall be concluded within one year of the filing of the initial pleading, 98% of all cases shall be concluded within eighteen (18) months of the filing of the initial pleading, and 100% within twenty-four (24) months.

~~It is the policy of this court that all civil cases shall be resolved as expeditiously as possible, consistent with the obligation of the courts to give full and careful consideration to the issues presented, and consistent with the right of the parties to adequately prepare and present their cases to the court.~~
*(Subd (b) amended effective January 1, 2010; adopted effective January 1, 1998; previously amended effective July 1, 2005.)*

c. ~~(c)~~ **APPLICABILITY OF RULE 4 TO OTHER RULES** ~~**APPLICABILITY OF RULE 4 TO OTHER RULES:**~~
Notwithstanding Rule 4.1, subsection (a), any rule within Rule 4 may be made expressly applicable to other proceedings ~~governed by Rules 5, 6, 7, 8, 11, or 14~~ through the enactment of or amendment to a local rule governing that proceeding. ~~in Rules 5, 6, 7, 8, 11, or 14.~~
*(Subd (c) amended effective January 1, 2010; adopted effective January 1, 2009.)*

*(Rule 4.1 amended effective January 1, 2010~~2009~~; adopted effective January 1, 1998; previously amended effective July 1, 2005; previously amended effective January 1, 2009.)*

## 4.2 CASE DESIGNATION

a. **DEFAULT DESIGNATION OF CASE; TIMING OF DESIGNATION**
All civil cases subject to these rules shall be classified as TRACK A cases unless, on good cause shown, the court designates the case as a TRACK B case or TRACK C (complex) litigation. The determination as to whether a case is designated as a TRACK B or TRACK C case under these rules shall be at the sole discretion of the court. The designation may be made by the court at any case management conference, trial management conference, mandatory settlement conference, or any hearing noticed by the court or counsel.
*(Subd (a) amended and lettered effective January 1, 2010; adopted as unlettered portion of Rule 4.2 effective January 1, 1998; previously amended effective July 1, 2005.)*

b. **TRACK A CASES**
TRACK A cases are cases that are to be resolved within twelve (12) months of the date that the complaint was filed.
*(Subd (b) amended and lettered effective January 1, 2010; adopted as unlettered portion of Rule 4.2 effective January 1, 1998; previously amended effective July 1, 2005.)*

c. **TRACK B AND TRACK C CASES**

TRACK B and ~~/~~ TRACK C cases are those which generally involve multiple parties, complex issues, difficult legal questions, unusual proof problems, or other circumstances which result in a case not being adequately prepared for trial within twelve (12) months of its filing even with due diligence being exercised by all parties. It is the policy of the court to conclude all TRACK B cases within eighteen (18) months and TRACK C cases within twenty-four (24) months of the filing of the initial pleading.
*(Subd (c) amended and lettered effective January 1, 2010; adopted as unlettered portion of Rule 4.2 effective January 1, 1998; previously amended effective July 1, 2005.)*

~~The determination as to whether a case is designated as a TRACK B or TRACK C case under these rules shall be at the sole discretion of the court. It is the policy of the court to conclude all TRACK B cases within eighteen (18) months and TRACK C cases within twenty-four (24) months of the filing of the initial pleading.~~

~~The designation by the court regarding whether a case is a TRACK A, TRACK B, or TRACK C case may be made by the court at any case management conference, trial management conference, mandatory settlement conference, or any hearing noticed by the court or counsel.~~

d. **REDESIGNATION OF CASE**

Following the designation by the court of the case as TRACK A, TRACK B, or TRACK C, the court, on its own motion or on the motion of any party, may order the case redesignated.
*(Subd (d) amended and lettered effective January 1, 2010; adopted as unlettered portion of Rule 4.2 effective January 1, 1998; previously amended effective July 1, 2005.)*

*(Rule 4.2 amended effective January 1, 2010; ~~amended effective July 1, 2005;~~ adopted effective January 1, 1998; previously amended effective July 1, 2005.)*

## 4.3 TIME REQUIREMENTS FOR COMPLAINT

a. ~~(a)~~ **SERVICE OF COMPLAINT** ~~**SERVICE OF COMPLAINT**~~.

Within sixty (60) calendar days of filing, the complaint must be served and a proof of service as to each named defendant filed with the court unless a Request for Extension of Time is filed with the court stating facts establishing good cause as to why service has not or should not be made upon all parties within the time provided in this rule. If the complaint is amended to add a defendant, the added defendant must be served and proof of service must be filed within thirty (30) days after the filing of the amended complaint unless a Request for Extension of

Time is filed with the court stating facts establishing good cause as to why service has not or should not be made upon all parties within the time provided in this rule. The 60 day service requirement shall not apply to limited jurisdiction collection actions, as set forth in California Rules of Court, rule 3.740. As to those cases, the proof of service must be filed with the court, or order of publication obtained, within 180 days of the filing of the complaint.
*(Subd (a) amended effective January 1, 2009; adopted effective January 1, 1998; previously amended effective effective October 1, 2002.)*

b. ~~(b)~~ **REQUEST FOR EXTENSION OF TIME** ~~**REQUEST FOR EXTENSION OF TIME**~~.
Upon filing the Request for Extension of Time, the court may:

(1) G~~g~~rant an extension of time to a specified date;

(2) D~~d~~eny the request; or,

(3) C~~c~~onduct a hearing to determine the setting of the date for compliance with these rules.

*(Subd (b) amended effective January 1, 2009; adopted effective January 1, 1998; previously amended effective effective October 1, 2002.)*

c. ~~(c)~~ **SANCTIONS** ~~**SANCTIONS.**~~
Upon failure to serve the complaint and file proof of service or dismissal as to each named defendant, or to file a Request for Extension as required by these rules, the court may impose sanctions at Case Management Conference One or Case Management Conference Two after notice and an opportunity to be heard has been provided to ~~without any further notice to the parties, so long as~~ the party or attorney subject to sanctions. ~~has an opportunity to explain why service has not been accomplished as provided above.~~
*(Subd (c) amended effective January 1, 2009; adopted effective January 1, 1998; previously amended effective effective October 1, 2002.)*

*(Rule 4.3 amended effective January 1, 2009; previously amended October 1, 2002; adopted effective January 1, 1998.)*

## 4.4 TIME REQUIREMENTS FOR RESPONSIVE PLEADINGS

a. ~~(a)~~ **SERVICE OF RESPONSE** ~~**SERVICE OF RESPONSE**~~.
Within the time required by law, each party served shall file and serve a responsive pleading unless a Request for Extension of Time to respond is filed

stating facts establishing good cause as to why a responsive pleading has not or cannot, with due diligence, be filed.
*(Subd (a) amended effective January 1, 2009; adopted effective January 1, 1998; previously amended effective Ocotber 1, 2002.)*

b. ~~(b)~~ **REQUEST FOR EXTENSION OF TIME TO RESPOND** ~~**REQUEST FOR EXTENSION OF TIME TO RESPOND**~~.
Upon filing of the Request for Extension of Time to Respond, the court may:

(1) G~~g~~rant an extension of time for the filing of a response to a specified date;

(2) G~~d~~eny the request; or,

(3) S~~s~~et and conduct a hearing to set a date for compliance with this rule.

A party may not extend the time for filing responsive pleadings, including responses to amended pleadings, by stipulation with any other party except to the extent authorized by Government Code section 68616.

In the event the court denies the Request for Extension of Time to Respond the court will set a date for the filing of a response. No default shall~~will~~ be entered by the clerk prior to the day following the date set for filing a response.
*(Subd (b) amended effective January 1, 2010; adopted effective January 1, 1998; previously amended effective October 1, 2002; previously amended effective January 1, 2009.)*

c. ~~(c)~~ **SANCTIONS** ~~**SANCTIONS**~~.
Upon failure to file and serve a responsive pleading by each served defendant or cross-defendant, or to file a Request for Extension of Time to Respond as required by these rules, the court may impose sanctions at Case Management Conference One or Case Management Conference Two after notice and an opportunity to be heard has been provided to ~~without any further notice to the parties, so long as~~ the party or attorney subject to sanctions. ~~has an opportunity to explain why a responsive pleading has not been filed as provided above.~~
*(Subd (c) amended effective January 1, 2010; adopted effective January 1, 1998; previously amended effective October 1, 2002; previously amended effective January 1, 2009.)*

d. ~~(d)~~ **ENTRY OF DEFAULT** ~~**ENTRY OF DEFAULT**~~.
If a served party fails to file a responsive pleading, the serving party shall file a request for entry of default within ten (10) days after the last day for filing the

responsive pleading. The serving party shall obtain a default judgment within forty-five (45) days after the entry of default. These requirements shall not apply to limited jurisdiction collection actions, as set forth in California Rules of Court, rule 3.740. As to those cases, default judgment must be obtained within 360 days of the filing of the complaint.
*(Subd (d) amended effective January 1, 2009; adopted effective January 1, 1998; previously amended effective Ocotber 1, 2002.)*

e. ~~(e)~~ **DEMURRER OR MOTION AS A RESPONSE** ~~**DEMURRER OR MOTION AS A RESPONSE.**~~
If the responsive pleading is a demurrer, motion to strike, motion to quash service of process, motion for a change of venue, or a motion to stay or dismiss the case on *forum non conveniens* grounds, and the demurrer is overruled or the motion denied, the court shall fix the time by which a further responsive pleading shall be filed. This time will normally not be more than ten (10) days following the date of the ruling on the demurrer or motion.

If a demurrer is sustained with leave to amend, the court shall fix the time, normally not more than ten (10) days following the ruling, for filing an amended complaint and shall fix a time for the filing of pleadings responsive to such amended complaint or cross-complaint.
*(Subd (e) amended effective January 1, 2009; adopted effective January 1, 1998; previously amended effective Ocotber 1, 2002.)*

*(Rule 4.4 amended effective January 1, 2010; ~~amended effective January 1, 2009; previously amended effective October 1, 2002;~~ adopted effective January 1, 1998; previously amended effective October 1, 2002; previously amended effective January 1, 2009.)*

## 4.5 TIME REQUIREMENTS FOR CROSS-COMPLAINTS

a. ~~(a)~~ **FILING OF CROSS-COMPLAINT** ~~**FILING OF CROSS-COMPLAINT**~~.
A party shall file a cross-complaint against any of the parties who filed the complaint or cross-complaint against that party at the time the answer to the complaint or cross-complaint is filed and must be accompanied by a proof of service. If the cross-complaint adds new parties, the cross-complaint must be served on all parties and proof of service must be filed within thirty (30) days of filing unless a Request for Extension of Time is filed with the court stating facts establishing good cause as to why service has not or should not be made upon all parties within the time provided in this rule.
*(Subd (a) amended effective October 1, 2002; adopted effective January 1, 1998.)*

b. ~~(b)~~ **THIRD PARTY CROSS-COMPLAINTS** ~~**THIRD PARTY CROSS-COMPLAINTS**~~.
A party shall file a cross-complaint against any third party at the time the answer to the complaint or cross-complaint is filed. A party shall obtain leave of court to file any cross-complaint after the party files an answer to either a complaint or cross-complaint.
*(Subd (b) amended effective October 1, 2002; adopted effective January 1, 1998.)*

c. **RESPONDING TO CROSS-COMPLAINTS**
The time for the filing of responsive pleadings to the cross-complaint shall be in accordance with Rule 4.4 of these rules.
*(Subd (c) relettered effective January 1, 2010; adopted as portion of Subd (b) effective January 1, 1998.)*

*(Rule 4.5 amended effective January 1, 2010; ~~effective October 1, 2002;~~ adopted effective January 1, 1998; previously amended effective October 1, 2002.)*

## 4.6 CASE MANAGEMENT CONFERENCES

a. **SCHEDULING OF CASE MANAGEMENT CONFERENCE ONE**

In all cases, except those designated as "uninsured motorist" and those limited jurisdiction cases designated as "collections," the Clerk of the Court will schedule the first Case Management Conference approximately 120 days from the date of filing of the complaint. At the time of filing of the complaint, the Clerk of the Court shall provide the plaintiff with a Notice of Case Management Conference One, which shall indicate the date, time, and place that counsel, and any party not represented by counsel, shall appear for Case Management Conference One, and shall state the obligations of counsel, or any parties not represented by counsel, in regard to Case Management Conference One and Case Management Conference Two. Plaintiff is responsible for notifying all defendants of the initial or any continued Case Management Conference dates.
*(Subd (a) amended and relettered effective January 1, 2010; adopted as unlettered portion of Rule 4.6 effective January 1, 1998; previously amended effective October 1, 2002; previously amended effective July 1, 2005; previously amended effective January 1, 2009.)*

b. ~~(a)~~ **CASE MANAGEMENT CONFERENCES IN "UNINSURED MOTORIST" CASES** ~~**"UNINSURED MOTORIST" CASES**~~.
The p~~P~~laintiff may designate a case as an "uninsured motorist case" by filing and serving a declaration without demonstrating that the designation is appropriate. If the declaration is filed with the complaint, the Clerk of the Court will schedule the first Case Management Conference approximately 180 days from the date of filing of the complaint. If the plaintiff files the declaration at a later time, the provisions of Rule 4.14(f) apply.
*(Subd (b) relettered effective January 1, 2010; adopted as Subd (a) of Rule 4.6 effective January 1, 1998; previously amended effective October 1, 2002; previously amended effective July 1, 2005; previously amended effective January 1, 2009.)*

c. ~~(b)~~ **CASE MANAGEMENT CONFERENCES IN LIMITED JURISDICTION "COLLECTION" CASES** ~~**LIMITED JURISDICTION "COLLECTION" CASES**~~.
The p~~P~~laintiff may designate a limited jurisdiction case as a "collection" case by filing a Civil Case Cover Sheet describing the case as a "collections" matter. No case management conference will be scheduled unless and until a responsive pleading has been filed.
*(Subd (c) relettered effective January 1, 2010; adopted as Subd (b) of Rule 4.6 effective January 1, 1998; previously amended effective October 1, 2002; previously amended effective July 1, 2005; previously amended effective January 1, 2009.)*

~~(c) At the time of filing of the complaint, the Clerk of the Court shall provide the Plaintiff with a Notice of Case Management Conference One, which indicates the date, time, and place that counsel, and any party not represented by counsel, shall appear for Case Management Conference One. Plaintiff is responsible for notifying all defendants of the initial or any continued Case Management Conference dates.~~

d. **SERVICE OF NOTICE OF CASE MANAGEMENT CONFERENCE**

(1) **Service of Notice with Complaint**
The plaintiff shall serve the Notice of Case Management Conference on all defendants with the complaint.
*(Subd (1) renumbered effective January 1, 2010; previously adopted as portion of Subd (f) effective January 1, 1998.)*

(2) **Service of Notice with Cross-Complaint**
Any plaintiff and any defendant serving a cross-complaint shall serve a copy of the Notice of Case Management Conference One provided by the Clerk, which sets the date and place for Case Management One, on each cross-defendant with the cross-complaint. In the event that any cross-complaint is served after Case Management Conference One has been held, the cross-complainant, at the time of service of the cross-complaint, shall serve each cross-defendant with Notice of Case Management Conference Two, which shall contain the date, time and place of Case Management Conference Two and explain the obligations of the parties in regard to case management conferences under these rules.
*(Subd (2) renumbered effective January 1, 2010; previously adopted as portion of Subd (f) effective January 1, 1998.)*

*(Subd (d) amended and relettered effective January 1, 2010; adopted as Subd (f) of Rule 4.6 effective January 1, 1998; previously amended effective October 1, 2002; previously amended effective July 1, 2005; previously amended effective January 1, 2009; former Subd (d) repealed effective January 1, 2010.)*

~~(d) Compliance with California Rules of Court, Rules 3.720-3.730 is required.~~

e. ~~(e)~~ **TELEPHONIC APPEARANCE AT CASE MANAGEMENT CONFERENCES** ~~**TELEPHONE APPEARANCES**~~.
Litigants wishing to appear at a case management conference by telephone per California Rules of Court, rule 3.670, shall do so through CourtCall LLC, ~~Pursuant to California Rules of Court, Rule 3.670, the Court has contracted with CourtCall LLC,~~ a private telephonic appearance provider with whom the court has

contracted, or any other telephonic appearance provider as designated by the court. ~~for specified hearings~~. The telephone number of CourtCall is (888) 88-COURT or (310) 342-0888. Counsel wishing to avail themselves of this service shall note and follow the rules and schedule of the individual department concerning the use of CourtCall, and shall be solely responsible for all fees and costs charged by CourtCall for this service.

*(Subd (e) amended effective January 1, 2010; adopted effective January 1, 1998; previously amended effective October 1, 2002; previously amended effective July 1, 2005; previously amended effective January 1, 2009.)*

~~**(f) NOTICE OF CASE MANAGEMENT CONFERENCE**. At the time of filing of the complaint, the Clerk of the Court shall provide the plaintiff with a document entitled Notice of Case Management Conference One which indicates the date, time, and place that counsel, and any party not represented by counsel, shall appear for Case Management Conference One. In addition, said document shall state the obligations of counsel, or any parties not represented by counsel, in regard to Case Management Conference One and Case Management Conference Two.~~

~~Plaintiff shall serve said documents on all defendants with the complaint. Any plaintiff and any defendant serving a cross-complaint shall serve a copy of the Notice of Case Management Conference One provided by the Clerk, which sets the date and place for Case Management One, on each cross-defendant with the cross-complaint.~~

~~In the event that any cross-complaint is served after Case Management Conference One has been held, the cross-complainant, at the time of service of the cross- complaint, shall serve each cross-defendant with Notice of Case Management Conference Two, which shall contain the date, time and place of Case Management Conference Two and explain the obligations of the parties in regard to case management conferences under these rules.~~

f. ~~(g)~~ **CASE MANAGEMENT CONFERENCE SETTING** ~~**CASE MANAGEMENT CONFERENCE SETTING.**~~

(1) Case Management Conference One shall be set during the calendar week that is 120 calendar days after the filing of the complaint, on the day of week and at the time designated by the judge to whom the case is assigned for all purposes.

*(Subd (1) adopted effective January 1, 1998.)*

(2) At Case Management Conference One, the court shall refer the matter to arbitration or mediation, if deemed appropriate by the court, continue the matter for further Case Management Conference One or set the matter for a Case Management Conference Two.
*(Subd (2) adopted effective January 1, 1998.)*

(3) The court may, in its discretion, require additional case management conferences and additional Case Management Statements.
*(Subd (3) adopted effective January 1, 2010; previously adopted as portion of Subd (h).)*

*(Subd (f) amended and relettered effective January 1, 2010; adopted as Subd (g) effective January 1, 1998; previously amended effective October 1, 2002; previously amended effective July 1, 2005; previously amended effective January 1, 2009.)*

g. ~~(h)~~ **CASE MANAGEMENT STATEMENTS** ~~**CASE MANAGEMENT STATEMENTS.**~~
An updated Case Management Statement shall be filed by each counsel by the fifteenth (15th) calendar day before each continued Case Management Conference or any review set by the court.
*(Subd (g) amended and relettered effective January 1, 2010; adopted as Subd (h) effective January 1, 1998; previously amended effective October 1, 2002; previously amended effective July 1, 2005; previously amended effective January 1, 2009.)*

~~**1)** No later than 15 calendar days before the date set for the Case Management Conference One, each party must file a Case Management Statement. Parties must use the mandatory Case Management Statement (form CM-110). All applicable items on the form must be completed. In lieu of each party filing a separate Case Management Statement, any two or more parties may file a joint statement under this rule.~~

~~**2)** No later than 15 calendar days before the date set for the Case Management Conference Two, each party must file a Case Management Statement. Parties must use the mandatory Case Management Statement (form CM-110). All applicable items on the form must be completed. In lieu of each party filing a separate Case Management Statement, any two parties may file a joint statement under this rule.~~

~~**3)** A Case Management Statement shall be timely filed with the court and served on all parties by each counsel before each case management conference, original or continued, and before any review hearing.~~

~~At any case management conference, counsel shall be prepared to respond to any questions the court may pose about the case.~~

h. ~~(i)~~ **SANCTIONS** ~~**SANCTIONS**~~.
Pursuant to Code of Civil Procedure section 575.2, t~~T~~he court may impose sanctions in the event that any of the following occur:

(1) ~~1)~~ A Case Management Statement is not timely filed and/or served;

(2) ~~2)~~ A Case Management Statement is not fully completed;

(3) ~~3)~~ The attorney who appears at a case management conference is not completely aware of all procedural, factual, and legal aspects of the case and does not have full authority to discuss and resolve any issues that arise at the conference, including the settlement of the case. This rule applies equally to counsel of record and special appearance counsel;

(4) Counsel and self-represented parties fail to meet and confer as required per California Rules of Court, rule 3.724 prior to the Case Management Conference concerning all issues before the court.

*(Subd (h) amended and relettered effective January 1, 2010; adopted as Subd (i) effective January 1, 1998; previously amended effective October 1, 2002; previously amended effective July 1, 2005; previously amended effective January 1, 2009.)*

~~The court may, in its discretion, require additional case management conferences and additional Case Management Statements. An updated Case Management Statement shall be filed by each counsel by the fifteenth (15th) calendar day before each continued Case Management Conference One or continued Case Management Conference Two or any review set by the court.~~

*(Rule 4.6 amended effective January 1, 2010; ~~amended effective January 1, 2009;~~ adopted effective January 1, 1998; previously amended effective October 1, 2002;~~, and~~ previously amended July 1, 2005; previously amended effective January 1, 2009.)*

## 4.7 DIVERSION TO ARBITRATION

a. ~~(a)~~ **ORDER TO NONBINDING ARBITRATION** ~~**ORDER TO ARBITRATION**~~.
All cases may~~will~~ be ordered to nonbinding arbitration where the court determines from the facts as set forth in a Case Management Statement or as

stated by counsel at any Case Management Conference, Trial Management Conference, or Mandatory Settlement Conference that:

(1) The parties stipulate to arbitration;

(2) The plaintiff requests arbitration;

(3) The ~~court determines that the~~ amount in controversy does not exceed $50,000 as to any plaintiff; or.

(4) ~~The court determines that a~~Arbitration might reasonably lead to the resolution of the case.

As to those cases ordered to arbitration, judicial arbitration will proceed in accordance with the Judicial Arbitration Rules for civil cases (Rule 3.810 et seq. of the California Rules of Court), except as otherwise stated in these rules.
*(Subd (a) amended effective January 1, 2010; adopted effective January 1, 1998; previously amended effective October 1, 2002.)*

b. ~~(b)~~ **TIME LIMITS AND SELECTION OF ARBITRATOR** ~~**TIME LIMITS AND SELECTION OF ARBITRATOR**~~.
Upon ordering the matter to nonbinding arbitration, the court will direct that the arbitration be concluded within ninety (90) days, unless the court determines in its discretion that a longer timeframe is appropriate. Counsel will be directed to notify the Civil Division Court Services Program Manager in writing within ten (10) days of the name, address and telephone number of the arbitrator agreed upon, and if agreement is not possible, then within ten (10) days each counsel shall submit two (2) names each, from the court's ~~Solano County Court's~~ list of arbitrators, to the court to the attention of the Civil Division Court Services Program Manager, from which the court shall promptly select an arbitrator and the court shall notify the parties of the name, address, and telephone number of the arbitrator selected by the court.
*(Subd (b) amended effective January 1, 2010; adopted effective January 1, 1998; previously amended effective October 1, 2002.)*

c. ~~(c)~~ **REQUEST FOR TRIAL DE NOVO** ~~**REQUEST FOR TRIAL DE NOVO**~~.
The case shall not be recalendared for further hearing unless a request for trial de novo is timely filed, except upon order of the court. If a request for trial de novo is not timely filed, the clerk shall, upon the expiration of the time for filing, forthwith enter the award as a judgment.
*(Subd (c) amended effective October 1, 2002; adopted effective January 1, 1998.)*

d. ~~(d)~~ **FEES FOR ARBITRATION** ~~**FEES FOR ARBITRATION**~~.
The parties to the action shall pay to the arbitrator their proportionate share of the fee set by the arbitrator, within thirty (30) days after the filing of the arbitrator's award. In the event that the parties settle the case after the arbitrator has expended any time on the case, the parties shall notify the arbitrator that the case has settled and shall pay their proportionate share of the arbitrator's fees within thirty (30) days after the notice to the arbitrator of the settlement.
*(Subd (d) amended effective October 1, 2002; adopted effective January 1, 1998.)*

*(Rule 4.7 amended effective January 1, 2010;* ~~*October 1, 2002;*~~ *adopted effective January 1, 1998; previously amended effective October 1, 2002.)*

## 4.8 MEDIATION

a. ~~(a)~~ **TIME LIMITS AND SELECTION OF MEDIATOR**
Within twenty (20) days of the referral to mediation, the parties shall provide the assigned c~~C~~ourt with written notification of their mutual choice of mediator, or their individual nominees. If the parties are unable to agree upon a mediator within the 20 days, they shall promptly notify the c~~C~~ourt, and a mediator will thereupon be appointed by the c~~C~~ourt.
*(Subd (a) amended effective July 1, 2005; adopted effective July 1, 1998.)*

b. ~~(b)~~ **APPEARANCE AT MEDIATION SESSIONS** ~~**APPEARANCE AT MEDIATION SESSIONS**~~.
Each party shall personally appear at the first mediation session and at any subsequent session 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 that concern it, and such counsel and an insurance representative of a covered party also shall be present or available at such sessions, unless excused by the mediator.
*(Subd (b) amended effective July 1, 2005; adopted effective July 1, 1998.)*

c. ~~(c)~~ **FILING OF STATEMENT BY MEDIATOR** ~~**FILING OF STATEMENT BY MEDIATOR.**~~
Within ten (10) days of the conclusion of the 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.
*(Subd (c) amended effective July 1, 2005; adopted effective July 1, 1998.)*

d. ~~(d)~~ **FEES FOR MEDIATION** ~~**FEES FOR MEDIATION**~~.
The parties to the action shall pay to the mediator their proportionate share of the fee set by the mediator, within thirty (30) days after the last mediation session. In the event that the parties settle the case after the mediation, the parties shall notify the mediator that the case has settled and shall pay their proportionate share of the mediator's fees within thirty (30) days after the notice to the mediator of the settlement.
*(Subd (d) amended effective July 1, 2005; adopted effective July 1, 1998.)*

e. **MEDIATION COMPLAINT PROCEDURE**
Per California Rules of Court, rule 3.868, the court adopts the following mediator complaint procedure:

(1) Complaints are only accepted from a party to the action or the party's attorney.

(2) The complainant must register his or her complaint in writing with the Mediation Administrator. The written complaint must include the following information:

(a) The names of the parties in the case and their attorneys;

(b) The case number;

(c) The most recent court date;

(d) The name(s) of any mediation personnel (i.e. mediators or mediation clerks) with whom the complainant had contact; and,

(e) A statement explaining the reasons for the complaint.

(3) Upon receiving the complaint, the Mediation Administrator will notify the complainant in writing that the court has received the complaint.

(4) The Mediation Administrator shall review the complaint and determine whether the complaint can be informally resolved or closed, or whether the complaint warrants investigation. If the complaint warrants an

investigation, the Mediation Administrator shall take the following steps:

(a) The Mediation Administrator shall give notice of the complaint to the mediator and provide a reasonable opportunity to respond.

(b) The complaint shall be investigated and a recommendation made concerning court action. The investigation shall be conducted by an investigator designated by the Mediation Administrator or the Presiding Judge. The investigator shall provide his or her recommendation to the Presiding Judge or his or her designee.

(c) The final decision shall be made by the Presiding Judge or his or her designee. Notice of the final action taken shall be sent by the court to the complainant and, if the complaint was not resolved during the preliminary review by the Mediation Administrator, to the mediator.

*(Subd (e) adopted effective January 1, 2010.)*

*(Rule 4.8 amended effective January 1, 2010;~~July 1, 2005;~~ adopted effective January 1, 1998; previously amended effective July 1, 2005.)*

~~**4.9 OTHER SETTINGS**~~

~~If the court sets a case for trial at Case Management Conference Two, then the court will set the case for:~~

~~**(a)** MANDATORY SETTLEMENT CONFERENCE four (4) to six (6) weeks after Case Management Conference Two;~~

~~**(b)** TRIAL MANAGEMENT CONFERENCE eight (8) to ten (10) weeks after Case Management Conference Two; and~~

~~**(c)** TRIAL twelve (12) to fourteen (14) weeks after Case Management Conference Two.~~

~~The timeframes set out in Rule 4.9 are deemed to be guidelines and the court in its discretion may set hearings otherwise if deemed to be in the interest of justice.~~

~~*(Rule 4.9 amended effective October 1, 2002; adopted effective January 1, 1998.)*~~

## ~~4.10 SETTING SHORT CAUSES FOR TRIAL~~

~~Short cause cases will be set for trial at Case Management Conference Two for the date and time that the court shall direct. Short cause cases shall be exempt from the requirement of a trial management or settlement conference unless one or both are found appropriate and ordered by the court at Case Management Conference Two.~~

~~*(Rule 4.10 amended effective October 1, 2002; adopted effective January 1, 1998.)*~~

## 4.9~~4.11~~ MANDATORY SETTLEMENT CONFERENCES

a. **REQUIRED PARTICIPANTS**

The lead trial counsel, parties, and persons with full settlement authority shall personally attend the Mandatory Settlement Conference unless excused by the court for good cause. In the case of an insured principal, the authorized representative of the insured's insurance company must be present in lieu of the client, and must have full settlement authority. For purposes of these rules, "full settlement authority" means persons physically present in the courthouse who are empowered to make settlement decisions without telephone consultation with others. In no event will an independent adjuster satisfy the above requirement. In any professional negligence case in which the d~~D~~efendant retains the right to refuse settlement, participation of that defendant in the settlement conference is mandatory.

*(Subd (a) amended and relettered effective January 1, 2010; adopted as unlettered portion of Rule 4.11 effective January 1, 1998; previously amended effective July 1, 2005.)*

b. **MEET AND CONFER REQUIREMENTS**

No later than ten (10) calendar days before the date set for the mandatory settlement conference, trial counsel and all persons with ultimate authority to settle the case shall meet in person or, if all parties agree, by telephone to discuss settlement of the case.

*(Subd (b) amended and relettered effective January 1, 2010; adopted as unlettered portion of Rule 4.11 effective January 1, 1998; previously amended effective July 1, 2005.)*

~~SANCTIONS: Failure of any attorney, adjustor, and/or party to prepare for, appear at, or meaningfully participate in a settlement conference, unless good cause is shown for any such failure, is an unlawful interference with the proceedings of the Court, and the Court may impose sanctions, including but not limited to, any or all of the following: monetary sanctions to be paid to the Court;~~

~~monetary sanctions to be paid to other parties which may include, among other things, costs, actual expenses, and counsel fees; and the Court may order an appropriate change in the calendar status of the action.~~

~~No later than ten (10) calendar days before the date set for the mandatory settlement conference, trial counsel and all persons with ultimate authority to settle the case shall meet in person or, if all parties agree, by telephone to discuss settlement of the case.~~

c. **MANDATORY SETTLEMENT CONFERENCE STATEMENTS**

No later than five (5) calendar days before the date set for the settlement conference, each party shall file and serve on all ~~each~~ other parties~~party~~ a settlement conference statement. Said statement shall comply in all respects with California Rules of Court, rule 3.1380, subdivision (c), and shall also contain the following additional information: ~~which shall include:~~

(1) ~~(a)~~ A~~a~~ statement of the factual and legal contentions in dispute;

(2) ~~(b)~~ A~~a~~ list of all special damages claimed;

(3) ~~(c)~~ C~~c~~opies of pertinent medical reports;

(4) ~~(d)~~ O~~o~~ther reports by experts;

(5) ~~(e)~~ P~~p~~ictorial or documentary evidence anticipated to be presented at trial;

(6) ~~(f)~~ A~~a~~n estimate of the lowest and highest possible award by a trier of fact;

(7) ~~(g)~~ T~~t~~he highest previous offer and the lowest previous demand;

(8) ~~(h)~~ T~~t~~he date when the last face to face or telephonic settlement discussion was held between all parties;

(9) ~~(i)~~ A~~a~~ statement as to any special problems relating to settlement, such as lack of or disputed insurance coverage; and,

(10)~~(j)~~ A~~a~~ statement regarding the party's position regarding settlement of the case.

*(Subd (c) amended and relettered effective January 1, 2010; adopted as unlettered portion of Rule 4.11 effective January 1, 1998; previously amended effective July 1, 2005.)*

d. **SANCTIONS**

Failure of any attorney, adjustor, and/or party to prepare for, appear at, or meaningfully participate in a settlement conference, unless good cause is shown for any such failure, is an unlawful interference with the proceedings of the c~~C~~ourt, and the c~~C~~ourt may impose sanctions, including but not limited to, any or all of the following: monetary sanctions to be paid to the c~~C~~ourt; monetary sanctions to be paid to other parties which may include, among other things, costs, actual expenses, and counsel fees; and the c~~C~~ourt may order an appropriate change in the calendar status of the action.

*(Subd (d) amended and relettered effective January 1, 2010; adopted as unlettered portion of Rule 4.11 effective January 1, 1998; previously amended effective July 1, 2005.)*

*(Rule 4.9 ~~4.11~~ amended and renumbered effective January 1, 2010;~~July 1, 2005;~~ adopted as Rule 4.11 effective January 1, 1998; previously amended effective July 1, 2005; former Rule 4.9, which concerned other settings of cases, repealed effective January 1, 2010.)*

## 4.10 ~~4.12~~ TRIAL MANAGEMENT CONFERENCES

a. **REQUIRED PARTICIPANTS**

The lead trial counsel shall, unless excused by the c~~C~~ourt, appear at the Trial Management Conference prepared to respond to any questions the court may pose about the case.

*(Subd (a) relettered effective January 1, 2010; adopted as unlettered portion of Rule 4.12 effective January 1, 1998; previously amended effective July 1, 2005.)*

b. **TRIAL MANAGEMENT CONFERENCE STATEMENTS**

On a form to be provided by the court, each counsel shall complete, file and serve on all parties a completed Trial Management Conference Report by the seventh (7th) calendar day before the date set for the Trial Management Conference. The form provided by the court may be modified as deemed appropriate by the court. At a minimum, the report shall include the following: ~~but shall include at minimum a request for the following:~~

(1) A statement of the nature of the case, with a summary of each party's allegations and supporting facts. Include an agreed-upon statement of the case to be read to the jury panel, if a jury has been requested by any party;

(2) If there have been developments since the trial setting affecting the estimated length of trial, an explanation as to what those developments are and how the estimated length of trial should be changed as a result;

(3) The names of any non-expert witnesses who may be called at trial, except for impeachment or rebuttal. State concisely the anticipated testimony of each non-expert witnesse and the time estimate for testimony, including direct and cross-examination;

(4) The names and expertise of any expert witnesses who may be called at trial, except for impeachment or rebuttal. State concisely the anticipated testimony of each expert witness and the time estimate for testimony, including direct and cross-examination. In addition, attach any narrative reports provided by the expert witness;

(5) A list of all witnesses who are unavailable and whose testimony will be presented by deposition, along with the facts supporting that unavailability;

(6) A list of all documents, exhibits, blowups, and/or photographs that the party expects to offer at trial, except for impeachment or rebuttal. Documents shall be identified by page number or Bates-stamp number as applicable (e.g. "Jane Doe's Medical Records, pages 1 through 326"). Photos shall be separately identified;

(7) A specific list in column form of all portions of depositions, answers to interrogatories and responses to request for admissions that the party expects to offer at trial, except for impeachment or rebuttal. All portions of depositions shall be identified by page and line number(s), while responses to written discovery must be identified by the manner of discovery request and the response number (e.g. "Response to Plaintiff's Special Interrogatories, Set One, Interrogatory Number 4"; "Amended Response to Defendant's Request for Admissions, Set Three, Request Number 7");

(8) A specific list of all anticipated evidentiary disputes with citation to authority;

(9) A specific list of all anticipated non-evidentiary disputes with citation to authority;

(10) All requested jury instructions and verdict forms in compliance with the California Rules of Court. Each instruction shall be typed in full and numbered consecutively, with the submitting attorney having filled in all blanks and having made a decision as to all alternatives in the BAJI instructions. Two copies of the requested jury instructions shall be submitted to the court. One copy shall have citations to authority and boxes for the court's use regarding whether the instruction is given, refused, or withdrawn, and one copy shall be presented without citations to authority and boxes regarding given, refused, or withdrawn.

(11) Copies of all in limine motions that the party expects to submit at trial. Each in limine motion provided shall be numbered consecutively by the party. (Note that any in limine motions not included will not be considered by the court, unless good cause is presented to the trial court).

(12) All stipulations requested or proposed at trial; and,

(13) A statement as to whether there are any witnesses that need an interpreter. State the name of the interpreter and the language that must be interpreted. (If an interpreter is needed, it is the obligation of the party calling the witness to make arrangements for an interpreter.)

*(Subd (b) amended and relettered effective January 1, 2010; adopted as unlettered portion of Rule 4.12 effective January 1, 1998; previously amended effective July 1, 2005.)*

~~**(a)** What is the nature of the case? Provide an agreed upon statement of the case to be read to the jury panel;~~

~~**(b)** Is a jury demanded by the party signing the report;~~

~~**(c)** An estimate of the time needed for trial;~~

~~**(d)** The names of any non-expert witnesses to be called at trial, except for impeachment or rebuttal. The time estimate for the testimony of each witness including direct and cross-examination;~~

~~**(e)** State concisely the anticipated testimony of each non-expert witness in (d) above.~~

~~**(f)** The names of any witnesses who will testify to expert opinions. The time estimate for the testimony of each witness; including direct and cross-examination;~~

~~**(g)** What is the area of expertise of each witness listed in (f) above;~~

~~**(h)** State concisely the anticipated testimony of each expert witness listed in (f) above. In addition, attach any narrative reports provided by the expert witness, except for impeachment or rebuttal;~~

~~**(i)** Are there any witnesses who are unavailable and whose testimony will be presented by deposition? If so, what facts indicate that the witness is unavailable;~~
~~**(j)** A list in column form of all documents or other exhibits that the party expects to offer at trial, except for impeachment or rebuttal;~~

~~**(k)** A list in column form of all portions of depositions, (designated by page and line), answers to interrogatories (designated by the number of the interrogatory), and responses to requests for admissions (designated by the number of the request) that the party expects to offer at trial;~~

~~**(l)** List with specificity all anticipated evidentiary disputes with citations to authority.~~

~~**(m)** List with specificity all anticipated non-evidentiary legal disputes with citations to authority.~~

~~**(n)** Provide all requested jury instructions and verdict forms in compliance with the California Rules of Court. Each instruction shall be typed in full and numbered consecutively, with the submitting attorney having filled in all blanks and having made a decision as to all alternatives in the BAJI instructions. Two copies of the requested jury instructions shall be submitted to the court. One copy shall have citations to authority and boxes for the court's use regarding whether the instruction is given, refused, or withdrawn, and one copy shall be presented without citations to authority and boxes regarding given, refused, or withdrawn.~~

~~**(o)** Provide copies of all in limine motions that the party expects to submit at trial. Each in limine motion provided shall be numbered consecutively by the party. (Note that any in limine motions not included will not be considered by the court, unless good cause is presented to the trial court).~~

~~**(p)** Submit a statement of stipulations requested or proposed for trial purposes.~~

~~**(q)** State whether there are any witnesses that need an interpreter. State the name of the interpreter and the language that must be interpreted. (If an interpreter is needed, it is the obligation of the party calling the witness to make arrangements for an interpreter.)~~

c. **EXCLUSION OF EVIDENCE AND TESTIMONY AT TRIAL**

The testimony of witnesses who are not listed in the Trial Management Conference Report, or documents, or other exhibits, portions of depositions, answers to interrogatories or responses to requests for admissions, which are not listed in the Trial Management Conference Report, shall not be admitted at the trial. However, the trial judge, in his or her sole discretion and upon a showing a good cause, may permit~~ Provided further, that the trial judge, in his or her sole discretion and on good cause shown, may allow~~ the testimony of witnesses who are not listed in the Trial Management Conference Report and may allow the admission of exhibits or portions of discovery which are not listed in the Trial Management Conference Report.

*(Subd (c) amended and relettered effective January 1, 2010; adopted as unlettered portion of Rule 4.12 effective January 1, 1998; previously amended effective July 1, 2005.)*

*(Rule 4.10 amended and renumbered effective January 1, 2010~~4.12 amended effective July 1, 2005~~; adopted as Rule 4.12 effective January 1, 1998; previously amended effective July 1, 2005; former Rule 4.10, which concerned setting short causes for trial, repealed effective January 1, 2010.)*

## 4.11 ~~4.13~~ DISMISSAL OF ACTION OR ENTRY OF JUDGMENT FOLLOWING SETTLEMENT

Following settlement of the action, the court will, by order, set a date by which the action shall be dismissed or judgment entered. In the event the parties do not comply with the court's order in this regard, the court, on its own motion, may dismiss the action or enter judgment effective as of the date set for dismissal or entry of judgment by the court.

*(Rule 4.11 renumbered effective January 1, 2010; adopted as Rule 4.13 ~~adopted~~ effective January 1, 1998; former Rule 4.11 renumbered as Rule 4.9 effective January 1, 2010.)*

## 4.12 ~~4.14~~ MISCELLANEOUS

a. ~~**(a)**~~ **REQUEST FOR EXTENSION OF TIME** ~~**REQUEST FOR EXTENSION OF TIME.**~~

Any request for extension of time under these rules shall be filed with due diligence and, in addition to being signed by counsel shall be endorsed by the party acknowledging that the extension of time being requested by counsel is

concurred in by the party. The request shall be made on the form provided by the court.
*(Subd (a) amended effective January 1, 2009; adopted effective January 1, 1998.)*

b. ~~(b)~~ **KNOWLEDGE OF CASE** ~~**KNOWLEDGE OF CASE**~~.
Counsel and parties attending any hearing or conference set pursuant to these rules shall have sufficient knowledge of the case to inform the court as to all matters that are pertinent and relevant to the issues to be heard and have authority to enter into binding stipulations regarding any matters before the court. This rule shall apply equally to attorneys of record and specially appearing counsel.
*(Subd (b) amended effective January 1, 2010; adopted effective January 1, 1998; previously amended effective January 1, 2009.)*

c. ~~(c)~~ **REFERENCE TO "ATTORNEY" OR "COUNSEL"** ~~**REFERENCE TO "ATTORNEY" OR "COUNSEL"**~~.
Any reference in these rules to "attorney" or "counsel" shall apply equally to any person representing himself or herself in a case subject to these rules.
*(Subd (c) amended effective January 1, 2009; adopted effective January 1, 1998.)*

d. ~~(d)~~ **REMOVAL FROM CIVIL ACTIVE LIST** ~~**REMOVAL FROM CIVIL ACTIVE LIST**~~.
A case shall not be removed from the civil active list except by order of the court.
*(Subd (d) amended effective January 1, 2009; adopted effective January 1, 1998.)*

e. ~~(e)~~ **EXCUSE FROM RULE REQUIREMENT** ~~**EXCUSE FROM RULE REQUIREMENT**~~.
Any requirement of these rules may be excused by the court upon a showing of good cause.
*(Subd (e) amended effective January 1, 2009; adopted effective January 1, 1998.)*

f. ~~(f)~~ **UNINSURED MOTORIST CASE** ~~**UNINSURED MOTORIST CASE**~~.
An action for personal injury or property damage against an uninsured defendant may be designated by "uninsured motorist case" upon application of the plaintiff filed within thirty (30) days of the commencement of the action. Upon the filing of such an application, the court will set a hearing date six (6) months from the date of the designation. At the hearing, the action will be dismissed, without prejudice, unless the court, for good cause, extends the time for resolution of the case.
*(Subd (f) amended effective January 1, 2009; adopted effective January 1, 1998.)*

g. ~~(g)~~ **REMOVAL TO FEDERAL COURT** ~~**REMOVAL TO FEDERAL COURT.**~~
An action removed to Federal Court will be set for hearing six months from the notice of removal at which time the action will be dismissed, without prejudice, unless the court, for good cause, extends the time.
*(Subd (g) amended effective January 1, 2009; adopted effective January 1, 1998.)*

h. ~~(h)~~ **TELEPHONIC APPEARANCES**~~**TELEPHONIC APPEARANCES.**~~ ~~Except as otherwise ordered by the court, parties may appear telephonically at the following conferences, hearings and proceedings: Case Management Conferences (if a case management conference statement has been timely filed and served); Mediation Review Conferences; hearings on law and motion (except motions in limine); hearings to review the dismissal of an action; and ex parte appearances by an applicant who seeks permission to file a memorandum in excess of applicable page limits, for extension of time to serve pleadings, to set hearing dates or alternative writs and orders to show cause, or has obtained a stipulation by the other parties to permit telephonic ex parte appearance by the applicant. Unless the court has ordered otherwise, personal rather than telephonic appearances shall be required at trials and hearings where witnesses are expected to testify; hearings on temporary restraining orders; settlement conferences; hearings on motions in limine; hearings on petitions to confirm the sale of property under the Probate Code; ex parte appearances by applicants for orders other than those listed earlier; persons ordered to show cause why sanctions should not be imposed for violation of a court order or a rule; and persons ordered to appear in an order or citation issued under the Probate Code. As to the last three types of appearances, parties who are not required to appear in person may appear by telephone.~~

~~Any party choosing to appear by telephone must place the phrase "Telephone Appearance" below the title of any moving, opposing or reply papers, or notify the court and all other parties at least 3 court days prior to the appearance. If written notice is given, the party must also file a Notice of Intent to Appear by Telephone" with the court at least 3 court days before the appearance, and serve all parties with that notice in a manner reasonably calculated to ensure delivery no later than the close of the next business day. Any party giving such written notice who thereafter decides to personally appear must notify the court and all other parties by telephone at least 2 court days before the appearance.~~

~~All telephonic appearances shall be made through CourtCall LLC or such other provider as is designated by a General Order of the Presiding Judge. The court has contracted with CourtCall LLC, a private telephonic appearance provider. The telephone number of CourtCall is (888) 88-COURT or (310) 342-0888.~~Litigants wishing to appear by telephone per California Rules of Court, rule 3.670, shall do so through CourtCall LLC, a private telephonic appearance

provider with whom the court has contracted, unless the court has designated a different provider. The telephone number of CourtCall is (888) 88-COURT or (310) 342-0888. Counsel wishing to avail themselves of this service shall note and follow the rules and schedule of the individual department concerning the use of CourtCall, and shall be solely responsible for all fees and costs charged by CourtCall for this service.
*(Subd (h) amended effective January 1, 2010; adopted effective January 1, 2009.)*

*(Rule 4.12 amended and renumbered effective January 1, 2010~~4.14 amended effective January 1, 2009~~; adopted as Rule 4.14 effective January 1, 1998; previously amended effective January 1, 2009; former Rule 4.12 renumbered as Rule 4.10 effective January 1, 2010.)*

## 4.13 ~~4.15~~ SANCTIONS

a. **SANCTIONS GENERALLY**

Upon the motion of a party or on the court's own motion, the court may impose sanctions ~~Sanctions will be imposed~~ for non-compliance with these rules. Sanctions will not be imposed without prior notice to, and an opportunity to be heard by, the party or attorney against whom the sanction or penalty is sought to be imposed. Available s~~S~~anctions include, but are not limited to,:

(1) ~~(a)~~ M~~m~~onetary sanctions;

(2)~~(b)~~ E~~e~~videntiary sanctions prohibiting the introduction of designated matters into evidence;

(3)~~(c)~~ S~~s~~triking out all or any part of any pleading;

(4)~~(d)~~ D~~d~~ismissal of an action, proceeding, or any part thereof;

(5)~~(e)~~ E~~e~~ntering judgment by default against a party; and, ~~or~~

(6)~~(f)~~ C~~c~~ontempt sanctions.

*(Subd (a) amended and relettered effective January 1, 2010; adopted as unlettered part of Rule 4.15 effective January 1, 1998.)*

b. **ATTORNEY FEES AND COSTS**

In addition to any sanction, t~~T~~he court may ~~further~~ order a party or his or her counsel to pay to a party moving for compliance with these rules the reasonable expenses in making the motion, including reasonable attorney fees.
*(Subd (b) amended and relettered effective January 1, 2010; adopted as unlettered part of Rule 4.15 effective January 1, 1998.)*

c. **SANCTIONS RELATED TO REQUESTS TO EXTEND TIME FOR FILING**
Monetary sanctions and, in the court's discretion, more severe sanctions, will be imposed upon counsel or his or her party who in bad faith or without good cause request an extension of time for the filing of any pleading or document as required by these rules.
*(Subd (c) relettered effective January 1, 2010; adopted as unlettered part of Rule 4.15 effective January 1, 1998.)*

d. **SANCTIONS AGAINST ATTORNEYS**
If the court determines that the failure to comply with the rules is the responsibility of a party's attorney or counsel, the penalty shall be imposed on the attorney or counsel personally and shall not adversely affect the party's cause of action or defense thereto.
*(Subd (d) adopted effective January 1, 2010.)*

*(Rule 4.13 ~~4.15~~ amended and renumbered effective January 1, 2010; adopted as Rule 4.15 effective January 1, 1998; former Rule 4.13 renumbered as Rule 4.11 effective January 1, 2010.)*

**4.14 [RENUMBERED]**

*(Rule 4.14 renumbered as Rule 4.12 effective January 1, 2010.)*

**4.15 [RENUMBERED]**

*(Rule 4.15 renumbered as Rule 4.13 effective January 1, 2010.)*

**Superior Court of California**
**County of Solano**

**Rule 5 – Family Law**

## 5.1 SCOPE OF RULE 5; APPLICABILITY TO PARTIES AND COUNSEL

a. **ASSIGNMENT OF MATTERS TO THE FAMILY LAW DIVISION**
All family law matters will be heard principally in the Family Law Division as designated by the Presiding Judge and in such additional departments to which such matters may, from time to time, otherwise be assigned for trial or hearing by the Supervising Judge of the Family Law Division.
*(Subd (a) amended effective January 1, 2008.)*

b. **MATTERS TO WHICH RULE 5 APPLIES**
Rule 5 applies to all family law matters, which shall include the following:

(1) Actions filed under the California Family Code;

(2) Post-judgment marital or domestic partnership actions involving omitted or reserved property issues;

(3) Non-marital actions consolidated for trial with Family Code actions;

(4) Enforcement and/or modification of sister state and foreign family law orders and judgments;

(5) All other matters in which family law issues are present or that have been assigned for adjudication to the Family Law Division, including but not limited to, discovery matters concerning family law issues and Department of Child Support Services proceedings.

*(Subd (b) amended effective January 1, 2008.)*

c. **MATTERS TO WHICH RULE 5 DOES NOT APPLY**
Except as provided in another local rule, Rule 5 does not apply to child custody matters filed pursuant to the California Probate Code (Guardianships) or filed pursuant to the California Welfare and Institutions Code (Dependency).
*(Subd (c) amended effective July 1, 2008; previously amended effective January 1, 2008.)*

d. **APPLICABILITY OF RULES TO PARTIES AND COUNSEL**
Unless otherwise required by law or a provision of this Rule 5, or the context of a specific provision, Rule 5 applies to the parties, to the attorneys of represented parties, and to minor's counsel.
*(Subd (d) adopted effective January 1, 2008.)*

*(Rule 5.1 amended effective July 1, 2008; ~~previously amended effective January 1, 2008;~~ adopted effective July 1, 1988; previously amended effective August 1, 2002, and January 1, 2008.)~~; see conversion tables in Appendices 5-A-3 and 5-A-4.)~~*

## 5.2 DIRECT CALENDARING

a. **ASSIGNMENT OF MATTER TO JUDICIAL OFFICER**
When a family law case is filed, or received and filed as a transfer from another jurisdiction, the Clerk of the Court shall assign the case to one judicial officer for all purposes, subject to the approval of the supervising judge of the Family Law Division. The assignment shall be designed to fairly distribute the workload among the judicial officers of the Family Law Division and best serve the court.
*(Subd (a) amended effective January 1, 2008.)*

b. **NOTIFICATION OF ASSIGNED JUDICIAL OFFICER**
The Clerk of the Court shall notify the parties of the assignment of the case to the judicial officer by designating on the Summons and Petition the judicial officer to whom the case has been assigned.
*(Subd (b) amended effective January 1, 2008.)*

c. **PEREMPTORY CHALLENGE TO JUDICIAL OFFICER**
A peremptory challenge to a judicial officer to whom a case has been assigned shall be filed within fifteen days of the party's first appearance in the action unless required earlier by law.
*(Subd (c) amended effective January 1, 2008.)*

d. **NON-STIPULATION TO SUBORDINATE JUDICIAL OFFICER**
A lack of consent to the matter being heard by a subordinate judicial officer to whom a case has been assigned shall be filed within fifteen days of the party's first appearance in the action unless required earlier by law.
*(Subd (d) amended effective January 1, 2008.)*

*(Rule 5.2 amended effective January 1, 2008; adopted effective August 1, 2002~~; see conversion tables in Appendices 5-A-3 and 5-A-4~~.)*

## 5.3 USE AND COMPLETENESS OF JUDICIAL COUNCIL AND SOLANO COUNTY FORMS

a. **USE OF CURRENT FORMS**

Except as otherwise permitted by the California Rules of Court, all documents presented for filing must be submitted on the most current Judicial Council and Superior Court of Solano County local forms. However, the Clerk of the Court may establish a period during which any out-dated form may be accepted after the effective date of the new form. Any Judicial Council form or local form that is designated mandatory must be used, and the court shall not accept any substitute for filing (reference: Cal. Rules of Court, rule 1.31.)

*(Subd (a) amended effective July 1, 2009; previously amended effective January 1, 2008.)*

b. **FILING OF MOVING AND RESPONDING PAPERS**

Moving and responding papers shall be filed with the Family Law Clerk's Office and they shall contain the following information in the caption:

(1) Nature of motion, including the relief requested;

(2) Hearing date, if known at the time of filing;

(3) Hearing time, if known at the time of filing; and,

(4) Assigned department, if known at the time of filing.

*(Subd (b) amended effective January 1, 2008.)*

c. **REJECTION OF INCOMPLETE PAPERS FOR FILING**

Except as otherwise provided by the Solano County Local Rules or by the California Rules of Court, the Family Law Clerk's Office shall not accept for filing any form, document or pleading which is not in compliance with the Solano County Local Rules or the California Rules of Court, and/or not complete when presented for filing. The Family Law Clerk's Office shall maintain for public distribution a sample guide about the form of papers to be filed. ~~(see Sup. Ct. Solano County Local Form no. 392).~~

*(Subd (c) amended effective January 1, 2010; previously amended effective January 1, 2008.)*

d. **CONFORMED COPIES OF PLEADINGS**

Applicants needing conformed copies of a filed motion at the time of filing must bring copies for conformance. This requirement does not apply to requests for

domestic violence restraining orders. Parties are expected to have endorsed-filed copies of all filed papers with them at each and every court appearance.
*(Subd (d) adopted effective January 1, 2008.)*

e. **USE OF SUPERIOR COURT OF CALIFORNIA, COUNTY OF SOLANO CASE NUMBER**
The Superior Court of California, County of Solano case number shall be on each paper filed. A party shall not add any numbers, letters or other designations to the case number, either as a prefix or a suffix, on any pleading filed with the court. The case number shall have the following format:

(1) SF012345: All family law cases (excepting adoptions and Uniform Parentage Act cases) filed prior to December 8, 1999.

(2) FFL012345: All family law cases (excepting adoptions and Uniform Parentage Act cases) filed on or after December 8, 1999 or whose case number is equal to or higher than FFL050994.

(3) SA001234: All adoption cases filed prior to December 8, 1999.

(4) FAD001234: All adoption cases filed on or after December 8, 1999, or whose case number is equal to or higher than FAD005778.

(5) SL012345: All Uniform Parentage Act cases filed prior to December 8, 1999, including cases with case numbers formatted as "L012345".

(6) FCS012345: All Uniform Parentage Act cases filed between December 8, 1999, and September 30, 2002.

(7) FFL012345: All Uniform Parentage Act cases filed on or after October 1, 2002, or whose case number is equal to or higher than FFL069339.

*(Subd (e) adopted effective July 1, 2008.)*

*(Rule 5.3 amended effective January 1, 2010; ~~effective July 1, 2009; previously amended and renumbered effective January 1, 2008; amended effective July 1, 2008;~~ adopted as Rule 5.5 effective July 1, 1988; previously amended effective August 1, 2002; amended and renumbered as Rule 5.3 effective January 1, 2008; amended effective July 1, 2008, and July 1, 2009.) ~~; see conversion tables in Appendices 5-A-3 and 5-A-4.)~~*

## 5.4 FILING AND SERVICE OF SUMMONS, PETITION, MOVING, RESPONSIVE, AND OTHER PLEADINGS

a. **FILING AND SERVICE OF SUMMONS AND PETITION**

The Summons and Petition shall be filed and served on the opposing party or attorney in accordance with the applicable provisions of Part 2, Title 5 of the Code of Civil Procedure sections, generally 410.10 through 418.11.
*(Subd (a) amended effective January 1, 2008.)*

b. **FILING AND SERVICE OF MOVING AND RESPONSIVE PLEADINGS AND SUPPORTING DOCUMENTS**

(1) Moving and responsive pleadings and their supporting documents shall be filed and served on the opposing party or attorney in accordance with Code of Civil Procedure section 1005.
*(Subd (1) amended and renumbered effective January 1, 2008; adopted as unnumbered part of Rule 5.3, subd (b) effective July 1, 1988.)*

(2) Responsive pleadings, supporting documents, or other pleadings relevant to a matter scheduled for hearing may be filed or served late for good cause or if the opposing party or counsel expressly consents on the record to the late service, and the original of the pleading and supporting documents are delivered to the assigned department by 2:30 p.m. on the court day before the scheduled hearing. Nothing in this rule limits the court's discretion to disregard a late filing.

*(Subd (2) amended effective July 1, 2008; previously amended and renumbered effective January 1, 2008; adopted as unnumbered part of Rule 5.3, subd (b) effective July 1, 1988.)*

c. **FORMS TO BE INCLUDED WITH MOVING AND RESPONSIVE PAPERS**

In addition to any forms required by the California Rules of Court, a~~A~~ll moving papers and responsive papers shall be accompanied by the applicable forms specified in ~~California Rules of Court, rule 5.118, and~~ Rule 5 of the Solano County Local Rules. ~~, rule 5.~~
*(Subd (c) amended effective January 1, 2010; adopted effective January 1, 2008.)~~; former Rule 5.3, subd (c) repealed effective January 1, 2008. The repealed subdivision related to forms to be included with requests for orders shortening time.)~~*

d. **APPLICATIONS FOR ORDERS FOR PUBLICATION OF SUMMONS**
A petitioner seeking an order for publication of summons pursuant to Code of Civil Procedure section 415.50 shall submit the request on an Application for Order For Publication of Summons (Solano County Local Form no. ~~322~~) and a Declaration in Support of Application for Order for Publication of Summons (Solano County Local Form no. ~~323~~).
*(Subd (d) amended effective January 1, 2010; adopted effective July 1, 2008.)*

e. **FILING OF NOTICES OF UNAVAILABILITY**
The court shall not accept for filing a "Notice of Unavailability of Counsel" or other document or pleading whose sole purpose is to advise the court and/or other parties of an attorney's or party's unavailability. *Carl v. Superior Court of Orange County* (2007) 157 Cal.App.4th 73.
*(Subd (e) adopted effective January 1, 2009.)*

*(Rule 5.4 amended effective January 1, 2010; ~~amended effective January 1, 2009; previously amended and renumbered effective January 1, 2008; previously amended effective July 1, 2008;~~ adopted as Rule 5.3 effective July 1, 1988; previously amended effective August 1, 2002, and July 1, 2005; amended and renumbered as Rule 5.4 effective January 1, 2008; amended effective July 1, 2008, and January 1, 2009.)~~; see conversion tables in Appendices 5-A-3 and 5-A-4~~.)*

## 5.5 ~~PROOF OF~~ SERVICE

a. **FILING PROOF OF SERVICE**
Proof of ~~timely~~ service in all family law matters shall be filed with the Clerk of the Court at least five days prior to the hearing. If no proof of service of the moving papers is filed with the court prior to the time set for hearing, the matter may be taken off calendar.
*(Subd (a) amended effective January 1, 2010; amended effective January 1, 2008.)*

b. **SERVICE OF PLEADINGS AFTER ENTRY OF STATUS-ONLY JUDGMENT**
~~All parties shall comply with the provisions of~~ Family Code section 215, requiring service of pleadings or other court papers directly upon a party after entry of a judgment, ~~. This provision~~ does not apply to pleadings or papers served after the entry of a bifurcated status-only judgment where jurisdiction is reserved over other issues. ~~for dissolution, legal separation, or nullity~~.
*(Subd (b) amended effective January 1, 2010; amended effective January 1, 2008.)*

c. **NOTICE TO ATTORNEY OF RECORD OF SUBSEQUENT PROCEEDINGS**
After a final judgment has been entered, the attorney of record for a party shall continue as attorney of record, and shall be given a courtesy copy of all ~~timely notice of all~~ subsequent pleadings or papers filed ~~proceedings~~ in such action, unless the attorney formally withdraws from the matter ~~files a proper withdrawal~~ by stipulation, order, or pursuant to Code of Civil Procedure, section 285.1.
*(Subd (c) amended effective January 1, 2010; previously amended effective January 1, 2008.)*

d. **USE OF JUDICIAL COUNCIL PROOF OF SERVICE FORMS**
In matters not involving domestic violence restraining orders or other restraining orders, parties are strongly encouraged to use the appropriate ~~following~~ Judicial Council forms for proofs of service. ~~: Proof of Personal Service (Judicial Council form FL-330), Proof of Service by Mail (Judicial Council form FL-335), and Proof of Service of Summons for service of family law actions (Judicial Council form FL-115), except as otherwise provided by law.~~
*(Subd (d) amended effective January 1, 2010; adopted effective January 1, 2008.)*

e. **PROOF OF SERVICE FOR SUMMONS SERVED BY PUBLICATION**
Where the court has ordered service of a summons by publication, the petitioner shall file a proof of service demonstrating that the summons has been published as ordered and showing the first day of publication of the summons. A copy of the published summons or an affidavit from the newspaper of general circulation shall be attached to the proof of service.
*(Subd (e) adopted effective July 1, 2008.)*

*(Rule 5.5 amended effective January 1, 2010; ~~amended effective July 1, 2008; previously amended and renumbered effective January 1, 2008;~~ adopted as Rule 5.4 effective July 1, 1988; previously amended effective August 1, 2002; previously amended and renumbered as Rule 5.5 effective January 1, 2008; amended effective July 1, 2008.)~~; see conversion tables in Appendices 5-A-3 and 5-A-4.)~~*

## 5.6 DECLARATIONS

a. **CONTENT OF DECLARATIONS**
Supporting and responding declarations shall be made on personal knowledge, shall set forth only admissible evidence, and shall show affirmatively that the declarant is entitled to the relief or order requested and is competent to testify to the matters stated therein. The court will not grant an application based on declarations that contain solely conclusions or inadmissible statements.

*(Subd (a) amended and relettered effective January 1, 2008; adopted as unlettered subdivision to Rule 5.6 effective July 1, 1988.)*

*(Rule 5.6 amended effective January 1, 2008; adopted effective July 1, 1988; previously amended effective August 1, 2002; see conversion tables in Appendices 5-A-3 and 5-A-4.)*

## 5.7 EX PARTE APPLICATION FOR ORDER; ORDERS SHORTENING AND EXTENDING TIME

a. **EX PARTE APPLICATIONS GENERALLY**
Ex parte applications are extraordinary remedies. Most ex parte applications are appropriate only where irreparable harm or immediate danger needs to be addressed before a motion or an Order to Show Cause can be heard, or if good cause is shown for the granting of an order shortening time.
*(Subd (a) adopted effective January 1, 2008.)*

b. **REQUIREMENTS FOR DECLARATION IN SUPPORT OF AN EX PARTE ORDER**
All applications for ex parte relief shall comply with California Rules of Court, rules 3.1201 and 3.1202. Absent good cause, a written declaration that supports the ex parte relief requested shall be required in all cases.
*(Subd (b) amended and relettered effective January 1, 2008; adopted as subd (a) effective January 1, 1988.)*

c. **DISCLOSURE THAT THE APPLICATION CHANGES THE STATUS QUO**
The applicant shall disclose whether his or her request modifies a court order, an agreement, or a practice of the parties.
*(Subd (c) amended and relettered effective January 1, 2008; adopted as subd (b) effective January 1, 1988.)*

d. **EX PARTE NOTICE REQUIREMENTS**
Before submitting an ex parte application for the court's consideration, the applicant shall comply with the procedures in Family Code sections 241 through 246 inclusive, 2045, 3060 through 3064 inclusive, 6320 through 6340 inclusive, and California Rules of Court. Unless otherwise stated in the Solano County Local Rules, the applicant must comply with all requirements for a declaration setting forth that NOTICE of the ex parte request has been given to the other party or the reason notice has not been given. At the time of submission of the application, a completed *Declaration Re Notice Upon Ex Parte Application for Orders* (Solano County Local Form no. ~~1070~~) or a declaration in substantial compliance therewith, shall accompany all applications for ex parte orders, except those specified in Family Code sections 6200 et seq., and shall be filed before the

ex parte hearing. The moving party shall make available a copy of the filed *Declaration Re Notice Upon Ex Parte Application for Orders* to the judicial officer, and to the opposing party or attorney if one appears, at the time of the ex parte hearing, or the ex parte hearing may be ordered rescheduled.
*(Subd (d) amended effective January 1, 2010; amended and relettered effective January 1, 2008; adopted as subd (c) effective January 1, 1988; previously amended July 1, 2005.)*

e. **EX PARTE APPLICATIONS WITHOUT NOTICE**
The court may hear an application without notice for good cause, which may include, but not be limited to, the following:

(1) Notice could not be given after a good faith effort to do so;

(2) The moving party presents proof that the other party in the matter does not oppose the application;

(3) The applicant would suffer immediate and irreparable injury if notice were given; or,

(4) The request is for an order directing the parties to attend mediation or to file and serve an *Income and Expense Declaration* (Judicial Council form FL-150).

*(Subd (e) amended and relettered effective January 1, 2008; adopted as subd (d) effective January 1, 1988.)*

f. **PROCEDURE GENERALLY FOR PROCURING EX PARTE ORDER**

(1) To determine whether, if taken as true, the moving papers demonstrate irreparable harm or immediate danger or otherwise set forth good cause for granting an order shortening time, the assigned judicial officer shall consider the requesting party's papers and, in his or her discretion, determine that the matter should be addressed in an ex parte hearing, or with an order shortening time for notice or for a hearing, or with a regularly set motion or Order to Show Cause. All ex parte applications must be submitted for screening by 1:00 p.m. for consideration on that same court day. Presenting the ex parte motion for this screening process does not in and of itself constitute submission of the motion for the court's consideration per Solano County Local Rules, rule 5.7(d), above.
*(Subd (1) adopted effective January 1, 2008.)*

(2) At the ex parte hearing, the party requesting ex parte orders must inform the judicial officer whether the opposing party is represented by counsel or is unrepresented.
*(Subd (2) amended and renumbered effective January 1, 2008; adopted as subd (e)(1) effective January 1, 1988.)*

(3) If the opposing party has counsel, the moving party must inform the judicial officer of the name, address and telephone number of the opposing counsel and whether notice has been given to opposing counsel. Unless excused or otherwise ordered by the court or excused pursuant to the Solano County Local Rules, the notice must be given no later than 10:00 a.m. the court day before the ex parte appearance and shall include the date, time, and place the request will be made, a summary of the relief requested, and the facts upon which the request will be made. In its discretion, the court may require that the entire moving papers package must be served in a prescribed manner upon the opposing party or attorney, at a specified time before the ex parte hearing.
*(Subd (3) amended effective July 1, 2008; previously amended and renumbered effective January 1, 2008; adopted as subd (e)(2) effective January 1, 1988.)*

(4) If the opposing party is not represented by counsel, notice to the other party must be given pursuant to California Rules of Court, rule 3.1203, unless said notice is excused by the court or excused pursuant to the Solano County Local Rules. Notice shall include the date, time, and place the request will be made, a summary of the relief requested and the facts upon which the request will be made. In its discretion, the court may require that the entire moving papers package must be served in a prescribed manner upon the opposing party or attorney, at a specified time before the ex parte hearing.
*(Subd (4) amended and renumbered effective January 1, 2008; adopted as subd (e)(3) effective January 1, 1988.)*

*(Subd (f) amended effective July 1, 2008; previously amended and relettered effective January 1, 2008; adopted as subd (e) effective January 1, 1988; see conversion tables in Appendices 5-A-3 and 5-A-4.)*

g. **REQUIREMENTS FOR PARTICULAR EX PARTE ORDERS**

(1) *Exclusive Use of a Motor Vehicle*
The court will not grant an application for exclusive use of a vehicle without notice to the other party unless the declaration demonstrates that the opposing party has suitable transportation available or requires no such transportation.

(2) *Removal From a Residence*
The court will not grant an application removing a party from a residence without notice to the removed party except in exceptional circumstances and unless the declaration demonstrates the facts required by Family Code section 6321.

(3) *Children*
The court will not grant an application establishing or modifying custody of children (with or without notice) unless the declaration demonstrates exceptional circumstances.

(4) *Domestic Violence Restraining Orders*
A mere expression in the declaration of violence or fear will not adequately support the granting of an ex parte order. The facts upon which the violence or fears are based must be stated in the manner set forth in Solano County Local Rules, rule 5.6, above. The declarations must expressly include (1) the actual or approximate date(s) of the incidents alleged, (2) a detailed description of the facts of each incident, and (3) the specific harm caused or threatened.

*(Subd (g) amended and relettered effective January 1, 2008; adopted as subd (f) effective January 1, 1988.)*

h. **CONFORMING EX PARTE COURT ORDERS**
The applicant must conform copies of the ex parte orders to the original order signed by the c~~C~~ourt prior to filing and causing service of the copies.
*(Subd (h) amended and relettered effective January 1, 2008; adopted as subd (g) effective January 1, 1988.)*

i. **SET ASIDE OF EX PARTE ORDER**
If a responding party requests an ex parte order be set aside prior to the date set for hearing, notice shall be given to the moving party unless such notice is waived by order of court for good cause shown by declaration. ~~on Solano County Local Form number 1070~~. The court may order an earlier hearing date or modify the order on a proper showing in lieu of setting aside the order.

*(Subd (i) amended effective January 1, 2010 ~~July 1, 2008~~; previously amended and relettered effective January 1, 2008; amended effective July 1, 2008; adopted as subd (h) effective January 1, 1988.)*

j. **ORDERS SHORTENING AND EXTENDING TIME**

An order shortening time for service per Code of Civil Procedure section 1005 or extending the duration of ex parte orders per Family Code section 245 will not be granted unless supported by a written declaration demonstrating good cause. A request for an order shortening time shall be sought through the court's ex parte screening process as described in Solano County Local Rules, rule 5.7(f)(1).

(1) If an order shortening time for service is requested, the supporting declaration shall state whether the responding party is represented by counsel, the name and address of the responding party's attorney, and whether that attorney has been contacted and has agreed to the date and time proposed for the hearing. If the responding party's attorney, or the responding party if self-represented, has not been contacted or has not agreed to the proposed setting, the moving party's supporting declaration shall clearly demonstrate why the hearing should be set on the proposed date without the consent of the opposing attorney or self-represented party. Provision for immediate delivery of the pleadings to the opposing attorney or self-represented party shall be set forth in the order.
*(Subd (1) amended effective January 1, 2008.)*

(2) As a general rule, a declaration in support of an order shortening time for service must show emergency circumstances unless it is to enable a responding party to file moving papers and obtain affirmative relief on the same hearing date and time previously set by the moving party. Anticipated problems of serving the responding party will not be sufficient basis for an order shortening time for service.
*(Subd (2) amended effective August 1, 2002.)*

*(Subd (j) amended and relettered effective January 1, 2008; adopted as subd (i) effective January 1, 1988; previously amended effective August 1, 2002.)*

k. **PAYMENT OF EX PARTE FILING FEE**

The filing fee applicable to ex parte applications shall be paid before the date and time of the ex parte hearing, except as specifically permitted by the court. A copy of the receipt reflecting payment of the ex parte filing fee shall be provided to the judicial officer at the time of the ex parte hearing, or the ex parte hearing may be ordered rescheduled.

*(Subd (k) amended and relettered effective January 1, 2008; adopted as subd (j) effective July 1, 2005.)*

*(Rule 5.7 amended effective January 1, 2010~~July 1, 2008~~; previously amended effective January 1, 2008, and July 1, 2008; adopted effective July 1, 1988; previously amended August 1, 2002, and July 1, 2005; see conversion tables in Appendices 5-A-3 and 5-A-4.)*

## 5.8 SPECIAL PROCEDURES FOR EX PARTE APPLICATIONS FOR ORDERS AND EX PARTE APPLICATIONS FOR INJUNCTIVE RELIEF PERTAINING TO DOMESTIC VIOLENCE

a. **DECLARATION REGARDING EX PARTE NOTICE GENERALLY NOT REQUIRED**
Except as may be required by the judicial officer to whom the ex parte application for an order is made pursuant to Family Code section 6200 et seq. (Domestic Violence Prevention Act), an applicant for ex parte restraining orders made pursuant to the Act need not submit a completed *Declaration Re Notice Upon Ex Parte Application for Orders* (Solano County Local Form no. 1070) or a declaration in substantial compliance therewith.
*(Subd (a) amended effective July 1, 2008; previously amended effective January 1, 2008.)*

b. **REVIEW OF EX PARTE APPLICATIONS**
All ex parte applications may be reviewed by court staff to determine compliance with these rules and, after such review, may be submitted to the court for consideration.
*(Subd (b) amended effective January 1, 2008.)*

c. **DELIVERY TO LAW ENFORCEMENT AGENCY**
To obtain enforcement of temporary restraining orders, applicants or their counsel shall deliver a copy of such orders to one or more designated law enforcement agencies. The order shall have a file-endorsed stamp by the Clerk of the Superior Court in the upper right hand corner and the expiration date of the order shall be clearly marked on the face of the document. Temporary restraining orders and orders issued at the order to show cause hearing for delivery to law enforcement agencies shall include a specific expiration date.
*(Subd (c) amended effective January 1, 2008.)*

d. **NOTIFICATION DUTY ON TERMINATION, EXTENSION OR MODIFICATION**
Where an order is issued restraining or enjoining domestic violence and that order is terminated before the expiration date, extended beyond that date or otherwise modified, the party obtaining relief, or his or her attorney, shall immediately

notify the designated law enforcement agency in writing of such termination, extension or modification.
*(Subd (d) amended effective January 1, 2008.)*

e. **NOTIFICATION DUTY ON EXTENSION OF TEMPORARY RESTRAINING ORDERS**
Where a temporary restraining order is issued ex parte to be effective until the date set for hearing, and thereafter the hearing date is continued to a subsequent date, the temporary restraining order shall terminate unless ordered by the court to remain in effect until a subsequent date. In the event the temporary order is continued by court order to a subsequent hearing date, applicant shall deliver a copy of such order to the designated law enforcement agency.
*(Subd (e) amended effective January 1, 2008.)*

*(Rule 5.8 amended effective July 1, 2008; previously amended effective January 1, 2008; adopted effective July 1, 1988; previously amended effective August 1, 2002~~; see conversion tables in Appendices 5-A-3 and 5-A-4~~.)*

## 5.9 LAW AND MOTION CALENDAR

a. **MATTERS REQUIRING 20 MINUTES OR LESS**
All family law motions, orders to show cause, and other law and motion matters requiring 20 minutes or less for hearing shall be heard at the hours set by the courts' calendars.
*(Subd (a) amended effective January 1, 2008.)*

b. **SETTING DATES FOR HEARING**
The Family Law Calendar Clerk shall initially provide the times, dates and assigned department for all hearings on law and motion matters on receipt of Notices of Motion, Orders to Show Cause, and any other appropriate requests for other relief or action in family law matters.
*(Subd (b) amended effective January 1, 2008.)*

c. **FILING REQUIREMENTS FOR MOTIONS SEEKING FINANCIAL RELIEF**
The Clerk of the Court shall not accept for filing a Notice of Motion or Order to Show Cause requesting financial relief without the moving party filing an *Income and Expense Declaration* (Judicial Council form FL-150) concurrently with the Notice of Motion or Order to Show Cause, unless an *Income and Expense Declaration* has been filed within the previous 60 days and that Declaration remains factually accurate and current. All Income and Expense Declarations shall comply with California Rules of Court, rule 5.128, and with all instructions in the Judicial Council form.

*(Subd (c) amended effective January 1, 2008.)*

d. **DROPPING A SCHEDULED HEARING**
Both parties shall inform the department to which a matter has been assigned not later than 12:00 noon the preceding court day if both parties agree no hearing is needed. Failure to do so may result in the imposition of sanctions against one or both parties and/or attorneys, in the court's discretion.
*(Subd (d) amended effective January 1, 2008.)*

e. **CONTINUANCE OF A SCHEDULED HEARING**
Except for good cause shown, a court will continue a law and motion matter to resolve a conflict with a trial involving one of the parties or attorneys.
*(Subd (e) amended effective January 1, 2008.)*

f. **LAW AND MOTION CALENDAR PROCEDURES**

(1) **Mandatory Meet and Confer Requirements**

(a) *Meet and Confer Prior to Hearing*
Except as provided elsewhere in these rules, upon service of an Order To Show Cause, a Notice of Motion, or any other documents for which a hearing has been set, the parties and/or attorneys must contact each other before the date of the hearing and make at least one peaceable attempt to settle all of the issues of the hearing. Each party and attorney must make good faith, reasonable proposals on all issues, attempting actual settlement thereof. This settlement attempt may be in writing, by fax or e-mail, by telephone, or in person. If the issues include child support or temporary spousal support, the parties or attorneys must exchange DissoMaster™ or such other computerized support calculations as authorized by statute and California Rules of Court, rule 5.275, as part of their settlement attempts.

If after meeting and conferring, the parties or their attorneys *both agree* that the hearing is not necessary, *both* parties or attorneys must immediately notify the assigned judicial department per Solano County Local Rules, rule 5.9(d). Failure to do so may result in the imposition of sanctions against one or both parties and/or attorneys, in the court's discretion.
*(Subd (a) amended effective January 1, 2008.)*

(b) *Meet and Confer on the Date of the Hearing*
On the day of the hearing and prior to calling of the calendar, the parties and attorneys must meet and confer again to review the issues pending before the court, to inspect and exchange all relevant documents, and to exchange information in a good faith attempt to settle all of the issues of the hearing. They must also cooperate so as to clearly outline and efficiently present the settled and unsettled issues to the court at the hearing. Documents and information not exchanged prior to the hearing may not be considered by the court, in the court's discretion. Failure to meet and confer as required herein may result in the matter being delayed, or postponed, or dropped from calendar, or sanctions or other remedies imposed in the court's discretion.
*(Subd (b) amended and relettered effective January 1, 2008; adopted as part of Rule 5.11, subd (f)(1)(a) effective August 1, 2002.)*

(c) *Meet and Confer Rule for Parties Subject to Restraining Orders*
This meet and confer rule does not require the parties themselves to meet and confer personally if there are any restraining orders, issued by any court whatsoever, requiring one party to "not contact" or "stay away" from any other party to the same action, if such restraining orders are in effect at the time of the law and motion proceeding. However, the parties' attorneys, if any, must meet and confer as stated herein, and any party representing himself or herself must meet and confer with the opposing party's attorney, if the opposing party is represented. At the hearing, the court may in its discretion order the parties themselves to meet and confer under conditions that the court deems appropriate.
*(Subd (c) amended and relettered effective January 1, 2008; adopted as Rule 5.11, subd (f)(1)(b) effective August 1, 2002.)*

(d) This meet and confer rule *does not apply*, except as stated in the immediately preceding paragraph, to moving papers that are filed under or concern:

(i) The Domestic Violence Prevention Act (Family Code §§ 6200 – 6409, as plead in Judicial Council forms DV-100 through DV-810);

(ii) Civil harassment actions (Code of Civil Procedure § 527.6, as plead in Judicial Council forms CH-100 through CH-151);

(iii) Workplace violence (Code of Civil Procedure § 527.8, as plead in Judicial Council forms WV-100 through WV-150); or,

(iv) Elder or dependent adult abuse (Welfare and Institutions Code §15657.03, as plead in Judicial Council forms EA-100 through EA-150).

*(Subd (d) amended and relettered effective January 1, 2008; adopted as Rule 5.11, subd (f)(1)(c) effective August 1, 2002.)*

(e) All litigants must be provided with the court's standard form *Meet And Confer Orders* (Solano County Local Form no. ~~010~~) ~~, see Appendix A-1 to Rule 5 of these Local Rules),~~ as in effect at the time of the proceeding, as said standard form may be amended from time to time. The Clerk of the Court shall not accept for filing a Notice of Motion, Order to Show Cause or any other moving papers unless the moving party has included a copy of the current *Meet And Confer Orders* prominently in the original and all copies of the moving papers, with the top caption boxes completed. The Clerk of the Court shall not be required by this rule to determine whether or not there are current restraining orders in effect in the course of accepting moving papers for filing. A copy of the standard form *Meet and Confer Orders* shall also be included in any moving papers served on a litigant in any family law matter.

*(Subd (e) amended effective January 1, 2010; previously amended effective July 1, 2008; previously amended and relettered effective January 1, 2008; adopted as Rule 5.11, subd (f)(1)(d) effective August 1, 2002.)*

(f) This r~~R~~ule *does not apply* to moving papers that are filed by the Department of Child Support Services ("DCSS"), so long as the DCSS has and uses adequate "meet and confer" procedures of its own that meet the purposes of these mandatory meet and confer requirements as required by the assigned judicial officer for DCSS cases.
*(Subd (f) amended and relettered effective January 1, 2008; adopted as Rule 5.11, subd (f)(1)(e) effective August 1, 2002; previously amended effective January 1, 2007.)*

*(Subd (1) amended effective January 1, 2010~~July 1, 2008~~; previously amended effective January 1, 2008, and July 1, 2008.)*

(2) **Duty to Advise Court of Settled Issues and Remaining Contested Issues**
At the hearing the parties or the attorneys for the parties shall advise the court what issues have been settled by agreement and what issues remain contested.
*(Subd (2) amended effective January 1, 2008.)*

(3) **Pleadings and Forms**
All pleadings in family law matters shall be in the form prescribed by California Rules of Court, rule 5.118 and rules 2.100 through 2.119. ~~The latter rules are summarized in Superior Court Solano County Local Form number 392.~~
*(Subd (3) amended effective January 1, 2010; amended effective January 1, 2008.)*

(4) **Factual Requirements of Orders Sought and Supporting Declaration**
The *Application for Order and Supporting Declaration* (Judicial Council form FL-310) and any other declarations in support of the relief requested must set forth sufficient facts justifying the relief requested by the moving party. The *Responsive Declaration to the Order to Show Cause or Notice of Motion* (Judicial Council form FL-320), together with any other declarations in support of the party's response, must set forth sufficient facts justifying the position stated by the responding party.
*(Subd (4) amended effective January 1, 2008.)*

(5) **Proposed Support Calculation**
The parties shall submit a proposed child support and/or temporary spousal or partner support calculation based on their best information as to the findings that the c~~C~~ourt should make. This calculation may be attached to the moving or responding pleadings or submitted to the court at the time of the hearing.
*(Subd (5) amended effective January 1, 2008.)*

(6) **Disclosure of Receipt of Public Assistance or Receipt of Department of Child Support Services (formerly known as District Attorney Family Support Division)**
If a party is receiving services from the Department of Child Support Services, receiving public assistance, or is aware that the other party is receiving services or public assistance, he or she shall notify the local Department of Child Support Services of the motion in compliance with Code of Civil Procedure section 1005. The notification shall include a copy of the moving and/or responsive pleadings, and the date, time, and address of the hearing.
*(Subd (6) amended effective January 1, 2008.)*

(7) **Discretion of Court Regarding Offers of Proof and Declarations**
Subject to legal objection, amendment and cross-examination, if allowed in the court's discretion, all declarations shall be considered received in evidence at the law and motion hearing. Direct examination on factual matters shall not be permitted except in unusual circumstances or for proper rebuttal and in the court's discretion. The court may decide contested issues on the basis of the application, the response, supporting declarations and memoranda of points and authorities submitted by the parties without cross-examination of a declarant. Oral testimony of the parties normally will not be allowed; however, the court, in its discretion, may take offers of proof.
*(Subd (7) amended effective January 1, 2008.)*

(8) **Attachment of Prior Order to Submission Seeking to Modify**
A party seeking to modify a prior order or judgment shall attach a copy of the prior order or pertinent part of the prior judgment to his or her moving papers. A copy of the entire judgment need not be attached to the moving papers. The court will not accept a minute order in lieu of an order, except in the discretion of the assigned judicial officer.
*(Subd (8) amended effective January 1, 2008; previously amended effective July 1, 2005.)*

(9) **Attachment of Prior Order of which a Violation is Alleged**
On an *Order to Show Cause and Affidavit for Contempt* (Judicial Council form FL-410), the moving party shall attach to the moving papers a copy of the order allegedly violated. The court may refuse to sign an OSC for contempt that does not comply with this rule or may order the OSC off calendar at the hearing, at its discretion. If the prior order has not been filed with the court, the moving party shall submit a copy of the minute order or a declaration setting forth the terms of the order allegedly violated and explaining why the prior order was not filed with the court.
*(Subd (9) amended effective January 1, 2008; previously amended effective July 1, 2005.)*

(10) **Procedure When the Order to Show Cause was not Served Before the Hearing**
If the moving party did not serve the responding party before the date set for the hearing, a new hearing date may be obtained from the calendar clerk and an Order to Show Cause may be re-issued by completing an *Application and Order for Reissuance of Order to Show Cause* (Judicial Council form FL-306 or DV-125, where applicable), attaching it to an endorsed filed copy of the previously filed papers, and filing it with the Clerk of the Court at least five days before the scheduled hearing date. If a moving party does not obtain a reissuance prior to the hearing and fails to appear at the scheduled hearing to request a reissuance, the court will take the matter off calendar.
*(Subd (10) amended effective January 1, 2008.)*

(11) **Procedure When the Order to Show Cause Was Served But Not On Time**
If the moving party did not timely serve the responding party per Solano County Local Rules, rule 5.4 or per order of the court, the moving party must attend the scheduled hearing to obtain an extension of any restraining orders and a reissuance of any Order to Show Cause.
*(Subd (11) amended effective January 1, 2008.)*

(12) **Place and Time for Filing Moving and Responsive Pleadings**
Moving and responsive pleadings shall be filed directly with the Family Law Clerk's Office. Additional pleadings by the moving party and responsive pleadings by the responding party shall be served and filed in compliance with Solano County Local Rules, rule 5.4, unless otherwise ordered by the court. The court, in its discretion, may shorten times for

the filing and service of pleadings or refuse to consider papers not filed in compliance with these rules.
*(Subd (12) amended effective January 1, 2008.)*

(13) **Continuances**
On hearing Orders to Show Cause and motions, the court may exercise its discretion in granting continuances on the stipulation of both parties. A continuance otherwise will be granted only upon a showing of good cause.
*(Subd (13) amended effective January 1, 2008.)*

(14) **Procedures on Calendar Call**
At the commencement of the calendar, the court may ascertain whether the parties are prepared to proceed at that time, whether a continuance is requested, or whether the parties are prepared to stipulate to some or all of the issues before the court. In the event a hearing is required, counsel for both parties shall state their time estimate required for the hearing on the issues not agreed upon, and whether the parties have met and conferred pursuant to Solano County Local Rules, rule 5.9(f)(1).
*(Subd (14) amended effective January 1, 2008; previously amended effective July 1, 2005.)*

(15) **Failure to Appear**
All parties and their attorneys shall be punctual for all court appearances and shall check in with the courtroom clerk or bailiff upon arrival. If there is no appearance when a case is first called and the parties have not reported their appearance to the hearing department's courtroom clerk or bailiff, the matter may be ordered off calendar. If one side (both attorney and party) appears when the case is first called, and the other side (both attorney and party) does not appear or has not reported to the bailiff or courtroom clerk when the case is first called, the matter, including but not limited to requests for restraining orders, may be ordered off calendar, continued, or heard as an uncontested matter and decided on the merits, at the court's discretion. The court in its discretion may order sanctions against any party or attorney for unreasonably failing to appear or unreasonably delaying his or her appearance or the hearing.
*(Subd (15) amended effective January 1, 2008; previously amended effective July 1, 2005.)*

(16) **Telephonic Appearance Procedures**
At his or her discretion, the assigned judicial officer may make procedures applicable to his or her department for all matters in which telephonic

procedures are used, including but not limited to adopting Court Call® procedures.
*(Subd (16) adopted effective January 1, 2008.)*

*(Subd (f) amended effective July 1, 2008; previously amended effective January 1, 2008; previously amended effective July 1, 2005.)*

g. **MATTERS TAKEN OFF CALENDAR**

(1) **Removal from Calendar by the Moving Party**
Prior to service of the pleadings on the responding party, the moving party may take the matter off calendar by notice to the court, which may be done by telephone to the calendar clerk, without notice to the responding party. If the pleadings have been served but no responsive pleadings have been filed, the moving party may take the matter off calendar only after giving notice to the responding party and calendar clerk, which may be done by telephone. If responding pleadings have been filed, the moving party may not take the matter off calendar without the written stipulation or calendar confirmation of the responding party.
*(Subd (1) amended effective January 1, 2008.)*

(2) **Requirement for Notice to Calendar Clerk and Assigned Department and Written Confirmation on Matter Not Proceeding to Hearing**
With respect to all matters that have been served on the other party or attorney, the parties or their attorneys shall notify the calendar clerk and the assigned department immediately by telephone in the event any matter will not proceed to hearing. This notification shall be followed by a written transmittal or transmittals to the calendar clerk bearing signatures of the parties or attorneys, confirming that the matter is to be taken off calendar. Unless the notice was by a single transmission bearing all required signatures, a copy of such written transmittal shall also be sent to opposing counsel or party.
*(Subd (2) amended effective January 1, 2008.)*
*(Subd. (g) amended effective January 1, 2008.)*

h. **FORM OF STIPULATION AND ORDER**
All stipulations in family law and motion matters and Domestic Violence Prevention Act matters, unless otherwise for good cause allowed by the court, shall be written and executed by all parties and their counsel on ~~using approved forms such as~~ Judicial Council forms, ~~or~~ local forms, ~~such as Solano County Local Form no. 300,~~ or stipulations compliant with California Rules of Court,

rules 2.100 et seq., and presented to the court for execution of the order made pursuant to stipulation.
*(Subd (h) amended effective January 1, 2010~~July 1, 2008~~; previously amended effective January 1, 2008 and July 1, 2008.)*

i. **DEFAULT, STATUS ONLY AND UNCONTESTED DISSOLUTIONS**
All default, status-only or uncontested dissolutions will be calendared on the family law and motion calendar each Monday, Tuesday, Wednesday, and Thursday at 8:30 a.m. or 10:00 a.m., depending on the department to which the case is assigned. However, no hearing shall be set unless a party meets the requirements of Solano County Local Rules, rule 5.21.
*(Subd (i) amended effective January 1, 2008.)*

*(Rule 5.9 amended effective January 1, 2010; amended effective July 1, 2008; previously amended and renumbered effective January 1, 2008; adopted as Rule 5.11 effective July 1, 1988; previously amended effective August 1, 2002, and July 1, 2005~~; see conversion tables in Appendices 5-A-3 and 5-A-4~~.)*

## 5.10 LAW AND MOTION PROCEDURE

a. **PRESENCE OF PARTIES AND ATTORNEYS AT TIME OF HEARING**
Parties and their attorneys shall be punctual for all court appearances and shall check in with the courtroom clerk or the bailiff upon arrival in the department to which the matter is assigned. If a telephonic appearance has been authorized in advance by the judicial officer, the party so appearing shall comply with all applicable procedures as prescribed by the assigned judicial officer. Parties and attorneys shall attempt in good faith to be present in court when the case is called. If a party or his/her attorney cannot be present when the case is called, that party or attorney shall inform the bailiff as to where he/she may be found and the reason for his/her absence from the courtroom. At the time of the hearing, the court may excuse a party's presence or permit counsel or parties to make courtesy appearances for each other for good cause shown. Factors that the court may consider in deciding whether good cause exists include but are not limited to the availability of the proposed excused person by telephone, the authority granted by the proposed excused person to the person making the appearance, the necessity of the proposed excused person's providing testimony or confirming an offer of proof, and the stipulation or objection of the other party or counsel.
*(Subd (a) amended and relettered effective January 1, 2008; adopted as Rule 5.18, subd (b) effective July 1, 1988; previously amended effective July 1, 2005; former Rule 5.18, subd (a) repealed and incorporated into new subd (a) effective January 1, 2008.)*

b. **MOVING PARTY'S FAILURE TO APPEAR**
If the moving party or attorney fails to appear when the matter is called, the court may continue or remove the matter from the calendar at its discretion. If the responding party appears, the court may award attorney fees and costs to the appearing party. If the responding party has sought appropriate affirmative relief, the court may enter an order on the pleadings, testimony, and argument of the responding party, as allowed by law.
*(Subd (b) amended and relettered effective January 1, 2008; adopted as Rule 5.18, subd (c) effective July 1, 1988; previously amended effective July 1, 2005.)*

c. **RESPONDING PARTY'S FAILURE TO APPEAR**
If the responding party or attorney fails to appear when the matter is called, the court may continue the matter and award attorney fees, or enter an order on the pleadings and testimony of the moving party.
*(Subd (c) amended and relettered effective January 1, 2008; adopted as Rule 5.18, subd (d) effective July 1, 1988.)*

d. **PROCEDURE IF COURT IS NOT AVAILABLE FOR HEARING**
If a matter cannot be heard because of the unavailability of the court at the time for hearing, it may be set in another department and/or continued.
*(Subd (d) amended and relettered effective January 1, 2008; adopted as Rule 5.18, subd (e) effective July 1, 1988; previously amended effective August 1, 2002.)*

*(Rule 5.10 amended and renumbered effective January 1, 2008; adopted as Rule 5.18 effective July 1, 1988; previously amended effective August 1, 2002, and July 1, 2005; see conversion tables in Appendices 5-A-3 and 5-A-4.)*

## 5.11 MEDIATION - CHILD CUSTODY AND VISITATION

a. **MEDIATION – PARTIES' DUTIES**
In all proceedings and actions pursuant to Family Code sections 3100 through 3104 where there is a contested issue regarding the custody of or visitation with a minor child, the matter shall be set for mediation of the contested issues pursuant to Family Code sections 3160 through 3186 and these rules. Such issue must be submitted to mediation before the court hears the matter.
*(Subd (a) amended effective January 1, 2008; previously amended August 1, 2002.)*

b. **MEDIATION REPORT – FULL AGREEMENT**
Where a full agreement has been reached between the parties regarding the issues of custody and visitation, the mediator shall prepare and forward to the court his or her written summary of such agreement.
*(Subd (b) amended effective January 1, 2008; previously amended August 1, 2002, and July 1, 2005.)*

c. **MEDIATION REPORT – PARTIAL OR NO AGREEMENT**
Where there is no agreement or only partial agreement between the parties regarding the issues of custody and/or visitation, the mediator shall submit a recommendation to the court regarding custody of and/or visitation with the minor child(ren), per Family Code section 3183. The mediator's recommendation shall state the factual basis for the recommendation, which may include matters communicated to the mediator by the parties or the minor child(ren). The court may consider the written recommendation of the mediator and the basis for that recommendation in determining the issues before the court at the time of hearing.
*(Subd (c) amended and relettered effective January 1, 2008; adopted as part of Rule 5.20, subd (b) effective July 1, 1988; previously amended August 1, 2002, and July 1, 2005.)*

d. **CALLING THE MEDIATOR AS A WITNESS**
In a contested hearing, the mediator may be called as a witness by either party, minor's counsel, or the court and may testify at the hearing regarding his or her recommendation and the basis therefore. Both parties and minor's counsel may examine the mediator with respect to all matters covered by the written recommendation. The party calling a mediator as a witness at any hearing is subject to being assessed expert witness fees pursuant to Evidence Code sections 730 and 731, and the court may allocate responsibility for these fees to any party, in its discretion.
*(Subd (d) amended and relettered effective January 1, 2008; adopted as Rule 5.20, subd (c) effective July 1, 1988; previously amended effective August 1, 2002.)*

e. **PRIVACY OF MEDIATION PROCEEDINGS**
All mediation proceedings shall be held in private. All communications from the parties, the parties' attorneys, the minor child, the child's attorney, and/or any collateral contacts or experts designated by any of the above individuals to the mediator shall be deemed official information within the meaning of Evidence Code section 1040. The mediator shall exclude attorneys from the mediation proceeding, absent consent or order of the court. In the absence of an agreement between the parties, the mediator's recommendation to the court as to the custody

or visitation issue may include, if appropriate, a recommendation for an investigation pursuant to Family Code section 3110 et seq. or for the issuance of restraining orders to protect the well-being of the child or children involved in the controversy, pursuant to Family Code section 3183.
*(Subd (e) amended and relettered effective January 1, 2008; adopted as Rule 5.20, subd (d) effective July 1, 1988; previously amended August 1, 2002, and July 1, 2005.)*

f. **CONFIDENTIALITY OF MEDIATION REPORTS IN FAMILY LAW MATTERS**
In any proceeding involving the custody or visitation of minor children, any written report or recommendation from a court mediator or from any person appointed by the court to render a report shall be confidential and unavailable to any person except the court, the parties, their attorneys and the attorneys' employees or agents, the parties' experts, licensed family counselors professionally involved with the case, the minor child's attorney, and any person to whom the court expressly grants access by written order made with prior notice to all parties. No person who has access to a report shall make copies of it for any persons other than the individuals designated above or a person to whom the court expressly orders access in writing. No disclosure of the contents of a mediation report shall be made to any child who is the subject of the report, or to any other minor child. The court may issue sanctions for violation of this confidentiality rule.
*(Subd (f) amended and relettered effective January 1, 2008; adopted as Rule 5.20, subd (e) effective July 1, 1988; previously amended August 1, 2002, and July 1, 2005.)*

g. **COPIES OF THE REPORT**
The court shall provide a copy of the report to the parties or their respective attorneys as well as to minor's counsel by the time of any hearing or other action, which is the subject of the report, unless otherwise ordered by the court. The parties shall be entitled to read the report and recommendations prior to the hearing. No copy of any mediation report shall be disclosed to, nor any contents discussed with, any minor child.
*(Subd (g) amended and relettered effective January 1, 2008; adopted as Rule 5.20, subd (f) effective July 1, 1988; previously amended August 1, 2002, and July 1, 2005.)*

h. **SCHEDULING OF MEDIATION CONFERENCE AT FIRST HEARING**
If the parties have not met with a mediator prior to the time set for hearing on any order to show cause or motion relative to child custody and visitation matters, the

court normally will order the parties to immediate mediation. The court may, in its discretion, order subsequent mediation, to be paid for by the parties.
*(Subd (h) amended and relettered effective January 1, 2008; adopted as Rule 5.20, subd (g) effective July 1, 1988; previously amended August 1, 2002, and July 1, 2005.)*

i. **CONTACT WITH MEDIATOR IN CHILD CUSTODY PROCEEDINGS**
All communications between court-appointed or court-connected mediators and parties or their attorneys are prohibited, except as provided by Family Code section 216 and California Rules of Court, rule 5.235.
*(Subd (i) amended and relettered effective January 1, 2008; adopted as Rule 5.20, subd (h) effective July 1, 1988; previously amended August 1, 2002, and July 1, 2005.)*

j. **GRIEVANCE PROCEDURE -- FAMILY COURT SERVICES MEDIATORS**
The procedure for processing a complaint concerning a Family Court Services Mediator shall be as follows:

(1) Complaints are only accepted from the following individuals:

(a) A party to the action currently filed with the Solano County Superior Court;

(b) A party's attorney; or

(c) The court-appointed attorney for the minor child.

(2) The complainant must register his or her complaint in writing with the Court Service Program Manager for the Family Law division.

(3) The written complaint must include the following information:

(a) The names of the parties in the case and their attorneys;

(b) The family law case number;

(c) The most recent court date;

(d) The name(s) of any Family Court Services personnel (i.e. mediators) with whom the complainant had contact; and

(e) A statement explaining the reasons for the complaint. Mere disagreement with a mediator's recommendation(s) or stated reasons is not a sufficient basis for the court or any other program manager to take action on the grievance, and such a complaint may be summarily denied without further investigation.

(4) Persons making complaints should be aware that all information contained in the complaint may be made available to all persons involved in the case.

(5) The manager will conduct an investigation of the matter, which may include consultation with the mediator. Within 30 days of filing his or her complaint, the complainant will be informed in writing of the results of the manager's investigation.

(6) The complainant may appeal the manager's action by noticed motion to the judicial officer assigned to hear the case.

*(Subd (j) amended and relettered effective January 1, 2008; adopted as Rule 5.20, subd (i) effective July 1, 1988; previously amended August 1, 2002.)*

k. **PEREMPTORY CHALLENGE AGAINST FAMILY COURT SERVICES MEDIATOR**
Peremptory challenges against a Family Court Services mediator shall not be allowed.
*(Subd (k) adopted effective July 1, 2008.)*

*(Rule 5.11 amended effective July 1, 2008; previously amended and renumbered effective January 1, 2008; adopted as Rule 5.20 effective July 1, 1988; previously amended effective August 1, 2002, and July 1, 2005; see conversion tables in Appendices 5-A-3 and 5-A-4.)*

## 5.12 CHILD CUSTODY AND VISITATION EVALUATION OR INVESTIGATION

a. **EVALUATOR OR INVESTIGATOR APPOINTMENT**
When the court determines that it is appropriate, the court shall appoint an evaluator and/or investigator to investigate and report on child custody and visitation issues pursuant to Family Code section 3110 et seq. or Evidence Code section 730, and the California Rules of Court. The parties shall negotiate in good faith as to the important procedural issues involved, including but not necessarily limited to the selection of the evaluator and/or investigator, the scope of issues to be evaluated or investigated, the information to be made available to the evaluator

and/or investigator, and the liability of each party for the costs of the evaluation or investigation. Orders appointing evaluators or investigators must be made on an ~~the~~ ~~Judicial Council form~~ *Order Appointing Child Custody Evaluator* (Judicial Council form FL-327), and must contain the further non-optional orders listed in the ~~Solano County local form~~ *Attachment to Order Appointing Child Custody Evaluator* (Solano County Local Form no. ~~327~~).
*(Subd (a) amended effective January 1, 2010 ~~January 1, 2008~~; previously amended effective July 1, 2005, and January 1, 2008.)*

b. **CONTACT WITH EVALUATOR OR INVESTIGATOR IN CHILD CUSTODY PROCEEDINGS**
All communications between court-appointed or court-connected investigators or evaluators and parties or their attorneys are prohibited, except as provided by Family Code section 216, California Rules of Court rule 5.235, and the *Order Appointing Child Custody Evaluator*. The court may order sanctions for violation of this no-contact rule, which may include but not be limited to evidence or issue or monetary sanctions, or suppression and sealing of the evaluator's or investigator's report and the conduct of a new evaluation or investigation at the sole expense of the offending party.
*(Subd (b) amended effective January 1, 2008.)*

c. **ACCESS TO EVALUATOR/INVESTIGATOR'S REPORT**
Unless the court specifically orders to the contrary, the evaluator and/or investigator's report shall be accessible to the parties, their attorneys and the attorneys' employees or agents, the parties' experts, the minor child's attorney, and any person to whom the court expressly grants access by written order made with prior notice to all parties. The report shall not be accessible to any minor child. Sanctions may be ordered against any party, attorney, expert, or other person to whom the court has authorized access for disclosing or copying any portion of the report to the minor child.
*(Subd (c) amended effective January 1, 2008.)*

d. **CONFIDENTIALITY OF EVALUATOR/INVESTIGATOR'S REPORT**
The evaluator/investigator's report shall be confidential and unavailable to any person except the court, the parties, their attorneys, the minor child's attorney, and the attorneys' employees or experts or agents, licensed family counselors professionally involved with the case, and any person to whom the court expressly grants access by written order made with prior notice to all parties. No person who has access to a report shall make copies of it for any persons other than the parties, their attorneys, the minor child's attorney, the attorneys' employees or experts or agents, licensed family counselors professionally

involved with the case, or a person to whom the court expressly orders access in writing. No disclosure of the contents of such a report shall be made to any child who is the subject of the report, or to any other minor child. Sanctions may be ordered against any party, attorney, expert, or other person to whom the court has authorized access for disclosing or copying any portion of the report to the minor child.
*(Subd (d) amended effective January 1, 2008.)*

e. **CHILD CUSTODY EVALUATIONS/INVESTIGATIONS**
The report of an expert witness appointed by the court pursuant to Evidence Code section 730 or Family Code section 3111 shall be submitted directly to the court by the evaluator or investigator and, if the parties so stipulate, it shall be received into evidence without foundation.
*(Subd (e) adopted effective January 1, 2008; previously adopted as Rule 5.24, subd (d) effective July 1, 1988; previously amended effective August 1, 2002.)*

f. **GRIEVANCE PROCEDURE – EVALUATORS AND INVESTIGATORS**
The procedure for processing a complaint concerning a court-appointed evaluator or investigator shall be as follows:

(1) If the complaint involves the cost or administration of the evaluation or investigation process, then the complainant shall attempt to resolve the matter with the evaluator before pursuing his or her complaint as provided in this rule. All such attempts at resolution shall comply with Family Code section 216, California Rules of Court, rule 5.235, and the Order Appointing Child Custody Evaluator, to the extent they are applicable. All other complaints shall be made as presented in subpart 3 of this rule, below.

(2) Except upon a showing of extraordinary circumstances, complaints about the performance of an evaluator or investigator shall be addressed after issuance of the evaluation or investigation report.

(3) Written notice of a complaint, specifying the conduct objected to, shall be provided to the evaluator or investigator, the other party, and the attorney for the minor child, and shall be lodged with the court by direct delivery to the judicial officer, within 20 days after issuance of the evaluation report. Mere disagreement with an evaluator's or investigator's recommendation(s) or stated reasons is not a sufficient basis for the court or any program manager to

take action on the grievance, and such a complaint may be summarily denied without further investigation.

(4) A written response from the evaluator or investigator (and from the other party and/or the attorney for the minor child, at their respective election) shall be provided to both parties and the attorney for the minor child, and shall be lodged with the court, no later than 10 days after the complaint was provided to the evaluator or investigator, the other party, the minor child's attorney, and the court.

(5) Within 10 days after receipt of the evaluator's or investigator's response, or if there is no response from the evaluator or investigator, within 20 days after receiving the original complaint, the court shall issue a written statement as to what action, if any, it deems appropriate to deal with the complaint.

(6) If either party or attorney for a minor is not satisfied with the court's determination, he or she may file a noticed motion requesting other specified relief. Such motion shall be in compliance with Code of Civil Procedure section 1005 and shall be served on the other parties, the attorney for the minor child, and the evaluator or investigator. The evaluator or investigator shall appear at the hearing. The cost of the evaluator's or investigator's appearance shall be advanced by the complainant, with the court reserving jurisdiction over the allocation of such cost.

*(Subd (f) adopted effective January 1, 2008.)*

g. **PEREMPTORY CHALLENGE AGAINST EVALUATOR OR INVESTIGATOR**
Peremptory challenges against an appointed evaluator or investigator shall not be allowed.
*(Subd (g) adopted effective July 1, 2008.)*

h. **EVALUATOR'S OR INVESTIGATOR'S PETITION FOR WITHDRAWAL FROM A CASE**
A private evaluator or investigator shall have the right to petition for withdrawal from a case to which he or she has been appointed. Such petition shall demonstrate good cause for the withdrawal request and, to the greatest extent possible, shall be made before the trial court that made the appointment. The petition shall be filed and served in compliance with Code of Civil Procedure section 1005.
*(Subd (h) adopted effective July 1, 2008.)*

*(Rule 5.12 amended July 1, 2008; previously amended and renumbered effective January 1, 2008; adopted as Rule 5.21 effective July 1, 1988; previously amended effective August 1, 2002, and July 1, 2005; see conversion tables in Appendices 5-A-3 and 5-A-4.)*

## 5.13 CHILDREN AND THE COURT; MINOR'S COUNSEL

a. **GENERAL POLICY REGARDING A MINOR CHILD'S PRESENCE IN THE COURTROOM**

While children whose custody or visitation is the subject of litigation may be physically present in the courthouse, it is the policy of the court to discourage bringing them to the courthouse. Subject children may not be brought to or into the assigned courtroom without the judicial officer's prior knowledge and consent.

*(Subd (a) amended effective January 1, 2008.)*

b. **INTERVIEW OF CHILDREN BY COURT**

The court in its discretion will decide whether and on what conditions it will interview any minor child who is the subject of any pending proceeding. The court may consult with the parties, the parties' attorneys, the attorney for the minor child, the custody mediator, evaluator, or investigator in reaching this decision.

*(Subd (b) amended effective January 1, 2008.)*

c. **APPOINTMENT OF COUNSEL FOR CHILD**

In any proceeding covered by these rules, the court may, if it finds it would be in the best interests of the minor child and after consideration of any applicable law or guideline standards including those stated in California Rules of Court, rule 5.240, appoint private counsel to represent the interests of the child pursuant to Family Code section 3150. When the court appoints counsel to represent the minor, counsel shall receive a reasonable sum for compensation and expenses, the amount of which shall be determined by the court. Such amount shall be paid as the court directs. Nothing shall prohibit a mediator or the probation department from advising the court that private counsel for the child should be appointed pursuant to Family Code section 3150. In making any recommendation, the mediator or probation officer shall inform the court of the reasons why it would be in the minor child's best interests to have private counsel appointed. Counsel appointed by the court pursuant to Family Code section 3150 have the duties and powers specified in Family Code section 3151 et seq. except as otherwise ordered.

*(Subd (c) amended effective July 1, 2008; previously amended effective January 1, 2008.)*

d. **PARENTING ORDERS REGARDING CUSTODY AND VISITATION**
The court has adopted and may from time to time modify language known as "Parenting Orders" (Solano County Local Form no. 304) regarding child custody and visitation. These model orders are an administrative aid only. They are not effective unless actually issued as orders and are subject to the court's modification in every case.
*(Subd (d) amended and relettered effective January 1, 2008; adopted as Rule 5.24, subd (e) effective July 1, 1988; former Rule 5.24, subd (d), which related to the submission of an evaluation report to the court and its admission into evidence without foundation, was repealed and incorporated into Rule 5.12 effective January 1, 2008.)*

*(Rule 5.13 amended effective July 1, 2008; previously amended and renumbered effective January 1, 2008; adopted as Rule 5.24 effective July 1, 1988; previously amended effective August 1, 2002; see conversion tables in Appendices 5-A-3 and 5-A-4.)*

## 5.14 CALCULATION OF CHILD SUPPORT AND TEMPORARY SPOUSAL OR PARTNER SUPPORT

a. **COMPUTER PROGRAM SOFTWARE**
The court ordinarily uses the CFLR DissoMaster™ computer program in all family law matters, except as may be otherwise required by state law in Department of Child Support Services cases.
*(Subd (a) amended effective July 1, 2008; previously amended effective January 1, 2008.)*

b. **CALCULATION OF TIMESHARE**
The court will determine upon the evidence presented the actual average annualized timeshare percentage in calculating guideline child support. However, in the event the court is not provided with any evidence of the actual timeshare, the court may use an assumption of 20 percent visitation time with the non-custodial or non-primary custodial parent in calculating guideline child support. The Time Sharing Arrangements as attached in Appendix 5-A-2 may be used in calculating guideline child support, in addition to similar charts which are part of the Judicial Council approved child support computer program software. These timeshare charts are guidelines only, and the judicial officer shall at all times exercise discretion in calculating the timeshare percentage.
*(Subd (b) adopted effective January 1, 2008.)*

c. **TEMPORARY SPOUSAL OR PARTNER SUPPORT FORMULA**
The court has adopted the Santa Clara temporary spousal or partner support calculation formula. That is, temporary spousal or partner support shall ordinarily be computed by taking 40% of the net income of the payor, minus 50% of the net income of the payee, adjusted for tax consequences. Computerized temporary spousal or partner support calculations pursuant to software approved by the Judicial Council apply these assumptions.
*(Subd (c) amended and relettered effective January 1, 2008; adopted as Rule 5.23, subd (b) effective July 1, 1988.)*

*(Rule 5.14 amended effective July 1, 2008; previously amended and renumbered effective January 1, 2008; adopted as Rule 5.23 effective July 1, 1988; previously amended effective August 1, 2002; see conversion tables in Appendices 5-A-3 and 5-A-4.)*

## 5.15 PROCEDURES FOR DOCUMENT SIGNATURE; ORDERS AFTER HEARING AND TRIAL

a. **SUBMISSION OF DOCUMENTS REQUIRING A JUDICIAL OFFICER'S SIGNATURE**
All documents requiring a judicial officer's signature (including Orders to Show Cause and any court orders or judgments) shall be delivered and filed with the Family Law Clerk's Office, except as ordered or permitted in the discretion of the judicial officer assigned to hear the case.
*(Subd (a) amended effective January 1, 2008.)*

b. **FORMAT OF ORDERS**
All orders resulting from a hearing, including but not limited to law and motion hearings and status conferences, shall be submitted on a *Findings and Order After Hearing* form (Judicial Council form FL-340) and shall include all necessary attachments.
*(Subd (b) adopted effective January 1, 2008.)*

c. **PREPARATION AND SUBMISSION OF ORDERS AFTER HEARING**

(1) If the court orders a party or attorney to prepare a Findings and Order After Hearing, that party or attorney shall prepare the order and send it to the opposing party's attorney if the party is represented, or if not to the opposing party, within 10 days of the hearing. The Findings and Order After Hearing shall be on a ~~the Judicial Council form~~ Findings and Order After Hearing form (Judicial Council form FL-340) and shall include all necessary attachments.

*(Subd (1) amended effective January 1, 2010; adopted effective January 1, 2008.)*

(2) Within 10 days of receiving the proposed Findings and Order After Hearing, the responding attorney or party shall sign the proposed order where indicated if it is an accurate order based upon the in-court rulings of the judicial officer, and shall send it back to the preparing party for filing. If the responding party or attorney does not agree that the proposed order is accurate, that attorney or party shall contact the attorney or party who prepared the order with any requested changes. Alternatively, the responding attorney or party may prepare his or her own Findings and Order After Hearing and send it to the other attorney or party for approval.
*(Subd (2) amended and renumbered effective January 1, 2008; adopted as Rule 5.9, subd (b)(1) effective July 1, 1988; previously amended effective August 1, 2002.)*

(3) If the responding attorney or party fails to approve or object to the proposed order within 10 days of receipt, the preparing party then may submit the order to the hearing judicial officer for signature. The proposed order shall be accompanied by a letter (with copy to the responding party) stating the date the proposed order was provided to the responding party, explaining that the proposed order has not been signed by the other party or attorney, and requesting that the judicial officer sign the order. The letter shall also include evidence, such as a "copy to" notation, that a copy of the letter and the proposed order were sent to the other party or attorney.
*(Subd (3) amended and renumbered effective January 1, 2008; adopted as Rule 5.9, subd (b)(2) effective July 1, 1988; previously amended effective August 1, 2002.)*

(4) If the party ordered to prepare the Findings and Order After Hearing fails to prepare and send the order as required, then the other party may prepare the Findings and Order After Hearing and submit it directly to the hearing judicial officer without seeking the approval of opposing party or attorney. A Findings and Order After Hearing submitted pursuant to this rule must be accompanied by a letter to the hearing judicial officer indicating when the other party or attorney was ordered to prepare and send the Findings and Order After Hearing, and evidence such as a "copy to" notation that a copy of the letter and the proposed order were sent to the other party or attorney.

*(Subd (4) amended and renumbered effective January 1, 2008; adopted as Rule 5.9, subd (b)(3) effective July 1, 1988; previously amended effective August 1, 2002.)*

(5) If the judicial officer permits the counsel or party preparing an order to submit the order directly to the judicial officer with a copy to the other counsel or party, the cover letter to the judicial officer from the preparing person shall state the date the copy was provided to the other counsel or party.
*(Subd (5) amended and renumbered effective January 1, 2008; adopted as Rule 5.9, subd (b)(4) effective July 1, 1988; previously amended effective August 1, 2002.)*

(6) If there is a disagreement between the parties concerning the accuracy of any prepared order prior to entry and filing of the order, then either party may request the court to compel entry of the order and refer the court to applicable portions of the hearing transcript. Any such requests shall be made in writing and a copy shall be served on the opposing attorney or party.
*(Subd (6) amended and renumbered effective January 1, 2008; adopted as Rule 5.9, subd (b)(5) effective July 1, 1988; previously amended effective August 1, 2002.)*

(7) Attorney fees and costs relating to the preparation of orders after hearing, including costs of preparing the reporter's transcript, may be awarded upon noticed motion or on the court's own motion, for either attorney's or party's unreasonable conduct concerning orders after hearing.
*(Subd (7) amended and renumbered effective January 1, 2008; adopted as Rule 5.9, subd (b)(6) effective July 1, 1988; previously amended effective August 1, 2002.)*

(8) Any department hearing matters filed by the Department of Child Support Services may develop its own rules regarding the submission of documents or orders for signature.
*(Subd (8) amended and renumbered effective January 1, 2008; adopted as Rule 5.9, subd (b)(7) effective July 1, 1988; previously amended effective August 1, 2002.)*

*(Subd (c) amended and relettered effective January 1, 2008; adopted as Rule 5.9, subd (b) effective July 1, 1988; previously amended effective August 1, 2002.)*

d. **PREPARATION AND SUBMISSION OF JUDGMENTS AND ORDERS AFTER EVIDENTIARY HEARINGS OR TRIAL**

(1) If the court orders a party or attorney to prepare an order after trial and/or a judgment, that party or attorney shall prepare the order and send it to the other party, or the party's attorney if the party is represented, within 30 days of the hearing.
*(Subd (1) adopted effective January 1, 2008.)*

(2) Within 20 days of receiving the proposed order after trial and/or judgment, the responding attorney or party shall sign the proposed order or judgment as conforming if that attorney or party agrees that the proposed order reflects the orders made at the hearing or trial, and shall return the signed order to the preparing party for filing with the court. If the responding party or attorney does not agree that the proposed order and/or judgment conforms with the court's order, that attorney or party shall contact the attorney or party who prepared the order with any requested changes. Alternatively, the responding attorney or party may prepare his or her own proposed order and/or judgment and send it to the other attorney or party for approval.
*(Subd (2) adopted effective January 1, 2008.)*

(3) All proposed judgments shall be submitted on *the Judgment – Family Law* form (Judicial Council form FL-180), and shall include all necessary attachments.
*(Subd (3) adopted effective January 1, 2008.)*

(4) Objections to the proposed order after trial and/or the judgment, the submission of proposed judgments or orders after trial over objection, and the submission of proposed alternate judgments or Orders After Trial shall be in conformance with Solano County Local Rules, rule 5.15(c), subsections 3 through 8.
*(Subd (4) adopted effective January 1, 2008.)*

*(Subd (d) adopted effective January 1, 2008.)*

*(Rule 5.15 amended and renumbered effective January 1, 2008; adopted as Rule 5.9 effective July 1, 1988; previously amended effective August 1, 2002; see conversion tables in Appendices 5-A-3 and 5-A-4.)*

## 5.16 FAMILY LAW DISCOVERY MOTIONS

a. **JUDICIAL OFFICER ASSIGNED TO HEAR DISCOVERY MOTIONS**
The judicial officer assigned to hear a family law matter shall also hear family law discovery motions brought in that matter.
*(Subd (a) amended effective January 1, 2008.)*

b. **COMPLIANCE WITH THE CODE OF CIVIL PROCEDURE, FAMILY CODE AND CALIFORNIA RULES OF COURT**
Family law discovery motions shall be subject to the provisions of Code of Civil Procedure sections 2016.010 through 2036.050, Family Code section 2107 where applicable, and the California Rules of Court.
*(Subd (b) amended effective January 1, 2008; previously amended effective July 1, 2005.)*

c. **FILING OF FAMILY LAW DISCOVERY MOTIONS**
Family law discovery motions may not be filed in conjunction with an Order to Show Cause or Notice of Motion raising other issues.
*(Subd (c) amended effective July 1, 2008; previously amended effective January 1, 2008.)*

d. **CALENDARING FAMILY LAW DISCOVERY MOTIONS**
Times and dates for hearings shall be obtained from the calendar clerk. The moving party shall advise the calendar clerk that the matter to be calendared is a family law discovery motion.
*(Subd (d) amended effective January 1, 2008.)*

*(Rule 5.16 amended effective July 1, 2008; previously amended and renumbered effective January 1, 2008; adopted as Rule 5.17 effective July 1, 1988; previously amended effective August 1, 2002; see conversion tables in Appendices 5-A-3 and 5-A-4.)*

## 5.17 STATUS CONFERENCES AND STATUS CONFERENCE REPORTS

a. **PROCEDURE FOR SETTING A STATUS CONFERENCE**
In dissolution of marriage, nullity of marriage, or legal separation matters, a status conference shall not be set unless and until the moving party has filed his or her *Declaration Regarding Service of Declaration of Disclosure and Income and Expense Declaration* (Judicial Council form FL-141) showing that the moving party has complied with the disclosure requirements set forth in Family Code section 2104. Upon satisfying the disclosure requirement in dissolution of marriage, nullity of marriage, or legal separation matters, and at any time in all

other family law matters to which Rule 5 applies, a party may place a case on the Status Conference Calendar by filing a Status Conference Report (Solano County Local Form no. ~~890~~), obtaining a date from the calendar clerk, and giving notice to the opposing party or counsel. Notice shall be consistent with Code of Civil Procedure section 1005 and proof of service of such notice shall be filed with the court on an appropriate Judicial Council proof of service form or declaration in substantial compliance with the Judicial Council form. ~~either the Proof of Personal Service form (Judicial Council form FL-330) or the Proof of Service by Mail form (Judicial Council form FL-335).~~ The court may set a case on the status conference calendar at its discretion. For good cause shown at the status conference or on the court's own motion, the status conference may be taken off calendar or continued one or more times. No status conference may be continued or taken off calendar without court permission. Status conferences shall be used generally to assess the readiness of a case for meaningful settlement conference and/or trial, and no party shall obtain a settlement conference or trial date except by court permission at a status conference, unless otherwise specifically permitted by the court. Status conferences may be utilized at the court's discretion for any other purpose deemed appropriate, such as for setting trial management conferences.

*(Subd (a) amended effective January 1, 2010; ~~amended effective January 1, 2009;~~ previously amended effective January 1, 2008,~~; and~~ July 1, 2005, January 1, 2008, and January 1, 2009.)*

b. **FILING AND SERVICE OF STATUS CONFERENCE REPORT**

At least seven calendar days before the scheduled status conference, each party (or their counsel) shall file with the court and serve a completed *Status Conference Report – Family Law* (Solano County Local Form no. ~~890~~) on the other party. The *Status Conference Report* shall be printed on light blue paper. Proof of service of the *Status Conference Report* shall be filed with the court at least seven (7) calendar days before the scheduled status conference on an appropriate Judicial Council proof of service form or declaration in substantial compliance with the Judicial Council form. ~~on the Proof of Personal Service form (Judicial Council form FL-330), the Proof of Service by Mail form (Judicial Council form FL-335), or the equivalent at least seven calendar days before the scheduled status conference.~~

*(Subd (b) amended effective January 1, 2010~~ January 1, 2008~~; previously amended effective July 1, 2005, and January 1, 2008.)*

c. **NOTICE OF SUBSEQUENT STATUS CONFERENCES**

At each status conference, the parties and their counsel, if any, will be given notice of the time, date, and place of the subsequent status conference. For good

cause shown at the conference or on the court's own motion, the subsequent status conference may be taken off calendar.
*(Subd (c) amended effective January 1, 2008.)*

d. **SANCTIONS**
The court may impose sanctions if:

(1) A Status Conference Report is not timely filed and served per Solano County Local Rules, rule 5.17(b);

(2) A Status Conference Report is not fully completed;

(3) A party or his or her attorney fails to appear at the status conference; however, an attorney may appear on behalf of a party unless the court has ordered a party to personally appear;

(4) An attorney or a party is not substantially aware of all procedural, factual, and legal aspects of the case, or an attorney does not have full authority to discuss and resolve any issues that arise at the conference, including but not limited, to resolving discovery and the setting of subsequent court dates.

*(Subd (d) amended effective January 1, 2008; previously amended effective July 1, 2005.)*

e. **SETTING MATTER FOR SETTLEMENT CONFERENCE OR TRIAL AT STATUS CONFERENCE**
A party or a party's attorney may not set the matter for settlement conference or for trial until the judicial officer conducting the status conference deems the matter ready for settlement conference or trial. In his or her discretion, a judicial officer may require a party to file and serve his or her settlement conference statement, a completed *Property Declaration* (Judicial Council form FL-160), and/or a completed *Income & Expense Declaration* (Judicial Council form FL-150), and any other required documents, prior to referring the parties to the calendar clerk to set the Settlement Conference.
*(Subd (e) amended effective January 1, 2008; previously amended effective July 1, 2005.)*

*(Rule 5.17 amended effective January 1, 2010; previously amended and renumbered effective January 1, 2008; adopted as Rule 5.10 effective July 1, 1988; previously amended effective August 1, 2002, and July 1, 2005~~; see conversion tables in Appendices 5-A-3 and 5-A-4~~.)*

## 5.18 SETTLEMENT CONFERENCES

a. **SETTLEMENT CONFERENCES GENERALLY**

The court may in any law and motion matter, and shall in all other trial matters, before assigning the same to hearing or trial, require a mandatory settlement conference or conferences to be conducted. Each party and the attorney who will try the case for each party shall personally attend the settlement conference, unless the court excuses the party prior to the conference. The court, in its discretion and for good cause shown, may waive the requirement of a mandatory settlement conference.

*(Subd (a) adopted effective January 1, 2008.)*

b. **DUTIES OF COUNSEL AND/OR PARTIES**

Counsel and/or parties shall comply at all times with the policy of the law to promote settlement of litigation and, where possible, to reduce the costs of litigation by encouraging cooperation between the parties and attorneys (see Family Code section 271). Counsel and/or parties shall complete settlement conference statements and other documents as required by these rules and any orders of the court. Counsel and/or parties shall meet and confer in good faith to review their settlement conference statements and other documents required by these rules or the court, and make good faith efforts to settle all or some of the issues, all prior to the settlement conference in order that issues may be resolved or facts agreed to by stipulation. They must also cooperate so as to clearly outline and efficiently present the settled and unsettled issues to the court at the settlement conference. All parties must be present at the date and time set for settlement conference, whether represented by counsel or not, unless excused in advance by the judicial officer. Except for good cause shown, the court may impose a sanction as determined by the court if an attorney or party fails to comply with any of the settlement conference requirements set forth in this rule.

*(Subd (b) amended and relettered effective January 1, 2008; adopted as Rule 5.16, subd (a) effective July 1, 1988; previously amended July 1, 2005.)*

c. **TIME FOR FILING AND SERVICE OF SETTLEMENT CONFERENCE STATEMENT AND OTHER REQUIRED DOCUMENTS**

Each party or attorney shall file and serve his or her settlement conference statement, *Income and Expense Declaration* (Judicial Council form FL-150), and *Property Declaration* (Judicial Council form FL-160) as required by Solano County Local Rules, rule 5.18, subdivisions (e) and (f), not later than 14 days prior to the date set for settlement conference. Prior to the hearing t~~T~~he party or

attorney shall file proof that these documents were served. ~~a proof of service on either Judicial Council form FL-330 or FL-335 or a legally sufficient alternative.~~ *(Subd (c) amended effective January 1, 2010 ~~amended and relettered effective January 1, 2008~~; adopted as Rule 5.16, subd (b) effective July 1, 1988; amended and relettered effective January 1, 2008.)*

d. **CONTENTS OF SETTLEMENT CONFERENCE STATEMENT**

The parties' respective settlement conference statements and any amendments thereto shall be in the form prescribed by these rules. The statements shall contain the information set forth in the following numbered paragraphs, if applicable, and if not applicable, the statements shall reflect that a numbered paragraph is inapplicable. A Settlement Conference Statement shall set forth in the caption the date and time of the settlement conference. The court, in its discretion, may refuse to accept a statement that does not comply with these rules, or may permit the filing of an abbreviated or limited statement.

(1) **Statistical Facts**

(a) Date of marriage, date of separation, length of marriage in years and months;

(b) Number and ages of minor children;

(c) Ages of parties;

(d) Issues as to statistical facts;

(e) A complete statement setting forth all material facts upon which a party relies on any contested issue regarding statistical facts;

(f) The date service of process was made, where made and how accomplished.

(2) **Summary of Uncontested Issues**

Each party shall summarize all uncontested issues in all settlement conference statements.

(3) **Child Custody and Visitation**

(a) Summary of the existing custody and visitation order or practice;

(b) Proposal for custody and visitation and all material facts in support of proposal.

(4) **Child Support**

(a) Summary of existing child support order or practice;

(b) All material facts in support of any unusual circumstances regarding income, expenses or ability to earn income;

(c) A current calculation of the party's proposal for child support, pursuant to the relevant provisions of the Family Code, including a calculation of the percent of time share;

(d) A statement whether or not either party receives public assistance or services from the Department of Child Support Services (formerly known as District Attorney Family Support Division) in the instant or related cases.

(5) **Spousal or Partner Support**

(a) Summary of existing spousal or partner support order or practice;

(b) All relevant and material facts in support of the party's position;

(c) A statement whether either party receives public assistance or services from the Department of Child Support Services in the instant or related cases.

(6) **Statement of Contested Property Issues**
Each party shall list each asset or obligation, real or personal, and for each asset or obligation, furnish the following information, if relevant to the contested issue:

(a) The date it was acquired;

(b) The manner in which title is vested;

(c) Whether it is community property, separate property, a mixture of the two, or quasi-community or quasi-marital property;

(d) All material facts and law in support of the party's characterization of the property as either community property, separate property, a mixture of the two, or quasi-community or quasi-marital property;

(e) The current fair market value of the property, the nature, extent and terms of any encumbrance against the property and the current net equity in the property;

(f) A detailed and complete proposal for the disposition of each item of property. If the proposed disposition is not substantially equal, the statement shall include a proposal for equalizing the disposition;

(g) A complete statement setting forth the factual and legal basis for apportionment or reimbursement, the formula for apportionment or reimbursement and the value of each party's community and separate property interests.

(7) **Attorney Fees, Expert Fees, and Costs**

(a) Summarize existing orders;

(b) Amounts paid by a party on account of the other party's attorney fees, expert fees and costs and balances due for such fees and costs;

(c) Amounts paid by a party on account of his or her attorney fees, expert fees and costs and balances due for such fees and costs;

(d) If a party is requesting attorney fees or expert witness fees, set forth the amounts received by the requesting party from the other party and the additional amounts requested;

(e) If a party is requesting costs, set forth the amounts received by the requesting party from the other party and the additional amounts requested.

(8) **Documents, Schedules, and Summaries**

(a) Attach copies of all appraisals and expert reports to be offered at the time of trial;

(b) List and describe all documents, schedules or summaries, and/or other evidence to be offered at the time of trial, excepting only evidence clearly and substantially impeaching the veracity of a party or witness. **(Note: Failure to comply with this provision may result in an order precluding the evidence from being admitted into evidence at the time of trial.)**

(9) **Witnesses and Reports**

(a) Give the name, address and telephone number of each witness the party plans to call at trial;

(b) Attach a copy of each document schedule, summary, expert report or appraisal about which the witness will testify unless a copy is attached elsewhere in the Settlement Conference Statement;

(c) Provide a brief statement setting forth the substance of the witnesses' testimony. (Note: Failure to comply with this provision may result in an order precluding the testimony of the witness at the time of trial.)

(10) **Points and Authorities**
Each party shall list the points and authorities or legal arguments upon which that party intends to rely.

*(Subd (d) amended and relettered effective January 1, 2008; adopted as Rule 5.16, subd (c) effective July 1, 1988.)*

e. **INCOME AND EXPENSE DECLARATION**
An accurate and complete *Income and Expense Declaration* (Judicial Council form FL-150) with all required attachments in accordance with the California Rules of Court, rule 5.128 shall be filed concurrently with the Settlement Conference Statement, unless the party has filed an Income and Expense Declaration within 60 days prior to the filing of the Settlement Conference Statement, and the information therein is still factually accurate and current.
*(Subd (e) amended and relettered effective January 1, 2008; adopted as Rule 5.16, subd (c)(11) effective July 1, 1988; previously amended July 1, 2005.)*

f. **PROPERTY DECLARATION**
In any case in which there is an issue concerning identification or division of a marital or quasi-marital estate, a current *Property Declaration* (Judicial Council

form FL-160), or a substantially equivalent form or spreadsheet verified by the party under penalty of perjury as prescribed by Code of Civil Procedure section 2015.5, containing all information required by the *Property Declaration*, with all required attachments and continuation declarations in accordance with the California Rules of Court shall be filed concurrently with the Settlement Conference Statement unless the party has filed a *Property Declaration* within 90 days prior to the filing of the Settlement Conference Statement and there are no substantive changes to the information on the previously filed form.
*(Subd (f) amended effective July 1, 2008; previously amended and relettered effective January 1, 2008; adopted as Rule 5.16, subd (c)(12) effective July 1, 1988; previously amended July 1, 2005.)*

g. **FILING OF DOCUMENTS PRIOR TO SETTING MATTER FOR SETTLEMENT CONFERENCE**
In his or her discretion, a judicial officer may require that any party file and serve his or her settlement conference statement, his or her completed *Property Declaration* (Judicial Council form FL-160), and/or his or her completed *Income & Expense Declaration* (Judicial Council form FL-150), or other documents as ordered by the court, prior to referring the parties to the calendar clerk to set the Settlement Conference.
*(Subd (g) adopted effective January 1, 2008.)*

h. **TRIAL JUDGE AS SETTLEMENT CONFERENCE JUDGE**
The Settlement Conference will be conducted by the trial judge. If any party objects to the trial judge acting as the settlement conference judge, the objecting party must file written objections no later than thirty (30) days before the Settlement Conference.
*(Subd (h) adopted effective January 1, 2010.)*

*(Rule 5.18 amended effective January 1, 2010; ~~amended effective July 1, 2008; previously amended and renumbered effective January 1, 2008~~; adopted as Rule 5.16 effective July 1, 1988; previously amended effective August 1, 2002; previously amended and renumbered effective January 1, 2008; amended effective July 1, 2008; see conversion tables in Appendices 5-A-3 and 5-A-4.)*

## 5.19 FAMILY LAW TRIAL MATTERS AND PROCEDURE

a. **FAMILY LAW TRIAL MATTERS GENERALLY**
Family law trial matters are defined as:

(1) Those family law matters referred for trial from a status conference and in which the trial or hearing requires time on the Court's calendar in excess of 20 minutes;

(2) Those family law matters set on, or transferred from the law and motion calendar to the family law trial calendar because the time required to hear the matter will exceed 20 minutes; and

(3) Those family law matters directed by the Court to be placed on the family law trial calendar.

*(Subd (a) amended and relettered effective January 1, 2008; adopted as Rule 5.14, subd (a) effective July 1, 1988; previously amended August 1, 2002.)*

b. **TRIAL ASSIGNMENT**

A matter may be assigned a trial date from a law and motion hearing, settlement conference, or status conference.

*(Subd (b) amended and relettered effective January 1, 2008; adopted as Rule 5.15, subd (a) effective July 1, 1988; previously amended August 1, 2002.)*

c. **COURT REPORTER FEES**

At the time the Family Law Calendar Clerk sets the matter for trial, each party shall pay his or her court reporter fees pursuant to the schedule approved by the presiding judge of the Superior Court of California, County of Solano, unless specifically deferred to a later time by a judicial officer. In his or her discretion, the judicial officer may sanction any party who fails to timely pay these fees, up to and including proceeding in that party's absence or vacating any scheduled trial date(s).

*(Subd (c) amended and relettered effective January 1, 2008; adopted as Rule 5.15, subd (b) effective July 1, 1988; previously amended August 1, 2002, and July 1, 2005.)*

d. **MEET AND CONFER REQUIREMENTS**

All attorneys or self-represented parties shall meet and confer as described in Solano County Local Rules, rule 5.9(f)(1), before any evidentiary hearing or trial.

*(Subd (d) adopted effective January 1, 2008.)*

e. **VACATION OR CONTINUATION OF TRIAL DATE**

The current fee charged for such continuances shall be paid prior to or concurrently with the filing of the order. A trial may be vacated or continued only by court order obtained by noticed motion or stipulation and order, or upon the court's own motion. If the order vacating or continuing the trial date is issued two

weeks or more prior to first date of trial, the court will order the refund of the court reporter fees or apply them to the continued trial date. If the matter is continued within fourteen days of the trial date, the parties will have to pay new court reporter fees.
*(Subd (e) amended and relettered effective January 1, 2008; adopted as Rule 5.15, subd (c) effective July 1, 1988; previously amended August 1, 2002.)*

f. **DOCUMENTARY EVIDENCE**
A sufficient number of copies of all evidence shall be brought to the trial by the propounding party and exchanged (except for evidence to be used solely for impeachment) with all other parties prior to the commencement of the trial or hearing. All parties must have their respective exhibits (except those to be used solely for impeachment, that is, directly attacking the credibility of a party or witness) marked by the courtroom clerk before the time scheduled for trial to start, unless excused by the assigned judicial officer.
*(Subd (f) amended and relettered effective January 1, 2008; adopted as Rule 5.19, subd (a) effective July 1, 1988; previously amended effective August 1, 2002.)*

g. **ATTORNEY FEE REQUESTS**
All requests for attorney fees shall be in compliance with Solano County Local Rules, rule 5.25.
*(Subd (g) amended and relettered effective January 1, 2008; adopted as Rule 5.19, subd (b) effective July 1, 1988; previously amended effective August 1, 2002.)*

*(Rule 5.19 amended and renumbered effective January 1, 2008; adopted as Rules 5.14, 5.15 and 5.19 effective July 1, 1988; Rule 5.14 previously amended effective August 1, 2002; Rule 5.15 previously amended effective August 1, 2002, and July 1, 2005; Rule 5.19 previously amended effective August 1, 2002; see conversion tables in Appendices 5-A-3 and 5-A-4.)*

## 5.20 DEFAULT OR UNCONTESTED JUDGMENT OF DISSOLUTION OR LEGAL SEPARATION BY AFFIDAVIT OR DECLARATION UNDER FAMILY CODE SECTION 2336

a. **FORMS REQUIRED FOR ALL JUDGMENTS BY DECLARATION UNDER FAMILY CODE SECTION 2336**
To obtain a judgment of dissolution or legal separation by declaration (without an appearance at a hearing in court) pursuant to Family Code section 2336, the following completed forms must be submitted to the Family Law Clerk's Office.

No appearance is necessary unless the court requires it, in which case the court shall so notify the parties.

(1) **Request to Enter Default OR Appearance, Stipulation and Waivers**
If the petitioner is seeking to obtain a judgment of dissolution or legal separation by default, the petitioner must file a *Request to Enter Default* (Judicial Council form FL-165) prior to or concurrently with filing a *Declaration for Default or Uncontested Dissolution or Legal Separation* (Judicial Council form FL-170). If a default has been entered against a respondent, a party to that matter may not file an *Appearance, Stipulation and Waivers* (Judicial Council form FL-130) without first obtaining court permission to set aside the default.
*(Subd (1) adopted effective January 1, 2008.)*

(2) **Declaration for Default or Uncontested Dissolution or Legal Separation**
If the Petitioner is seeking a judgment of dissolution or legal separation by default, the petitioner shall sign the *Declaration for Default or Uncontested Dissolution or Legal Separation* (Judicial Council form FL-170). The relief sought in the declaration must agree with the relief sought in the petition for dissolution or legal separation. If the parties are seeking an uncontested judgment of dissolution or legal separation, either party who has generally appeared shall sign the *Declaration for Default or Uncontested Dissolution or Legal Separation.*
*(Subd (2) amended and renumbered effective January 1, 2008; adopted as Rule 5.12, subd (a)(1) effective July 1, 1988; previously amended effective August 1, 2002.)*

(3) **Declaration Regarding Service of Declaration of Disclosure**
All parties seeking a default or uncontested judgment shall comply with the declaration of disclosure requirements of Family Code sections 2100 through 2113 inclusive and all applicable rules in the California Rules of Court. Except where the Petitioner is proceeding by default without any written agreement between the parties, no judgment of dissolution, legal separation or nullity shall be entered until both parties have filed their respective *Declarations Regarding Service of Declaration of Disclosure* (Judicial Council form FL-141) demonstrating each party's compliance with Family Code sections 2104 and 2105.
*(Subd (3) amended and renumbered effective January 1, 2008; adopted as Rule 5.12, subd (a)(2) effective July 1, 1988; previously amended effective*

*August 1, 2002; former subd (3), which related to documents to be submitted for review, is repealed effective January 1, 2008.)*

(4) **Judgment**
The party or parties shall submit the original and four copies of the proposed *Judgment* (Judicial Council form FL-180). The contents of the judgment must comply with Solano County Local Rules, rule 5.22.
*(Subd (4) amended and renumbered effective January 1, 2008; adopted as Rule 5.12, subd (a)(3)(b) effective July 1, 1988; previously amended effective August 1, 2002.)*

(5) **Notice of Entry of Judgment**
The original and two copies of the *Notice of Entry of Judgment* (Judicial Council form FL-190) must be submitted along with one stamped, self-addressed envelope for each party, with the address of the court clerk as the return address.
*(Subd (5) amended effective July 1, 2009; previously amended and renumbered effective January 1, 2008; adopted as Rule 5.12, subd (a)(3)(c) effective July 1, 1988; previously amended effective August 1, 2002.)*

*(Subd (a) amended effective July 1, 2009; adopted effective July 1, 1988; previously amended effective August 1, 2002, July 1, 2005, and January 1, 2008.)*

b. **ADDITIONAL REQUIRED FORMS FOR JUDGMENTS BY DECLARATION UNDER FAMILY CODE SECTION 2336**
In addition to the forms required per Solano County Local Rules, rule 5.20(a), the following forms must be submitted if applicable:

(1) **Income and Expense Declaration**
A current, wholly completed *Income and Expense Declaration* (Judicial Council form FL-150) shall be filed if support or attorney fees is to be ordered, unless the parties have agreed to child or spousal support provisions in a marital settlement agreement or stipulated judgment that includes a current computerized support calculation printout. This provision does not apply if the only support term is a termination of jurisdiction over the issue of spousal or partner support for both parties.
(*Subd (1) amended effective January 1, 2008.)*

(2) **Child Support Stipulations**

(a) A stipulation regarding child support shall be prepared on any of the following forms as applicable:

(i) A fully completed *Stipulation to Establish or Modify Child Support and Order* (Judicial Council form FL-350); or,

(ii) A fully completed *Child Support Information and Order Attachment* (Judicial Council form FL-342) which shall be attached to the *Judgment* form (form FL-180); or,

(iii) A fully completed *Non-Guideline Child Support Findings Attachment* (Judicial Council form FL-342(A),) which shall be attached to the *Judgment* form (form FL-180) if the support being ordered is below the California statutory guideline; or,

(iv) Contained in a marital settlement agreement or stipulated Judgment wherein the parties expressly acknowledge compliance with the conditions of Family Code section 4065.

(*Subd (a) amended and renumbered effective January 1, 2008; adopted as Rule 5.12, subd (b)(2) effective July 1, 1988; previously amended effective August 1, 2002.)*

(b) Any stipulations regarding child support or marital settlement agreements including child support shall be accompanied by a computerized support calculation printout, regardless of whether the stipulated support amount is "guideline" as determined by Family Code sections 4050 through 4076.
(*Subd (b) adopted effective January 1, 2008.)*

(c) If the parties are stipulating to a child support amount that is below "guideline" as determined by Family Code sections 4050 through 4076, they must do so by way of a fully-completed stipulation to *Establish or Modify Child Support and Order* (form FL-350), a fully-completed *Non-Guideline Child Support Findings Attachment* (Judicial Council form FL-342(A) attached to a *Judgment* (form FL-180), or a marital settlement agreement or stipulated judgment wherein the parties expressly acknowledge compliance with the conditions of Family Code section 4065. (*Subd (c) adopted effective January 1, 2008.)*

(3) **Order/Notice to Withhold Income for Child Support**
The *Order/Notice to Withhold Income for Child Support* (Judicial Council form FL-195) shall be submitted even if service of the wage assignment has been or likely will be stayed by stipulation or court order.
(*Subd (3) amended and renumbered effective January 1, 2008; adopted as part of Rule 5.12, subd (b)(5) effective July 1, 1988; previously amended effective August 1, 2002.)*

(4) **Child Support Case Registry Form**
The *Child Support Case Registry Form* (Judicial Council form FL-191) shall be submitted to the court if the judgment includes any provisions for child support, including a reservation over child support.
(*Subd (4) amended and renumbered effective January 1, 2008; adopted as part of Rule 5.12, subd (b)(5) effective July 1, 1988; previously amended effective August 1, 2002.)*

(5) **Earnings Assignment Order for Spousal or Partner Support**
The *Earnings Assignment Order for Spousal or Partner Support* (Judicial Council form FL-435) shall be submitted to the court if spousal or partner support will be ordered payable by earnings assignment, unless excused by the assigned judicial officer.
*(Subd (5) adopted effective January 1, 2008; former Rule 5.12, subd (b)(5) repealed effective January 1, 2008.)*

(6) **Form Requirements for Division of Property**
Whenever a judgment of dissolution or legal separation is sought by either default or by stipulation as an uncontested matter, no decree awarding property to either party will be granted unless the moving party files:

(a) A current and fully completed *Property Declaration* (Judicial Council form FL-160);

or

b) A written stipulation of the parties for division of their property.
*(Subd (6) amended and renumbered effective January 1, 2008; adopted as part of Rule 5.12, subd (b)(3) effective July 1, 1988; previously amended effective August 1, 2002.)*

(7) **Stay of Service of Earnings Assignment Order**
If a judgment includes a stipulation to stay a wage assignment for child and/or spousal support, a completed *Stay of Service of Earnings Assignment Order* (Judicial Council form FL-455) shall be submitted to the court.
*(Subd (7) adopted effective July 1, 2008.)*

(8) **Declaration Regarding Status of Court-Ordered Support**
If either party has obtained a fee waiver, the party submitting the proposed judgment shall submit a declaration under penalty of perjury along with the proposed Judgment stating the following:

(a) The date of the most recent order for child, spousal or family support;

(b) The name of the person ordered to pay support; ~~and,~~

(c) Whether any support ordered during the proceeding remains unpaid and if so, the amount of the unpaid support; and, ~~.~~

(d) If a party is receiving support payments through the Department of Child Support Services or other local child support agency, the party submitting the proposed judgment must attach a copy of the payment history from the child support agency and indicate whether or not they are currently receiving or have applied for cash assistance. Individuals who have current open cases with the Department of Child Support Services may obtain access to payment histories through the state's Department of Child Support Services website at www.childsup-connect.ca.gov .

*(Subd (8) amended effective January 1, 2010; adopted effective July 1, 2009.)*

*(Subd (b) amended effective January 1, 2010~~July 1, 2009~~; previously amended effective January 1, 2008 and July 1, 2008; adopted effective July 1, 1988; previously amended effective August 1, 2002, ~~and~~ July 1, 2005, January 1, 2008, July 1, 2008, and July 1, 2009.)*

c. **RELIEF INCONSISTENT WITH PETITION**
Except by written agreement or as may be permitted by law, the court will not grant relief that is inconsistent with the relief requested in the petition. The court on its own motion may require the party to appear to justify the relief requested.

(*Subd (c) amended effective January 1, 2008; previously amended effective August 1, 2002.)*

d. **REQUIREMENTS ON PROOF BY DECLARATION REGARDING CUSTODY AND VISITATION OF CHILDREN**
Where the judgment is taken by default, and there is either a written agreement of the parties concerning custody and visitation or a request for inclusion in the judgment of provisions for custody and visitation, the court reserves the right to deny the requested order if such order is not in the best interests of the child. The court may require at its discretion a supporting declaration or a hearing.
(*Subd (d) amended and relettered effective January 1, 2008; adopted as Rule 5.12, subd (b)(4) effective July 1, 1988; previously amended effective August 1, 2002, and July 1, 2005.)*

*(Rule 5.20 amended effective January 1, 2010~~July 1, 2009~~; previously amended and renumbered as Rule 5.20 effective January 1, 2008; amended effective July 1, 2008, and July 1, 2009; adopted as Rule 5.12 effective July 1, 1988; previously amended effective August 1, 2002, and July 1, 2005~~; see conversion tables in Appendices 5-A-3 and 5-A-4~~.)*

## 5.21 DEFAULT OR UNCONTESTED JUDGMENTS OF DISSOLUTION, LEGAL SEPARATION, NULLITY, OR ESTABLISHMENT OF PARENTAL RELATIONSHIP BY APPEARANCE

a. **CALENDARING GENERALLY**
To obtain an uncontested or default judgment of dissolution of marriage, legal separation, nullity, or establishment of parental relationship under the Uniform Parentage Act, the requesting party shall submit a request for a hearing date in writing to the Family Law Clerk's Office.
*(Subd (a) amended effective January 1, 2010~~July 1, 2009~~; previously amended August 1, 2002, ~~and~~ January 1, 2008, and July 1, 2009.)*

b. **CALENDARING OF A REQUEST FOR A STATUS-ONLY DISSOLUTION**
For good cause, the court may permit the calendaring of a request for a status only dissolution without the applicant meeting the formal requirements of these rules.
*(Subd (b) amended effective January 1, 2008; previously amended August 1, 2002.)*

c. **FORMS REQUIRED FOR ALL JUDGMENTS BY APPEARANCE OTHER THAN ESTABLISHMENT OF PARENTAL RELATIONSHIP**
Prior to a date for hearing being set, the requesting party must deliver the following documents, and any other documents necessary to complete the file, to

the Family Law Clerk's Office for review. The calendar clerk shall not set a hearing date until the clerk's file has been completed.

(1) **Request to Enter Default OR Appearance, Stipulations and Waivers**
If the Petitioner is seeking to obtain a Judgment of dissolution or legal separation by default, the Petitioner must file a *Request to Enter Default* (Judicial Council form FL-165) prior to or concurrently with filing a *Declaration for Default or Uncontested Dissolution or Legal Separation* (Judicial Council form FL-170). If a default has been entered against a respondent, a party to that matter may not file an *Appearance, Stipulation and Waivers* (Judicial Council form FL-130) without first seeking to set aside the default.
*(Subd (1) amended effective January 1, 2008; previously amended August 1, 2002.)*

(2) **Declaration Regarding Service of Declaration of Disclosure**
All parties seeking a default or uncontested judgment shall comply with the declaration of disclosure requirements of Family Code sections 2100 through 2113 inclusive and all applicable rules in the California Rules of Court. Except where the Petitioner is proceeding by default with no property settlement agreement or marital settlement agreement, no judgment of dissolution, legal separation or nullity shall be entered until both parties have filed their respective *Declaration Regarding Service of Declaration of Disclosure* (Judicial Council form FL-141) demonstrating that party's compliance with Family Code sections 2104 and 2105.
*(Subd (2) amended effective January 1, 2008; adopted as Rule 5.13, subd (d) effective July 1, 1988; previously amended August 1, 2002.)*

(3) **Judgment**
The party or parties shall submit the original and four copies of the proposed *Judgment* (Judicial Council form FL-180). The contents of the judgment must comply with Solano County Local Rules, rule 5.22.
*(Subd (3) amended and renumbered effective January 1, 2008; adopted as Rule 5.13, subd (c)(2) effective July 1, 1988; previously amended August 1, 2002.)*

(4) **Notice of Entry of Judgment**
The original and two copies of *Notice of Entry of Judgment* (Judicial Council form FL-190) must be submitted along with a stamped, self-addressed envelope for each party, with the address of the court clerk as the return address.

*(Subd (4) amended effective July 1, 2009; amended and renumbered effective January 1, 2008; adopted as Rule 5.13, subd (c)(3) effective July 1, 1988; previously amended August 1, 2002.)*

*(Subd (c) amended effective July 1, 2009; previously amended August 1, 2002 and January 1, 2008.)*

d. **FORMS REQUIRED FOR JUDGMENTS TO ESTABLISH PARENTAL RELATIONSHIP BY APPEARANCE**

Prior to a date for hearing being set, the requesting party must deliver the following documents, and any other documents necessary to complete the file, to the Family Law Clerk's Office for review. The calendar clerk shall not set a hearing date until the clerk's file has been completed.

(1) **Request to Enter Default OR Appearance, Stipulations and Waivers**

If the Petitioner is seeking to obtain a Judgment by default, the Petitioner must file a *Request to Enter Default* (Judicial Council form FL-165) prior to or concurrently with filing a *Declaration for Default or Uncontested Judgment* (Judicial Council form FL-230). If a default has been entered against a respondent, a party to that matter may not file an *Appearance, Stipulation and Waivers* (Judicial Council form FL-130) without first seeking to set aside the default.

*(Subd (1) adopted effective July 1, 2009.)*

(2) **Judgment**

The party or parties shall submit the original and four copies of the proposed *Judgment* (Judicial Council form FL-250). The contents of the judgment must comply with Solano County Local Rules, rule 5.22. If the parties are stipulating to the entry of a judgment, the parties shall attach an *Advisement and Waiver of Rights re: Establishment of Parental Relationship* form (Judicial Council form FL-235), or a declaration that is substantially equivalent, to the Judgment.

*(Subd (2) adopted effective July 1, 2009.)*

(3) **Notice of Entry of Judgment**

The original and two copies of *Notice of Entry of Judgment* (Judicial Council form FL-190) must be submitted along with a stamped, self-addressed envelope for each party, with the address of the court clerk as the return address.

*(Subd (3) adopted effective July 1, 2009.)*

*(Subd (d) amended effective July 1, 2009.)*

e. **ADDITIONAL REQUIRED FORMS FOR ALL JUDGMENTS BY APPEARANCE**
In addition to the forms required per Solano County Local Rules, rule 5.21(c) or (d), the following forms must be submitted if applicable:

(1) **Income and Expense Declaration**
A current, wholly completed *Income and Expense Declaration* (Judicial Council form FL-150) if support or attorney fees is to be ordered, unless the parties have agreed to child or spousal support provisions in a marital settlement agreement or stipulated judgment that includes a current completed support calculation. This provision does not apply if the only support term is a termination of jurisdiction over the issue of spousal support for both parties.
*(Subd (1) amended and renumbered effective January 1, 2008; adopted as Rule 5.13, subd (c)(5) effective July 1, 1988; previously amended August 1, 2002.)*

(2) **Child Support Stipulation and Order**
A stipulation regarding child support shall be prepared on either a fully completed *Stipulation to Establish or Modify Child Support and Order* (Judicial Council form FL-350), or contained in a marital settlement agreement or stipulated judgment wherein the parties expressly acknowledge compliance with the conditions of Family Code section 4065. Any stipulations regarding child support shall include a computerized support calculation printout.
*(Subd (2) adopted effective January 1, 2008.)*

(3) **Order/Notice to Withhold Income for Child Support**
The *Order/Notice to Withhold Income for Child Support* (Judicial Council form FL-195) shall be submitted to the court even if service of the wage assignment has been stayed by stipulation or court order.
*(Subd (3) amended and renumbered effective January 1, 2008; adopted as part of Rule 5.13, subd (c)(6) effective July 1, 1988; previously amended August 1, 2002.)*

(4) **Child Support Case Registry Form**
The *Child Support Case Registry Form* (Judicial Council form FL-191) shall be submitted to the court if the judgment includes any provisions for child support, including a reservation over child support.

*(Subd (4) amended and renumbered effective January 1, 2008; adopted as part of Rule 5.13, subd (c)(6) effective July 1, 1988; previously amended August 1, 2002.)*

(5) **Earnings Assignment Order for Spousal or Partner Support**
The *Earnings Assignment Order for Spousal or Partner Support* (Judicial Council form FL-435) shall be submitted to the court if spousal or partner support will be ordered payable by earnings assignment, unless excused by the assigned judicial officer.
*(Subd (5) adopted effective January 1, 2008.)*

(6) **Form Requirements for Division of Property**
Whenever a judgment of dissolution or legal separation is sought by either default or by stipulation as an uncontested matter, no decree awarding property to either party will be granted unless the moving party files:

(a) A current and fully completed *Property Declaration* (Judicial Council form FL-160);

or

b) A written stipulation of the parties for division of their property.

(*Subd (6) amended and renumbered effective January 1, 2008; adopted as Rule 5.13, subd (e) effective July 1, 1988.)*

(7) **Stay of Service of Earnings Assignment Order**
If a judgment includes a stipulation to stay a wage assignment for child and/or spousal support, a completed *Stay of Service of Earnings Assignment Order* (Judicial Council form FL-455) shall be submitted to the court.
*(Subd (7) adopted effective July 1, 2008.)*

(8) **Declaration Regarding Status of Court-Ordered Support**
If either party has obtained a fee waiver, the party submitting the proposed judgment shall submit a declaration under penalty of perjury along with the proposed Judgment stating the following:

(a) The date of the most recent order for child, spousal or family support;

(b) The name of the person ordered to pay support; ~~and,~~

(c) Whether any support ordered during the proceeding remains unpaid and if so, the amount of the unpaid support; and, ~~.~~

(d) If a party is receiving support payments through the Department of Child Support Services or other local child support agency, the party submitting the proposed judgment must attach a copy of the payment history from the child support agency and indicate whether or not they are currently receiving or have applied for cash assistance. Individuals who have current open cases with the Department of Child Support Services may obtain access to payment histories through the state's Department of Child Support Services website at www.childsup-connect.ca.gov .

*(Subd (8) amended effective January 1, 2010; adopted effective July 1, 2009.)*

*(Subd (e) amended effective January 1, 2010 ~~July 1, 2009~~; previously amended and relettered effective January 1, 2008; amended effective July 1, 2008, and July 1, 2009; adopted as Rule 5.13, subd (c) and (e) effective July 1, 1988; previously amended effective August 1, 2002.)*

f. **RELIEF INCONSISTENT WITH PETITION**

Except by written agreement or as may be permitted by law, the court will not grant relief that is inconsistent with the relief requested in the petition.

*(Subd (f) relettered effective July 1, 2009; previously amended and relettered as subdivision (e) effective January 1, 2008; adopted as Rule 5.13, subd (g) effective July 1, 1988; previously amended effective August 1, 2002.)*

g. **REQUIREMENTS ON PROOF BY DECLARATION REGARDING CUSTODY AND VISITATION OF CHILDREN**

Where the judgment is taken by default, and there is either a written agreement of the parties concerning custody and visitation or a request for inclusion in the judgment of provisions for custody and visitation, the court reserves the right to deny the requested order if such order is not in the best interests of the child.

(*Subd (g) relettered effective July 1, 2009; previously amended as subdivision (f) effective January 1, 2008; previously amended effective August 1, 2002.)*

*(Rule 5.21 amended effective January 1, 2010 ~~July 1, 2009~~; previously amended and renumbered effective January 1, 2008; amended effective July 1, 2008, and July 1, 2009; adopted as Rule 5.13 effective July 1, 1988; previously amended effective August 1, 2002~~; see conversion tables in Appendices 5-A-3 and 5-A-4~~.)*

## 5.22 CONTENTS OF JUDGMENT

a. **REQUIREMENTS FOR ACTION INVOLVING CHILD CUSTODY, VISITATION, SUPPORT, OR SPOUSAL SUPPORT**
In actions in which child custody, child visitation, child support and/or spousal support are issues, the judgment shall set forth separately in full the name and birth date of each minor child and all provisions for custody, visitation and/or support, including the commencement and termination dates of support. Incorporation of these provisions from a marital settlement agreement, alone, is not sufficient. If there is a marital settlement agreement, it shall be attached to the judgment and incorporated by reference for merger or identification, only, as the parties specify.

*(Rule 5.22 amended and relettered effective January 1, 2008; adopted as unlettered Rule 5.25 effective July 1, 1988; previously amended effective August 1, 2002, and July 1, 2005~~; see conversion tables in Appendices 5-A-3 and 5-A-4~~.)*

## 5.23 FEE WAIVERS AT TIME OF ENTRY OF A JUDGMENT OR AN ORDER OF SUPPORT

Pursuant to Government Code section 68637, subsections (d) and (e), all fee waivers will be subject to review by a judicial officer at the time a judgment or an order for support is submitted for signature and entry. ~~At such time the judicial officer may specify at his or her discretion that a judgment not be entered except upon payment of all outstanding fees or upon the granting of a new fee waiver upon submission of a new application.~~ Nothing in this rule limits the court's ability to review fee waivers during the proceeding per Government Code section 68636.

*(Rule 5.23 amended effective January 1, 2010~~ effective July 1, 2009~~; renumbered effective January 1, 2008; adopted as Rule 5.27 effective July 1, 2005; renumbered as Rule 5.23 effective January 1, 2008; amended effective July 1, 2009~~; see conversion charts in Appendices 5-A-3 and 5-A-4~~.)*

## 5.24 CONTEMPT

a. **FORM OF ORDER TO SHOW CAUSE OR CITATION**
All Orders to Show Cause (OSC) or citations for contempt must be made on the mandatory ~~Judicial Council form~~ *Order to Show Cause and Affidavit for Contempt* (Judicial Council form FL-410). The OSC for contempt must be filed separately from, and may not be attached to or included with, any other motions or orders to show cause. The Clerk of the Court shall not accept for filing any

non-conforming contempt papers. The OSC or citation must also have attached to it either the mandatory Affidavit of Facts Constituting Contempt – Financial and Injunctive Order (Judicial Council form FL-411), or the mandatory Affidavit of Facts Constituting Contempt – Domestic Violence/Custody and Visitation (Judicial Council form FL-412), where applicable. The court shall not proceed on a contempt OSC or citation that is not properly plead except as may be specifically ordered by the assigned judicial officer.
*(Subd (a) amended effective January 1, 2010~~ July 1, 2008~~; adopted effective January 1, 2008; previously amended effective July 1, 2008.)*

b. **FIRST APPEARANCE BY SELF-REPRESENTED CITEE AT CONTEMPT HEARING**
If a party cited for contempt appears without an attorney at the first hearing set pursuant to an *Order to Show Cause and Affidavit for Contempt* (Judicial Council form FL-410), one continuance normally will be granted to permit the citee to retain counsel or for the appearance of court-appointed counsel. The citee will be ordered to be present at the continued hearing.
*(Subd (b) amended and relettered effective January 1, 2008; adopted as Rule 5.22, subd (a) effective July 1, 1988; previously amended effective August 1, 2002.)*

c. **SETTLEMENT CONFERENCE**
The court in its discretion may set the contempt hearing for a settlement conference prior to ordering the matter to trial.
*(Subd (c) amended and relettered effective January 1, 2008; adopted as Rule 5.22, subd (b) effective July 1, 1988; previously amended effective August 1, 2002.)*

d. **PREPARATION OF ORDER**
Unless otherwise ordered by the court, the moving party shall prepare the order after hearing. The Judicial Council form *Findings and Order Regarding Contempt* (FL-415) may be used for this purpose.

*(Subd (d) amended and relettered effective January 1, 2008; adopted as Rule 5.22, subd (c) effective July 1, 1988; previously amended effective August 1, 2002.)*

*(Rule 5.24 amended effective July 1, 2008; previously amended and renumbered effective January 1, 2008; adopted as Rule 5.22 effective July 1, 1988; previously amended effective August 1, 2002~~; see conversion tables in Appendices 5-A-3 and 5-A-4~~.)*

## 5.25 ATTORNEY FEES, COSTS AND SANCTIONS

a. **ATTORNEY FEES AND COSTS**

A party requesting an award of attorney fees and/or costs based on need pursuant to the Family Code, including but not limited to sections 2030, 2031, and 2032, or as a sanction pursuant to the Family Code, the Code of Civil Procedure or any other applicable legal authority, shall file with the court the following:

(1) A current and completed *Income and Expense Declaration* (Judicial Council form FL-150) which shall include the income information as prescribed by the form with respect to the party against whom the order is sought;

(2) If the request is for an amount exceeding $1,000.00, a declaration of the attorney setting forth facts that describe in detail the services rendered, the time expended with respect to these specific services and the hourly rate normally charged by the attorney, unless this declaration is waived by the court in its discretion. The declaration shall further state such facts as may be relevant to the court's determination as to the reasonableness of the fees as set forth in Family Code section 2032, subdivision (b); and,

(3) Any other declarations, documents, or pleadings as required by the Family Code, the Code of Civil Procedure, California Rules of Court, or orders of the court.

*(Subd (a) amended effective January 1, 2008.)*

b. **BIFURCATION OF ATTORNEY FEES AND COSTS REQUESTS PER FAMILY CODE §271**

Where an attorney, or a party as allowed by law, requests the opportunity to present evidence as to conduct of the other party and/or attorney which furthers or frustrates the policy of the law to promote settlement of litigation pursuant to Family Code section 271, the court will in its discretion withhold a decision on the issue of fees until after all other issues, including that of costs, have been determined and will not receive the attorney's or the party's declaration relating thereto until commencing the consideration of the attorney fees issue.

*(Subd (b) amended effective July 1, 2008; previously amended effective January 1, 2008.)*

c. **SANCTIONS FOR FAILURE TO COMPLY WITH RULES OR STATUTES**

In the event that any party or attorney fails to comply with the requirements of the Solano County Local Rules, the California Family Code, the California Code of Civil Procedure, or the California Rules of Court, the court may, on the motion of a party or on its own motion, order the case off calendar, strike out all or any part of any pleading of that party, dismiss the action or proceeding or any part thereof, or enter a judgment by default against that party, proceed to hear the matter on a default basis, proceed under any conditions the court finds proper, award attorney fees and/or impose other appropriate sanctions, including any sanctions available to the court under the Family Code, the Code of Civil Procedure, and the Solano County Local Rules, rule 4.13 ~~4.15~~, subsection (a).~~s (a), (b), (c) and (f).~~ The court may further order a party or his or her counsel to pay to a party moving for compliance with these rules the reasonable expenses in making the motion, including reasonable attorney fees and costs.

*(Subd (c) amended effective January 1, 2010~~2009~~; previously amended effective January 1, 2008, ~~and~~ July 1, 2008, and January 1, 2009.)*

d. **FORM OF PLEADINGS REQUESTING ATTORNEY FEES, COSTS, OR SANCTIONS**

(1) A request for attorney fees and costs in the form of discovery sanctions may be plead either in the motion seeking relief related to discovery or in a separate motion.

(2) A discovery motion may not include any requests pertaining to attorneys fees, costs, or sanctions unrelated to the discovery at issue in the motion.

*(Subd (d) adopted effective July 1, 2008.)*

*(Rule 5.25 amended effective July 1, 2008; previously amended and renumbered effective January 1, 2008; adopted as Rule 5.26 effective July 1, 1988; previously amended effective August 1, 2002~~; see conversion tables in Appendices 5-A-3 and 5-A-4~~.)*

## 5.26 FORMS LISTS

The Family Law Clerk's Office and the Office of the Court Facilitator shall each prominently post lists of current Judicial Council and Solano County local forms that set forth the forms both alphabetically by name and numerically by form number. These lists shall be kept current at all times. The Family Law Clerk's Office and the Office of the Court Facilitator shall also make individual forms available to the public upon request and free of charge. All Judicial Council forms are also available at www.courtinfo.ca.gov. All local forms are available on the court's Internet website located at www.solano.courts.ca.gov. ~~www.solanocourts.com~~.

*(Rule 5.26 amended effective January 1, 2010~~and renumbered effective January 1, 2008~~; adopted as Rule 5.28 effective July 1, 2005; previously amended and renumbered as Rule 5.26 effective January 1, 2008~~; see conversion tables in Appendices 5-A-3 and 5-A-4~~.)*

## 5.27 FAMILY LAW FACILITATOR'S DUTIES

In addition to the services provided by the Family Law Facilitator pursuant to Family Code section 10004, the Family Law Facilitator may provide the services set forth in Family Code section 10005 if authorized to do so by the supervising judge of the Family Law Division.

*(Rule 5.27 adopted effective January 1, 2008~~; see conversion tables in Appendices 5-A-3 and 5-A-4~~.)*

## 5.28 DUTIES OF PARTIES UPON COURT FILE EXPANSION [REPEALED]

*(Rule 5.28 repealed effective July 1, 2009; adopted effective January 1, 2008~~; see conversion tables in Appendices 5-A-3 and 5-A-4~~.)*

## RULE 5 APPENDICES

**Appendix 5-A-1:** **Meet and Confer Orders**
*(Note: Use Solano County Local Form no. 010)*

**Appendix 5-A-2:** **Time Sharing Arrangement Table**

**Appendix 5-A-3:** **Family Law Rules Conversion Table**
*(Effective January 1, 2008)*

**Appendix 5-A-4:** **Family Law Rules Reverse Conversion Table**
*(Effective January 1, 2008)*

**Superior Court of California**
**County of Solano**

**Rule 5 – Family Law**

## APPENDIX 5-A-1: MEET AND CONFER ORDERS (Note: Use Local Form No. 010)

| SHORT TITLE: | CASE NUMBER: |
|---|---|
| | |

**MEET AND CONFER ORDERS**
**(SEE PARAGRAPH 3 IF THERE ARE RESTRAINING ORDERS IN EFFECT NOW.)**

**1.** **a.** The parties and/or attorneys are ordered to peaceably contact each other, immediately upon service of these papers, and to make at least one peaceable attempt to settle these issues, *before the date of this hearing*.

**b.** Each party and/or attorney shall make good faith, reasonable proposals on all issues in the attached documents, and shall try to settle all of the issues. They shall do this in writing or by fax or e-mail, or by telephone, or in person.

**c.** If the issues in the attached documents include child support, or temporary spousal support, each party shall prepare and give the other a printout of his or her proposed DissoMaster™ or other computerized support calculation, *before the date of the hearing*.

**d.** If the parties *both agree* that the scheduled hearing is not necessary, *both parties or attorneys shall immediately notify the assigned judicial department*, or the Court may impose sanctions upon one or both of the parties or attorneys.

**2.** **a.** On the date of the hearing, and in addition to any mediation about child issues on that same date, the parties and/or their attorneys shall peaceably meet and confer a *second* time, and make reasonable, good faith efforts to settle the issues of this hearing. They shall exchange all relevant documents, updated DissoMaster™ or other computerized support calculation printouts if applicable, and other information, in good faith efforts to settle all issues of this hearing. They shall cooperate so as to clearly outline and efficiently present any unsettled issues to the court at the hearing. The court may, in its discretion, decline to consider any document or information that was not exchanged before the hearing.

**b.** Failure to meet and confer in good faith may cause the hearing to be delayed, or postponed, or dropped from calendar, or the court may impose sanctions or other remedies upon one or both of the parties or attorneys.

**3.** These orders do not apply to the parties themselves if there are any restraining orders, from any court whatsoever, ordering one party to "not contact" or to "stay away" from any other party to this case, *if such orders are still in effect at this time*. Even if such "no contact" or "stay away" orders are in effect at this time, each party's attorney must meet and confer with the other party's attorney or the other party as stated in this Meet and Confer Order, and at the hearing the court may in its discretion order the parties themselves to meet and confer, under conditions that the court deems appropriate.

NOTE: For DissoMaster™ calculations, consult with an attorney of your choice, or contact the Solano County Family Law Facilitator's Office in the Hall of Justice, 600 Union Avenue, Fairfield, CA 94533; (707) 207-7348.
AUTHORITY: California Family Code section 271; Rules 5.9 and 5.14 of the Solano County Local Rules.

## APPENDIX 5-A-2: TIME SHARING ARRANGEMENT TABLE

| Item No. | Time Sharing Arrangement | Days out of the Year | Timeshare Percentage |
|---|---|---|---|
| A | 1 weekend per month | 24 | 7 |
| B | 1 extended weekend per month | 36 | 10 |
| C | 2 weekends per month | 48 | 13 |
| D | 1 weekend per month plus 1 evening per week | 50 | 14 |
| E | Alternate weekends (26 weekends per year) | 52 | 14 |
| F | Alternate weekends plus 2 weeks in the summer | 67 | 18 |
| G | Alternate weekends plus ½ the holidays plus 2 weeks in the summer | 69 | 19 |
| H | 2 extended weekends per month | 72 | 20 |
| I | Alternate weekends plus 1 evening per week | 78 | 21 |
| J | Alternate weekends plus 1 overnight per week | 104 | 28 |
| K | Alternate extended weekends | 78 | 21 |
| L | Alternate extended weekends plus ½ the holidays plus 4 weeks in the summer (with alternating weekends continuing in summer and makeup time if the weekends are lost due to the 4 weeks) | 77 | 21 |
| M | Alternate weekends plus ½ the holidays plus 4 weeks in the summer (with no alternating weekends all summer) | 75 | 21 |
| N | Alternate weekends plus ½ the holidays plus ½ the summer (with or without alternating weekends in the summer) | 82 | 22 |
| O | Alternate extended weekends plus 1 evening a week | 104 | 28 |
| P | Alternate extended weekends plus 1 overnight a week | 130 | 36 |
| Q | Alternate weekends plus ½ holidays plus 1 evening per week plus 4 weeks in the summer (with alternating weekends continuing in summer and makeup time if the weekends are lost due to the 4 weeks) | 103 | 28 |
| R | Alternate weekends plus 1 evening per week when school is in session plus ½ school vacations | 104 | 28 |
| S | Three days per week | 156 | 43 |
| T | First, third and fifth weekends of every month | 56 | 15 |
| U | First, third and fifth extended weekends of every month | 84 | 23 |
| V | First, third and alternate fifth weekends | 52 | 14 |
| W | First, third and alternate fifth extended weekends | 78 | 21 |

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## APPENDIX 5-A-3: FAMILY LAW RULES CONVERSION TABLE

Effective January 1, 2008; Amended effective July 1, 2009

| ***Rule Title*** | ***New Rule Number*** | ***Former Rule Number*** |
|---|---|---|
| Scope of Rule 5; Applicability to Parties and Counsel | 5.1 | 5.1 |
| Direct Calendaring | 5.2 | 5.2 |
| Use and Completeness of Judicial Council and Solano County Forms | 5.3 | 5.5 |
| Filing and Service of Summons, Petition, Moving and Responsive Pleadings | 5.4 | 5.3 |
| Proof of Service | 5.5 | 5.4 |
| Declarations | 5.6 | 5.6 |
| Ex Parte Application for Order; Orders Shortening and Extending Time | 5.7 | 5.7 |
| Special Procedures for Ex Parte Applications for Orders and Ex Parte Applications for Injunctive Relief Pertaining to Domestic Violence | 5.8 | 5.8 |
| Law and Motion Calendar | 5.9 | 5.11 |
| Law and Motion Procedure | 5.10 | 5.18 |
| Mediation – Child Custody and Visitation | 5.11 | 5.20 |
| Child Custody and Visitation Evaluation or Investigation | 5.12 | 5.21 |
| Children and the Court; Minor's Counsel | 5.13 | 5.24 |
| Calculation of Child Support and Temporary Spousal or Partner Support | 5.14 | 5.23 |
| Procedures for Document Signature; Orders After Hearing and Trial | 5.15 | 5.9 |
| Family Law Discovery Motions | 5.16 | 5.17 |
| Status Conferences and Status Conference Reports | 5.17 | 5.10 |
| Settlement Conferences | 5.18 | 5.16 |
| Trial Matters | N/A (See 5.19) | 5.14 |
| Trial Procedure | N/A (See 5.19) | 5.15 |
| Family Law Trial Matters and Procedure | 5.19 | 5.19 |
| Default or Uncontested Judgment of Dissolution or Legal Separation by Affidavit or Declaration under Family Code Section 2336 | 5.20 | 5.12 |
| Default or Uncontested Judgments of Dissolution, Legal Separation or Nullity by Appearance | 5.21 | 5.13 |
| Contents of Judgment | 5.22 | 5.25 |
| Fee Waivers at Time of Judgment | 5.23 | 5.27 |
| Contempt | 5.24 | 5.22 |
| Attorney Fees, Costs and Sanctions | 5.25 | 5.26 |
| Forms Lists | 5.26 | 5.28 |
| Family Law Facilitator's Duties | 5.27 | N/A |

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## APPENDIX 5-A-4: FAMILY LAW RULES REVERSE CONVERSION TABLE

Effective January 1, 2008; Amended Effective July 1, 2009

| ***Rule Title*** | ***Former Rule Number*** | ***New Rule Number*** |
|---|---|---|
| Scope of Rule 5; Applicability to Parties and Counsel | 5.1 | 5.1 |
| Direct Calendaring | 5.2 | 5.2 |
| Filing and Service of Summons, Petition, Moving and Responsive Pleadings | 5.3 | 5.4 |
| Proof of Service | 5.4 | 5.5 |
| Use and Completeness of Judicial Council and Solano County Forms | 5.5 | 5.3 |
| Declarations | 5.6 | 5.6 |
| Ex Parte Application for Order; Orders Shortening and Extending Time | 5.7 | 5.7 |
| Special Procedures for Ex Parte Applications for Orders and Ex Parte Applications for Injunctive Relief Pertaining to Domestic Violence | 5.8 | 5.8 |
| Procedures for Document Signature; Orders After Hearing and Trial | 5.9 | 5.15 |
| Status Conferences and Status Conference Reports | 5.10 | 5.17 |
| Law and Motion Calendar | 5.11 | 5.9 |
| Default or Uncontested Judgment of Dissolution or Legal Separation by Affidavit or Declaration under Family Code Section 2336 | 5.12 | 5.20 |
| Default or Uncontested Judgments of Dissolution, Legal Separation or Nullity by Appearance | 5.13 | 5.21 |
| Trial Matters | 5.14 | N/A (See 5.19) |
| Trial Procedure | 5.15 | N/A (See 5.19) |
| Settlement Conferences | 5.16 | 5.18 |
| Family Law Discovery Motions | 5.17 | 5.16 |
| Law and Motion Procedure | 5.18 | 5.10 |
| Family Law Trial Matters and Procedure | 5.19 | 5.19 |
| Mediation – Child Custody and Visitation | 5.20 | 5.11 |
| Child Custody and Visitation Evaluation or Investigation | 5.21 | 5.12 |
| Contempt | 5.22 | 5.24 |
| Calculation of Child Support and Temporary Spousal or Partner Support | 5.23 | 5.14 |
| Children and the Court; Minor's Counsel | 5.24 | 5.13 |
| Contents of Judgment | 5.25 | 5.22 |
| Attorney Fees, Costs and Sanctions | 5.26 | 5.25 |
| Fee Waivers at Time of Judgment | 5.27 | 5.23 |
| Forms Lists | 5.28 | 5.26 |
| Family Law Facilitator's Duties | N/A | 5.27 |

**Superior Court of California**
**County of Solano**

**Rule 6 – ~~Rules Applicable to~~ Juvenile Proceedings**

**PART ONE: Rules for Juvenile Court in General**

## 6.1 ~~RULES RELATING TO JUVENILE COURT IN GENERAL~~

## ~~6.1.1~~ ADOPTION, CONSTRUCTION AND AMENDMENT OF RULES AND STANDING ORDERS

a. ~~(a)~~ **APPLICABILITY OF RULES**

Unless otherwise stated in a particular rule, Rule 6 shall apply to all matters heard pursuant to Welfare and Institutions Code sections 300, 601, or 602. ~~These rules shall be known and cited as the "Local Rules for the Juvenile Court of Solano County."~~

*(Subd (a) amended effective January 1, 2010~~July 1, 2008~~; adopted effective August 1, 2002; previously amended effective August 3, 2007; previously amended effective July 1, 2008.)*

~~**(b)** These rules shall supplement state statutes and rules pertaining to Juvenile Court which are found primarily in the Welfare and Institutions Code and the California Rules of Court relating to Juvenile Court matters. These rules shall be construed and applied so as not to conflict with such statutes or rules. To the extent that any of these rules conflict with state statute or Rules of Court, the local rule is of no legal effect.~~

~~*(Subd (b) adopted effective August 1, 2002.)*~~

b. ~~(c)~~ **STANDING ORDERS**

The Presiding Judge of the Juvenile Division ~~Juvenile Court Judge~~ may issue such standing orders for the administration of the Juvenile Court, as the c~~C~~ourt deems appropriate. The c~~C~~ourt may issue new or amended standing orders ~~Standing Orders~~ by filing the same with the clerk of the court ~~Clerk of the Juvenile Court~~ and posting the order for a period of thirty (30) days outside of the juvenile courtrooms and the clerk's office.

*(Subd (b)~~(c)~~ amended and relettered effective January 1, 2010; ~~amended effective July 1, 2008;~~ adopted as subdivision (c) of Rule 6.1.1 effective August 1, 2002; previously amended effective July 1, 2008.)*

*(Rule 6.1 amended and renumbered effective January 1, 2010; ~~6.1.1 amended effective July 1, 2008;~~ adopted as Rule 6.1.1 effective August 1, 2002; previously amended effective July 1, 2008.)*

## 6.2~~6.1.2~~ JUVENILE CALENDAR

**Superior Court of California**
**County of Solano**

**Rule 6 – ~~Rules Applicable to~~ Juvenile Proceedings**

**PART ONE: Rules for Juvenile Court in General**

~~(a)~~ All j~~J~~uvenile ~~Calendar~~ matters will be heard by the Juvenile Court on such days and such times as scheduled or approved by the Juvenile Presiding Judge.

~~*(Subd (a) amended effective July 1, 2008; adopted effective August 1, 2002.)*~~

~~*(RULE 6.1.2 AMENDED EFFECTIVE JULY 1, 2008; ADOPTED EFFECTIVE AUGUST 1, 2002.)*~~

*(Rule 6.2 amended and renumbered effective January 1, 2010; adopted as Rule 6.1.2 effective August 1, 2002; previously amended effective July 1, 2008.)*

**6.3~~6.1.3~~ ACCESS TO COURTROOM BY NON-PARTIES**

Unless specifically permitted by statute, Juvenile Court proceedings are confidential and shall not be open to the general public. The c~~C~~ourt encourages interested persons including trainees and students to attend juvenile proceedings in order to better understand the workings of the Juvenile Court. The c~~C~~ourt retains the discretion to determine in each case whether any such interested party shall remain in the courtroom.

*(Rule 6.3 amended and renumbered effective January 1, 2010; adopted as Rule 6.1.3 ~~adopted~~ effective August 1, 2002.)*

**6.4~~6.1.4~~ CONFIDENTIALITY**

All participants or permitted observers in Juvenile Court proceedings shall maintain the confidentiality of Juvenile Court documents and proceedings. Juvenile records may not be copied or disseminated outside of the juvenile proceedings without a c~~C~~ourt order. An intentional violation of these confidentiality provisions is a misdemeanor punishable by fine, imprisonment or both, and/or punishable as a contempt of court. [W&I § 827(b)(2)]

*(Rule 6.4 amended and renumbered effective January 1, 2010; adopted as Rule 6.1.4 effective August 1, 2002; previously amended ~~6.1.4 amended~~ effective July 1, 2008.)~~; adopted effective August 1, 2002.)~~*

**6.5~~6.1.5~~ RELEASE OF INFORMATION RELATING TO JUVENILES**

a. ~~(a)~~ **DISCOVERY OF JUVENILE RECORDS**~~.~~

Except as indicated within this rule, in all cases in which a person or agency seeks access to Juvenile Court r~~R~~ecords, including records maintained by the Juvenile Court Clerk, the Probation Department, or the Health and Social Services

**Superior Court of California**
**County of Solano**

**Rule 6 – ~~Rules Applicable to~~ Juvenile Proceedings**

**PART ONE: Rules for Juvenile Court in General**

Department – Child Welfare Services Division, the person or agency shall file a Petition for Disclosure (Judicial Council f~~F~~orm JV-570) [W&I § 827(a)(2)(A)~~(b)(2)~~] with the Presiding Judge or a judicial officer of the Juvenile Court. The p~~P~~etition shall set forth with specificity the materials sought and the relevance of the materials to the underlying action. The p~~P~~etition shall be supported by a declaration which specifies the information or documents sought, the purpose for which the documents or information is sought, the relevance of the documents or information to the purpose for which they are sought, and, if necessary, a memorandum of points and authorities. The Juvenile Court Clerk shall not accept facsimile copies of Section 827 petitions for filing. This section does not apply to those persons and agencies designated by Welfare and Institutions Code section 827(a) or any party authorized to obtain records by a standing order issued by this court.
*(Subd (a) amended and subd (1) through (3) deleted effective January 1, 2010; ~~July 1, 2008;~~ adopted effective August 1, 2002; previously amended effective July 1, 2008.)*

~~(1) In all cases in which a person or agency seeks records held by law enforcement, including police reports regarding children who are not the subject of Juvenile Court proceedings, the person or agency may file a request pursuant to the Police Report Request Form (Judicial Council form JV-575).~~
~~*(Subd (1) amended and renumbered effective July 1, 2008; adopted as Subd (b) effective August 1, 2002.)*~~

~~(2) The person or agency seeking the records shall give notice to all necessary parties. If no opposition or request for hearing is filed by any party within five judicial days of service of the notice, the Court may review the records and either issue a ruling without hearing or schedule a hearing. This period shall be extended by five days if service is by mail.~~
~~*(Subd (2) amended and renumbered effective July 1, 2008; adopted as Subd (c) effective August 1, 2002.)*~~

~~(3) This section does not apply to those persons and agencies designated by Welfare and Institutions Code Section 827(a) or any party authorized to obtain records by a standing order issued by this Court.~~
~~*(Subd (3) amended and renumbered effective July 1, 2008; adopted as Subd (e) effective August 1, 2002.)*~~

b. ~~(b)~~ **RELEASE OF RECORDS TO PARTIES AND THEIR ATTORNEYS~~.~~**
Any party, their attorney, or authorized agent in any Welfare and Institutions Code 300, 601 or 602 matter shall be given access to all records relating to the child which are held by the Clerk of the Court unless otherwise specifically ordered by the c~~C~~ourt. The party or counsel shall also have the right to secure copies of such records. The party or counsel shall be responsible for the cost of any copying.

~~The party, counsel or authorized agent shall fill out and present an Application regarding the request for records. A copy of the Application shall be filed in the Court file.~~

Any person requesting records shall complete the form adopted or approved by the court for this purpose. A copy of the request shall be filed in the court file. ~~the Application for Juvenile Court Records. (Appendix C)~~
*(Subd (b) amended effective January 1, 2010; ~~amended and relettered effective July 1, 2008;~~ adopted as Subd (f) effective August 1, 2002; previously amended and relettered effective July 1, 2008.)*

c. ~~(c)~~ **RELEASE OF COURT REPORTS TO COURT-APPROVED MENTAL HEALTH EVALUATORS~~.~~**
Where the c~~C~~ourt has ordered a mental health or psychological evaluation of a minor, the c~~C~~ourt approved evaluator shall be given access to the c~~C~~ourt's file, unless the c~~C~~ourt makes a specific order to the contrary in the referral.
*(Subd (c) amended and relettered effective July 1, 2008; adopted as Subd (g) effective August 1, 2002.)*

*(Rule 6.5 amended and renumbered effective January 1, 2010; ~~6.1.5 amended effective July 1, 2008;~~ adopted as Rule 6.1.5 effective August 1, 2002; previously amended effective July 1, 2008.)*

**6.6~~6.1.6~~ DISCOVERY**

a. **INFORMAL DISCOVERY**
Discovery shall be conducted informally. Except as protected by privilege, all relevant material shall be disclosed in a timely fashion to all parties to the litigation.
*(Subd (a) adopted effective August 1, 2002.)*

b. **FORMAL DISCOVERY**

If all informal means of discovery have been exhausted, a party may petition the c~~C~~ourt for discovery. Any noticed motion shall state the relevancy and materiality of the information sought and the reasons why informal discovery was not adequate to secure that information. The motion shall be served on all parties at least five (5) court~~judicial~~ days before the hearing date. The date for the hearing shall be obtained from the Juvenile Court clerk. A copy shall be served on the c~~C~~ourt before whom the matter is scheduled to be heard. Any responsive papers shall be filed and served in like manner two (2) court~~judicial~~ days prior to the hearing.
*(Subd (b) amended effective January 1, 2010; adopted effective August 1, 2002.)*

*(Rule 6.6 amended and renumbered effective January 1, 2010; ~~6.1.6 renumbered effective July 1, 2008;~~ adopted as Rule 6.1.7 effective August 1, 2002; renumbered as Rule 6.1.6 effective July 1, 2008.) ~~former Rule 6.1.6, concerning destruction of records, repealed effective July 1, 2008.)~~*

## 6.7~~6.1.7~~ PETITIONS, PLEADINGS & MOTIONS

a. **FORMAT OF PETITIONS, PLEADINGS AND MOTIONS**
All petitions, pleadings and motions filed with the Juvenile Court must be in a format approved by the c~~C~~ourt. All petitions, pleadings and motions must be reviewed and signed by the attorney of record for the party where the party is represented by counsel. Counsel are responsible for ensuring the legal sufficiency of the document and compliance with procedural requirements.
*(Subd (a) relettered effective January 1, 2010; adopted as unlettered portion of Rule 6.1.8 effective August 1, 2002; former subd (a) repealed effective January 1, 2010.)*

~~**(a) Mandatory Judicial Council Forms.**~~
~~The Superior Court supports and encourages the use of the mandatory Judicial Council forms wherever possible.~~
~~*(Subd (a) amended effective July 1, 2008; adopted effective August 1, 2002.)*~~

b.~~(b)~~ **EX PARTE APPLICATIONS~~.~~**
All ex parte applications shall be in writing and the party making the applications shall provide notice to all counsel at least one court day prior to the hearing. ~~twenty-four hours prior tall counsel.~~
*(Subd (b) amended effective January 1, 2010~~and relettered effective July 1, 2008~~; adopted as subd (e) effective August 1, 2002; amended and relettered effective July 1, 2008.)*

c. ~~(c)~~ **NOTICES OF UNAVAILABILITY~~.~~**
The court shall not accept for filing a "Notice of Unavailability of Counsel" or other document or pleading whose sole purpose is to advise the court and/or other parties of an attorney's or party's unavailability. *Carl v. Superior Court of Orange County* (2007) 157 Cal.App.4th 73.
*(Subd (c) adopted effective January 1, 2009.)*

*(Rule 6.7 amended and renumbered effective January 1, 2010; ~~6.1.7 amended effective January 1, 2009; previously amended and renumbered effective July 1, 2008;~~ adopted as Rule 6.1.8 effective August 1, 2002; previously amended and renumbered as Rule 6.1.7 effective July 1, 2008; previously amended effective January 1, 2009.)*

~~**6.1.8 ATTENDANCE AT HEARINGS**~~

~~Unless excused by the Court, each party and attorney shall attend each scheduled Juvenile Court hearing. [CRC 5.530]~~

~~*(Rule 6.1.8 renumbered effective July 1, 2008; adopted as Rule 6.1.9 effective August 1, 2002.)*~~

~~**6.1.9 RETURN ON BENCH WARRANT**~~

~~With a minimum of two court days notice to the Juvenile Court, the District Attorney and Probation, counsel for juveniles in Welfare and Institutions Code section 602 proceedings may schedule a return on warrant hearing. If the minor fails to appear at the Return on Bench Warrant hearing, counsel for the juvenile will need permission to re-calendar the matter from the Juvenile Court Judge or their designated staff.~~

~~*(Rule 6.1.9 adopted effective July 1, 2008.)*~~

**6.8~~6.1.10~~ REQUEST FOR TRANSCRIPTS BY NON-PARTY**

~~A party requesting a reporter's transcript of a juvenile proceeding which is not the subject of a writ of mandate or appeal shall apply in writing to the judicial officer who heard the matter in question.~~ Any non-party requesting a reporter's transcript of a juvenile proceeding must file a Petition for Disclosure (Judicial Council f~~F~~orm no. 570).

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*(Rule 6.8 amended and renumbered effective January 1, 2010; ~~6.1.10 renumbered effective July 1, 2008;~~ adopted as Rule 6.1.11 effective August 1, 2002; previously renumbered as Rule 6.1.10 effective July 1, 2008.) ~~former Rule 6.1.10, concerning walk in arraignments, repealed effective July 1, 2008.)~~*

## 6.9~~6.1.11~~ WELFARE AND INSTITUTIONS CODE SECTION 241.1 ASSESSMENTS

Any party requesting a Welfare and Institutions Code section ~~§~~ 241.1 hearing may submit a written declaration providing specific facts supporting the party's assertion that the minor comes within the description of a person subject to both Welfare & Institutions Code section 300 and either Section 601 or 602. ~~upon which the party asserts that the minor is a person described under Welfare and Institutions Code § 300.~~ The Probation Department and Child Welfare Services shall prepare an assessment report in accordance with the protocol established by Welfare and Institutions Code section 241.1, subdivision (b). The report shall provide the sources of the factual information upon which the recommendations of the respective departments are based.

*(Rule 6.9 amended and renumbered effective January 1, 2010; ~~6.1.11 amended and renumbered effective July 1, 2008;~~ adopted as Rule 6.1.15 effective August 1, 2002; previously amended and renumbered as Rule 6.1.11 effective July 1, 2008.)*

## 6.10 MOTION TO CHALLENGE LEGAL SUFFICIENCY OF PETITION

a. **TIMING OF THE MOTION**

A motion to challenge the legal sufficiency of the petition may be made orally or in writing at the initial/detention hearing, or at the jurisdictional hearing. A party may object on the ground that the petition alleges facts which, even if determined to be true, either are not sufficient to state a cause of action, or are not stated with sufficient clarity and precision to enable the party to determine what must be defended against. The court may entertain the objection by oral argument when made, or may set it for further hearing. No objection in the nature of a special demurrer to particular allegation shall lie to challenge only certain paragraphs under a particular subdivision of Welfare & Institutions Code section 300 (i.e. a party must challenge all allegations under Section 300(b), not merely certain allegations.)

*(Subd (a) amended effective January 1, 2010; previously adopted as Subd (a) of Rule 6.2.5 effective August 1, 2002.)*

b. **HEARING ON MOTION; MEMORANDA OF POINTS AND AUTHORITIES**

If the court sets a hearing on the objection, counsel for the objecting party may file a supporting memorandum of points and authorities. To be considered timely, the memorandum must be filed at least 48 hours before the hearing in the department where the hearing is scheduled. The petitioner may file a memorandum of points and authorities in opposition to the objection. To be considered timely, the memorandum in opposition must be filed by 8:30 a.m. on the day of the hearing, in the department where the matter is set for hearing. All memoranda of points and authorities, whether in support of or in opposition to the objection, must be served on all other counsel and the petitioner via facsimile or personal service.
*(Subd (b) amended effective January 1, 2010; previously adopted as Subd (b) of Rule 6.2.5 effective July 1, 2008.)*

c. **AMENDING THE PETITION**
Petitioner may not amend the petition without leave of court once a written objection to the sufficiency of the petition has been filed.
*(Subd (c) amended effective January 1, 2010; previously adopted as Subd (c) of Rule 6.2.5 effective July 1, 2008.)*

d. **OBJECTION OVERRULED**
If an objection to the sufficiency of a petition is overruled and no admission or denial has been entered, the Court shall allow the admission or denial to be entered at the conclusion of the hearing, or upon such terms as may be just.
*(Subd (d) amended effective January 1, 2010; previously adopted as Subd (d) of Rule 6.2.5 effective July 1, 2008.)*

e. **OBJECTION SUSTAINED**
If the Court sustains the objection to the sufficiency of a petition, the Court may grant leave to amend the petition upon any terms as may be just and shall fix the time within which the amended petition shall be filed. During the time that the petition is being amended, the minor may continue to be detained if the Court finds that a prima facie case for detention exists.
*(Subd (e) amended effective January 1, 2010; adopted as unlettered portion of Rule 6.2.8 effective August 1, 2002; amended and relettered as Subd (e) effective July 1, 2008.)*

*(Rule 6.10 adopted effective January 1, 2010; adopted as Rule 6.2.8 effective August 1, 2002; previously amended and renumbered as Rule 6.2.5 effective July 1, 2008.)*

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**~~6.1.14 TRIAL MANAGEMENT CONFERENCES [REPEALED]~~**

*~~(Rule 6.1.14 repealed effective July 1, 2008; adopted effective August 1, 2002.)~~*

**6.11 – 6.29 [RESERVED]**

**~~6.2 RULES RELATING TO DEPENDENCY~~**

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**PART TWO: Juvenile Dependency**

## 6.30~~6.2.1~~ APPOINTED COUNSEL IN DEPENDENCY PROCEEDINGS ~~GENERAL COMPETENCY REQUIREMENTS -- DEPENDENCY PROCEEDINGS~~

a. **MINIMUM STANDARDS OF COMPETENCE**

All attorneys seeking appointment in juvenile dependency proceedings must meet the minimum standards of competence set forth in California Rules of Court, rule 5.660(d).

*(Subd (a) amended and relettered effective January 1, 2010; adopted as unlettered portion of Rule 6.2.1 effective August 1, 2002.)*

b. **INITIAL APPLICATION TO PRACTICE IN THE JUVENILE COURT**

An attorney seeking to practice before the Juvenile Court in dependency matters shall submit an *Application to Practice* (Solano County Local Form no. XXX) to the Presiding Judge of the Juvenile Court.

*(Subd (b) adopted effective January 1, 2010.)*

c. ~~(a)~~ **RENEWAL APPLICATION TO PRACTICE IN THE JUVENILE COURT**

A *R~~r~~enewal Application to Practice* (Solano County Local Form no. XXX) ~~(Appendix 6-B-2)~~ before the Juvenile Court must be submitted to the court by January 30 in the year ~~during January of the year~~ immediately following the two (2) year anniversary of the submission of the original *Application to Practice.* Those attorneys who submitted their original application in January shall file their renewal application by January 30 of the second year following the submission of the original Application to Practice. ~~at or near the two-year anniversary date.~~ The attorney shall attach to the renewal application evidence that he or she completed at least eight (8) ~~twelve (12)~~ hours of continuing training or education directly related to dependency proceedings since the last application. This evidence may include a~~A~~ certificate of attendance at MCLE training, professional organization training (along with a copy of the program schedule) and/or attendance at court-sponsored or approved training. ~~will also fulfill this requirement.~~

Failure to supply proof of completion of continuing education or training by the due date will cause the court to notify the attorney that his or her right to be appointed in dependency proceedings will be revoked. The attorney shall have thirty (30) days from mailing of notice to submit proof of completion of the required education or training. If the attorney fails to submit such proof, the court will not recommend further appointments until such time as the requisite proof is provided.

*(Subd (a) amended and relettered effective July 1, 2008; adopted as Subd (c) effective August 1, 2002.)*

*(Rule 6.30 amended and renumbered effective January 1, 2010;~~6.2.1 amended effective July 1, 2008;~~ adopted as Rule 6.2.1 effective August 1, 2002; previously amended effective July 1, 2008.)*

**6.31~~6.2.2~~ APPOINTMENT OF PRIVATE COUNSEL IN DEPENDENCY PROCEEDINGS~~DEPENDENCY APPOINTMENTS~~**

a. ~~(a)~~ **ELIGIBILITY FOR APPOINTMENT**
The c~~C~~ourt will appoint only counsel who has submitted the application required by these rules and have been certified by the c~~C~~ourt to represent parents or children in the dependency court.
*(Subd (a) amended effective July 1, 2008; adopted effective August 1, 2002)*

b. ~~(b)~~ **NOTIFICATION OF APPOINTMENT**
Notification of appointment may be communicated by phone call and confirmed by appropriate written order or minute order.
*(Subd (b) amended effective July 1, 2008; adopted effective August 1, 2002.)*

c. ~~(c)~~ **COMPENSATION**
Billing shall be forwarded to the c~~C~~ourt on appropriate forms with documentation for approval. ~~(Effective August 1, 2002.)~~
*(Subd (c) adopted effective August 1, 2002.)*

*(Rule 6.31 renumbered effective January 1, 2010; ~~6.2.2 amended effective July 1, 2008;~~ adopted as Rule 6.2.2 effective August 1, 2002; previously amended effective July 1, 2008..)*

**6.32~~6.2.3~~ PROCEDURES FOR REVIEWING AND RESOLVING COMPLAINTS REGARDING REPRESENTATION IN DEPENDENCY PROCEEDINGS**

a. ~~(a)~~ **WHO MAY LODGE A COMPLAINT**
Any party to a Juvenile Court dependency proceeding may lodge a written complaint with the c~~C~~ourt concerning the performance of the party's ~~his or her~~ appointed attorney in that ~~a Juvenile Court~~ proceeding. In the case of a complaint

concerning the performance of an attorney appointed to represent a minor, the complaint may be lodged either by the minor or on the minor's~~child's~~ behalf by the social worker, a caretaker relative or a foster parent.
*(Subd (a) amended effective July 1, 2008; adopted effective August 1, 2002.)*

b. ~~(b)~~ **PROCEDURE**

(1) Upon receipt of a written complaint, the c~~C~~ourt shall notify the attorney in question of the complaint, shall provide the attorney with a copy of the complaint, and shall give the attorney fifteen days from the date of the notice to respond to the complaint in writing.
*(Subd (1) renumbered effective January 1, 2010; adopted as portion of Subd (b) effective August 1, 2002.)*

(2)~~(c)~~ After a response has been filed by the attorney or the time for the submission of a response has passed, the c~~C~~ourt shall review the complaint and the response, if any, to determine whether the attorney acted contrary to local rules or policies or has acted incompetently. The c~~C~~ourt may ask the complainant or the attorney for additional information prior to making a determination on the complaint.
*(Subd (2) renumbered effective January 1, 2010; adopted as Subd (c) effective August 1, 2002.)*

(3)~~(d)~~ If, after reviewing the complaint, the response, and any additional information, the c~~C~~ourt, either in writing or at oral hearing, finds that the attorney acted contrary to the rules or policies of the c~~C~~ourt or incompetently, the c~~C~~ourt shall take appropriate action.
*(Subd (3) renumbered effective January 1, 2010; adopted as Subd (d) effective August 1, 2002.)*

(4)~~(e)~~ The c~~C~~ourt shall notify the attorney and complaining party either in writing or by oral ruling at a closed hearing of its determination of the complaint. The c~~C~~ourt's determination will be final.
*(Subd (4) renumbered effective January 1, 2010; adopted as Subd (e) effective August 1, 2002.)*

*(Subd (b) amended effective January 1, 2010; adopted effective August 1, 2002.)*

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*(Rule 6.32 amended and renumbered effective January 1, 2010; ~~6.2.3 amended and renumbered effective July 1, 2008;~~ adopted as Rule 6.2.4 effective August 1, 2002; amended and renumbered as Rule 6.2.3 effective July 1, 2008.)~~;~~ ~~former Rule 6.2.3, concerning standards of representation in dependency proceedings, repealed effective July 1, 2008.)~~*

**6.33~~6.2.4~~ PROCEDURES FOR INFORMING THE COURT OF THE INTERESTS OF A DEPENDENT CHILD [CRC 5.660]**

a. ~~(a)~~ **NOTIFICATION TO THE COURT**

At any time during the pendency of a dependency proceeding, any interested person may notify the c~~C~~ourt that the minor who is the subject of the proceeding may have an interest or right which needs to be protected or pursued in another judicial or administrative forum. Notice to the court may be given by the filing of filing a verified petition or notice of motion specifying the right or interest to be protected. The person giving notice shall set forth the nature of the interests 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 or the proceedings being contemplated or conducted there. *(Subd (a) amended effective January 1, 2010; adopted effective August 1, 2002.)*

~~(b) Notice to the Court may be given by the filing of judicial council form JV-180 or by the filing of a declaration. The person giving notice shall set forth the nature of the interests 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 or the proceedings being contemplated or conducted there.~~

b. ~~(c)~~ If the c~~C~~ourt determines that further action on behalf of the child is required, the c~~C~~ourt shall do one or more of the following:

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

(2) Appoint an attorney for the child if the child is unrepresented;

(3) Notice a joinder hearing pursuant to Section 362(a) compelling the responsible agency to report to the c~~C~~ourt with respect to whether it has carried out its statutory duties with respect to the child;

~~*(Subd (3) amended effective July 1, 2008; adopted effective August 1, 2002.)*~~

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

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

*(Subd (b) amended and relettered effective January 1, 2010; adopted as Subc (c) effective August 1, 2002.)*

*(Rule 6.33 amended and renumbered effective January 1, 2010; ~~6.2.4 amended and renumbered effective July 1, 2008;~~ adopted as Rule 6.2.5 effective August 1, 2002; amended and renumbered as Rule 6.2.4 effective July 1, 2008.)*

## 6.34~~6.2.5~~ MOTION TO CHALLENGE LEGAL SUFFICIENCY OF PETITION

a. ~~(a)~~ **TIMING OF MOTION**

A motion to challenge the legal sufficiency of the petition may be made orally or in writing at the initial/detention hearing, or at the jurisdictional hearing. A party may object on the ground that the petition alleges facts which, even if determined to be true, either are not sufficient to state a cause of action, or are not stated with sufficient clarity and precision to enable the party to determine what must be defended against. The c~~C~~ourt may entertain the objection by oral argument when made, or may set it for further hearing. No objection in the nature of a special demurrer to particular allegation shall lie to challenge only certain paragraphs under a particular subdivision of Welfare and Institutions Code section~~WIC §~~ 300 (i.e. a party must challenge all allegations under Section ~~WIC~~ §300(b), not merely certain allegations.)

*(Subd (a) amended effective January 1, 2010~~July 1, 2008~~; adopted effective August 1, 2002; previously amended effective July 1, 2008.)*

b. ~~(b)~~ **MEMORANDUM OF POINTS AND AUTHORITIES**

If the c~~C~~ourt sets a hearing on the objection, counsel for the moving party may file a supporting memorandum of points and authorities. To be considered timely, the memorandum must be filed at least 48 hours before the hearing in the department where the hearing is scheduled. Petitioner may file a memorandum of points and authorities in opposition to the objection. To be considered timely, the

memorandum in opposition must be filed by 9 a.m. on the day of the hearing, in the department where the matter is set for hearing. All memoranda of points and authorities, whether in support of or in opposition to the objection, must be served on all other counsel and the petitioner via facsimile.
*(Subd (b) adopted effective July 1, 2008.)*

c. ~~(c)~~ **AMENDING THE PETITION**
Petitioner may not amend the petition without leave of court once a written objection to the sufficiency of the petition has been filed.
*(Subd (c) adopted effective July 1, 2008.)*

d. ~~(d)~~ **OBJECTION TO SUFFICIENCY OF PETITION OVERRULED**
If ~~When~~ an objection to the sufficiency of a petition is overruled and no admission or denial ~~plea~~ has been entered, the c~~C~~ourt shall allow the admission or denial ~~plea~~ to be entered at the conclusion of the hearing, or upon such terms as may be just.
*(Subd (d) adopted effective July 1, 2008.)*

e. ~~(e)~~ **OBJECTION TO SUFFICIENCY OF PETITION SUSTAINED**
If the c~~C~~ourt sustains the objection to the sufficiency of a petition, the c~~C~~ourt may grant leave to amend the petition upon any terms as may be just and shall fix the time within which the amended petition shall be filed. During the time that the petition is being amended, the minor may continue to be detained if the c~~C~~ourt finds that a prima facie case for detention exists.
*(Subd (e) amended and relettered effective July 1, 2008; adopted as unlettered portion of Rule 6.2.8 effective August 1, 2002.)*

*(Rule 6.34 ~~6.2.5~~ amended and renumbered effective January 1, 2010~~July 1, 2008~~; adopted as Rule 6.2.8 effective August 1, 2002; previously amended and renumbered as Rule 6.2.5 effective July 1, 2008.)*

## 6.35 ~~6.2.6~~ ACCESS TO MINORS

a. ~~(a)~~ **ACCESS TO MINORS PETITIONED PURSUANT TO W& I 300~~.~~**
No party or attorney in a dependency proceeding shall interview the minor about the events relating to the allegations in the petition(s) on file without permission of the minor's attorney or c~~C~~ourt order. No party or attorney in a dependency proceeding shall cause the minor to undergo physical, medical or mental health

examination or evaluation without c~~C~~ourt approval. This rule does not apply to the investigating social worker prior to the establishment of jurisdiction.
*(Subd (a) amended and relettered effective July 1, 2008; adopted as subd (b) effective August 1, 2002.)*

b. ~~(b)~~ **INTERVIEWING MINORS WHO ARE ALLEGED VICTIMS OF CHILD SEXUAL ABUSE~~.~~**
In~~Within~~ all dependency matters where there are allegations of child sexual abuse, all participants and their counsel shall minimize the number of interviews they take of the minor relating to the events surrounding the alleged abuse.
*(Subd (b) amended and relettered effective July 1, 2008; adopted as Subd (c) effective August 1, 2002.)*

*(Rule 6.35 ~~6.2.6~~ amended and renumbered effective January 1, 2010~~July 1, 2008~~; adopted as Rule 6.2.10 effective August 1, 2002; previously amended and renumbered as Rule 6.2.6 effective July 1, 2008~~; former Rule 6.2.6, concerning dependency time lines, repealed effective July 1, 2008~~.)*

## 6.36 ~~6.2.7~~ MODIFICATIONS OF ORDERS

a. ~~(a)~~ **VACATIONS OUT OF SOLANO COUNTY~~.~~**
Permission for a dependent child's custodian to take the child out of Solano County for a vacation may be submitted directly to the Court for approval at least five court days prior to departure. Any attempts to notify the parents and the parents' position on the request shall be indicated in the application.
*(Subd (a) relettered effective July 1, 2008; adopted as Subd (e) effective August 1, 2002.)*

b. ~~(b)~~ **NEW SERVICE PLAN REQUIREMENTS~~.~~**
Any significant changes or additions to the service plan for parents or ~~/~~guardians shall be submitted to them for approval before implementation. A parent or guardian who disagrees with the new requirements may request a hearing with the Court on the matter.
*(Subd (b) amended effective January 1, 2010; ~~relettered effective July 1, 2008;~~ adopted as Subd (f) effective August 1, 2002; relettered effective July 1, 2008.)*

c. ~~(c)~~ **NOTICE RE CHANGE IN PLACEMENT~~.~~**
In order to ensure that proper notice is received by attorneys for parents and children of any change in a child's placement after the original dispositional hearing:

(1) In non-emergency situations, the Department shall give notice at least three (3) court ~~working~~ days prior to the change in placement.

(2) Prior to removal of a child from one county to another, the Department shall provide notice at least ten (10) court ~~working~~ days unless emergency circumstances prevent such notice. In emergency circumstances, the Department shall give notice immediately and in no case later than 48 hours (two court ~~working~~ days) following the child's change in placement. Notice may be given orally or in writing.

*(Subd (c) amended effective January 1, 2010; adopted as portion of Rule 6.2.11 effective August 1, 2002; previously amended effective July 1, 2008.)*

*(Rule 6.36 ~~6.2.7~~ amended and renumbered effective January 1, 2010 ~~July 1, 2008~~; adopted as Rule 6.2.11 effective August 1, 2002; amended and renumbered as Rule 6.2.7 effective July 1, 2008.) ~~former Rule 6.2.7, concerning de facto parents, relatives and interested persons, repealed effective July 1, 2008.)~~*

**6.37 ~~6.2.8~~ COURT APPOINTED SPECIAL ADVOCATE PROGRAM (CASA)**

The court ~~Solano County Superior Court~~ adopts by incorporation into these rules the requirements of Welfare and Institutions Code sections ~~§§~~ 100 *et seq.* and~~,~~ 356.5, ~~and~~ California Rules of Court, r~~R~~ule 5.655, and the Judicial Council Court-Appointed Special Advocate (CASA) Grant Program Guidelines, which implement the requirements of these statutory provisions. Any grant funds received under the CASA Grant Program shall be administered in accordance with the CASA Grant Program Guidelines.

*(Rule 6.37 amended and renumbered effective January 1, 2010; ~~6.2.8 renumbered effective July 1, 2008;~~ adopted as Rule 6.2.13 effective August 1, 2002; previously renumbered as Rule 6.2.8 effective July 1, 2008.)*

**6.38 – 6.59 [RESERVED]**

**~~6.2.9 PATERNITY FINDINGS [REPEALED]~~**

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~~*(Rule 6.2.9 repealed effective July 1, 2008; adopted effective August 1, 2002.)*~~

~~**6.2.12 EX PARTE APPLICATIONS FOR RESTRAINING ORDERS [REPEALED]**~~

~~*(Rule 6.2.12 repealed effective July 1, 2008; adopted effective August 1, 2002.)*~~

**PART THREE: Juvenile Delinquency**

## 6.60 ~~6.1.9~~ RETURN ON BENCH WARRANT

With a minimum of two court days notice to the Juvenile Court, the District Attorney and Probation, counsel for juveniles in Welfare and Institutions Code section 602 proceedings may schedule a return on warrant hearing. If the minor fails to appear at the Return on Bench Warrant hearing, counsel for the juvenile will need permission to re-calendar the matter from the Juvenile Court Judge or their designated staff.

*(Rule 6.60 renumbered effective January 1, 2010; adopted as Rule 6.1.9 effective July 1, 2008.)*

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**APPENDICES**

**APPENDIX A** **Standing Orders of the Juvenile Court**

A-1 Standing Order 2002-1 – Medical Authorization – Juvenile Hall

A-2 Standing Order 2002-2 – Community School Programs

A-3 Standing Order 2002-3 – Records – Family Law

A-4 Standing Order 2002-4 – Records – Multi-Disciplinary Teams

A-5 Standing Order 2002-5 – Release of Records, Absent Parents)

A-6 Standing Order 2002-6 – Release of Records – Guardianship Proceedings

A-7 Standing Order 2002-7 – Release of Records – Financial Hearing Officer

A-8 Standing Order 2002-8 – Release of Records – T.N.G. Order [Vacated effective January 1, 2010]

A-9 Standing Order 2002-9 – Release of Records – Foster Youth Services Program

A-10 Standing Order 2002-10 – Release of School Records – Probation

A-11 Standing Order 2002-11 – Toxicology Testing Authorization

A-12 Standing Order 2004-1 – Sealing File upon Successful Completion of Deferred Entry of Judgment

A-13 Standing Order 2004-2 – Notice of Change of Address DCSS

A-14 Standing Order 2005-1 – Release of Records – T.N.G. Order (as to 601 and 602 cases) [Vacated effective January 1, 2010]

A-15 Standing Order 2009-01 – NAME OF DOCUMENT

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**APPENDICES**

~~**APPENDIX B**~~ ~~**Certification to Practice in Dependency Court**~~

~~B-1 Application to Practice in Dependency Court and Certification of Competency~~

~~B-2 Renewal Application to Practice in Dependency Court And Certification of Competency~~

~~**APPENDIX C**~~ ~~**Application for Juvenile Court Records**~~

~~**APPENDIX D**~~ ~~**CASA**~~

~~D-1 Application and Order Re Appointment of Court Designated Child Advocate~~
~~*(Amended effective July 1, 2008; adopted effective August 1, 2002.)*~~

~~D-2 Court Designated Child Advocate Oath~~

~~D-3 Termination of Appointment of Court Designated Child Advocate~~
~~*(Amended effective July 1, 2008; adopted effective August 1, 2002.)*~~

~~**APPENDIX E**~~ ~~**Declaration Re Notice of Ex Parte Application**~~
~~**[Repealed effective July 1, 2008]**~~

~~**APPENDIX F**~~ ~~**DE FACTO PARENT -- Instructions for Application, Declaration and Order on De Facto Parent Standing (4 pages)**~~
~~**[Repealed effective July 1, 2008]**~~

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**Rule 7 – Probate**

**PART ONE: Probate Proceedings Other Than Trusts**

**NOTICE:**
**All rules concerning conservatorships and guardianships have been moved from Rule 7 to Rule 15. Therefore, Rules 7.51 through 7.82, all of which concerned guardianships and conservatorships, are repealed effective July 1, 2009.**

## 7.1 SCOPE OF PROBATE RULES

a. **MATTERS TO WHICH RULE 7 APPLIES**
Except as otherwise provided elsewhere in these rules,~~in an individual rule,~~ these probate rules apply to all matters governed by the Probate Code.
*(Subd (a) adopted effective July 1, 2009.)*

b. **MATTERS TO WHICH RULE 7 DOES NOT APPLY**
Except as otherwise provided elsewhere in these rules, Rule 7 does not apply to probate guardianships or probate conservatorships, which are ~~all~~ governed by Rule 15.
*(Subd (b) adopted effective July 1, 2009.)*

*(Rule 7.1 amended effective January 1, 2010; adopted effective July 1, 2009.)*

## 7.2 USE OF JUDICIAL COUNCIL FORMS; FORMAT OF PLEADINGS

a. **USE OF JUDICIAL COUNCIL FORMS**
Printed forms of petitions, orders and other documents which have been adopted or approved by the Judicial Council shall be used in all cases where applicable.
*(Subd (a) adopted effective July 1, 2009; previously adopted as unlettered portion of Rule 7.1 effective July 1, 1988.)*

b. **FORMAT OF PLEADINGS**
Petitions, orders and other documents for which there is no available form approved by the Judicial Council shall conform to the requirements of the California Rules of Court, rules 2.100-2.119.
*(Subd (b) adopted effective July 1, 2009; previously adopted as unlettered portion of Rule 7.1 effective July 1, 1988.)*

c. **NOTICES OF UNAVAILABILITY OF COUNSEL**
The court shall not accept for filing a "Notice of Unavailability of Counsel" or other document or pleading whose sole purpose is to advise the court and/or other parties of an attorney's or party's unavailability. *Carl v. Superior Court of Orange County* (2007) 157Cal.App.4th 73.
*(Subd (c) adopted effective July 1, 2009; previously adopted as unlettered portion of Rule 7.1 effective July 1, 1988.)*

*(Rule 7.2 amended and renumbered effective July 1, 2009; adopted as Rule 7.1 effective July 1, 1988; previously amended effective January 1, 2009.)*

## 7.3 SIGNATURES AND VERIFICATION OF PLEADINGS

Petitions, reports and accounts, as well as objections or responses to petitions, reports and accounts, shall be verified as required by Probate Code section 1020 et seq. The verification shall be included as part of the pleading at the time the pleading is filed. An unverified pleading set for hearing will be placed off-calendar or denied without prejudice.

*(Rule 7.3 amended and renumbered effective July 1, 2009; adopted as Rule 7.2 effective July 1, 1988; previously amended effective July 1, 1989; former Rule 7.3, which concerned titles of pleadings, repealed effective July 1, 2009.)*

## 7.4 BONDING OF PERSONAL REPRESENTATIVE

a. **INCREASES IN BONDS**
When a bond must be increased, the court will ordinarily require the filing of an additional bond rather than a substitute bond.

b. **DECREASES IN BONDS**
When the bond may be decreased, the court will ordinarily require an order decreasing the liability on the existing bond rather than the filing of a substitute bond. All petitions for reduction of bond must be filed and set for a noticed hearing. A petition to reduce bond shall not be granted ex parte.

*(Rule 7.4 amended and renumbered effective July 1, 2009; adopted as Rule 7.6 effective July 1, 1988; previously amended effective July 1, 1989; former Rule 7.4, which concerned copies of orders, repealed effective July 1, 2009.)*

## 7.5 DECLINATION OF NOMINATED EXECUTOR

If the person petitioning for letters is not the nominated executor in the decedent's will, it is insufficient to allege merely that the nominated executor declines to act as such. The petitioner must either (1) attach to the petition a written declination to act as executor, signed by the nominated executor, or (2) include in the petition sufficient facts demonstrating that the nominated executor should be held to have waived his or her right to appointment per Probate Code section 8001. Any such nominated executor must receive notice of the petition per Probate Code section 8110.

*(Rule 7.5 amended and renumbered effective July 1, 2009; adopted as Rule 7.7 effective July 1, 1988; former Rule 7.5, which concerned wills and codicils as amendments to the petition, repealed effective July 1, 2009.)*

## 7.6 NOTICES

Several Probate Code sections require the Clerk of the Court to "cause notice of the hearing to be mailed." The Clerk fulfills this function by requiring a party or a party's counsel to do the mailing. Therefore, the party or the party's counsel is charged with this duty.

*(Rule 7.6 amended and renumbered effective July 1, 2009; adopted as Rule 7.10 effective July 1, 1988; previously amended effective July 1, 1989.)*

## 7.7 NOTIFICATION TO COURT OF CONTINUANCES, DROPS OR STIPULATIONS

a. **DUTY TO NOTIFY DEPARTMENT**
When a probate matter is to be dropped, continued or stipulated to, counsel for the moving party shall promptly notify the department of the court to which the matter is assigned. No matter shall be continued unless the department of the court to which the matter is assigned approves of the continuance date. Any continuance requested within forty-eight (48) hours of the hearing date shall be directed to the department in which the hearing is scheduled for approval.
*(Subd (a) adopted effective July 1, 2009.)*

b. **CONTINUANCE OF HEARING AFTER ANNOUNCEMENT OF PREGRANT ORDER**
No probate matters will be continued after announcement of a pregrant thereon, except by order of the court for good cause.
*(Subd (b) adopted effective July 1, 2009.)*

*(Rule 7.7 adopted effective July 1, 2009.)*

## 7.8 PREGRANTS IN PROBATE MATTERS

a. **AVAILABILITY OF PREGRANT ORDERS**
~~On the afternoon of the court day before each calendar, the judges will cause to be recorded telephonically and posted to our web site~~ A~~a~~ pregrant order on a probate ~~each~~ matter ~~on the next day's calendar. The tentative rulings~~ will be available on the court day immediately preceding the scheduled hearing by telephoning a tape-recorded message at (707) 207-7331 or by signing onto the court's ~~our~~ web site at www.solano.courts.ca.gov ~~www.solanocourts.com~~ and clicking "Tentative Rulings" after 2:00 p.m. Thus, for example, for a matter on a Monday calendar, one may call the recorded message or check the court's ~~our~~ web site after 2:00 p.m. on the preceding Friday afternoon.~~, and so forth.~~
*(Subd (a) amended effective January 1, 2010; adopted effective July 1, 2009.)*

b. **PREGRANT ORDER AS THE ORDER OF THE COURT**
The pregrant order shall become the ruling of the court unless a party desiring to be heard so advises the judicial assistant of the department hearing the matter no later than 4:30 p.m. on the court day preceding the hearing, and further advises that such party has notified all interested parties of its intention to appear and argue.
*(Subd (b) adopted effective July 1, 2009.)*

*(Rule 7.8 amended effective January 1, 2010; adopted effective July 1, 2009; former Rule 7.8, which concerned filing fees, repealed effective July 1, 2009.)*

## 7.9 APPEARANCES AT HEARINGS

a. **HEARINGS WHERE APPEARANCE NOT REQUIRED**
Those matters which by law may be determined upon verification and without testimony shall be submitted for appropriate action by the court without appearance by counsel or witnesses, provided that counsel or the petitioning party accomplish both of the following:

(1) All declarations, affidavits, consents, waivers, proposed orders and other necessary papers shall be filed with the Clerk of the Court no later than four full court days prior to the hearing.

(2) The verified petition or an accompanying affidavit signed by the petitioner or by the personal representative or by counsel of record for either of said persons shall set forth the information necessary to establish the amount of bond, if one is required.

All probate matters shall be non-appearance except as stated in Solano County Local Rules, rule 7.9, subdivision (b), or where an appearance is required by the court.
*(Subd (a) amended effective July 1, 2009; adopted effective July 1, 1989; previously amended effective January 1, 2009.)*

b. **HEARINGS WHERE APPEARANCE IS REQUIRED**
Subdivision (a) shall not apply and personal appearance by the parties and/or counsel shall be required in the following cases:

(1) Contested matters.

(2) Proof of holographic wills, if the petitioner did not previously submit proof of the admissibility of each testamentary document to probate or if an appearance is specially required by the hearing judge.

(3) Petitions for court confirmation of sales of property.

(4) Any non-routine matter which by law requires the personal appearance of any person.
*(Subd (b) amended effective July 1, 2009; adopted effective July 1, 1989; previously amended effective January 1, 2009.)*

c. **TELEPHONIC APPEARANCE**
Telephonic appearance will be permitted when authorized by California Rule of Court, rule 3.670 and Solano County Local Rules, rule 4.12(h) ~~4.14(h)~~, if the party seeking to appear telephonically has also complied with the notice requirements set forth in those rules, and subject to the exceptions set forth in those rules and the court's discretion to require personal appearances.
*(Subd (c) amended effective January 1, 2010; amended and relettered effective July 1, 2009; adopted as subd (d) of Rule 7.11 effective July 1, 1989; previously amended effective January 1, 2009.)*

*(Rule 7.9 amended effective January 1, 2010; amended and renumbered effective July 1, 2009; adopted as Rule 7.11 effective July 1, 1989; previously amended effective January 1, 2009; former Rule 7.9, which concerned calendaring, repealed effective July 1, 2009.)*

## 7.10 EX PARTE APPLICATIONS

a. **NOTICE ON EX PARTE PETITIONS**

(1) Unless otherwise ordered by the court, a party seeking ex parte relief shall provide notice of the petition to all individuals entitled to notice of a petition by 10:00 a.m. on the court day prior to the ex parte appearance.

(2) All applications for ex parte orders must contain a statement on special notices. The statement shall recite that no request for special notice is on file and in effect or shall list the parties requesting special notice and have attached to the petition the specific waivers of notice by such parties or proof of service on parties requesting special notice.

*(Subd (a) adopted effective July 1, 2009; previously adopted as subd (c) of former Rule 7.11 effective July 1, 1989.)*

b. **WAIVER OF NOTICE**
A party seeking to dispense with notice for a particular individual for whom notice has not yet been waived shall file a request to dispense with notice concurrently with the ex parte petition. The request shall set forth sufficient evidentiary facts supporting the request. For individuals who cannot be located, the party shall file a declaration of due diligence in compliance with California Rules of Court, rule 7.52, prior to the ex parte appearance.
*(Subd (b) adopted effective July 1, 2009.)*

c. **EX PARTE PROCEDURE**

(1) Ex parte hearings are scheduled by each department individually. A party wishing to set an ex parte hearing shall contact the department to which the case is assigned by noon on the court day prior to the desired ex parte appearance. The moving papers and the proposed order shall be faxed to the department as directed by the judicial assistant.

(2) On the day of the ex parte appearance, the party seeking ex parte relief shall file the original petition or motion seeking ex parte relief with the Clerk of the Court and pay the applicable filing fees. The party shall provide a copy of the receipt showing the payment of fees to the court at the time of the ex parte appearance; otherwise, the hearing shall not take place.

*(Subd (c) adopted effective July 1, 2009.)*

*(Rule 7.10 adopted effective July 1, 2009.)*

## 7.11 APPOINTMENT OF SPECIAL ADMINISTRATOR

Except upon a showing of good cause for dispensing with notice, petitions for special letters of administration will not ordinarily be granted without the petitioning party giving notice in compliance with Probate Code section 8003 and 8110. Applications for special letters of administration may be requested ex parte, provided the application is prepared and submitted in compliance with Solano County Local Rules, rule 7.10, and California Rules of Court, rule 7.55.

*(Rule 7.11 amended and renumbered effective July 1, 2009; adopted as Rule 7.14 effective July 1, 1988; previously amended effective July 1, 1989.)*

## 7.12 INFORMATION TO BE CONTAINED IN PETITIONS FOR PROBATE OF WILL AND FOR LETTERS TESTAMENTARY; FOR LETTERS OF ADMINISTRATION; OR FOR LETTERS OF ADMINISTRATION WITH WILL ANNEXED (PROBATE CODE SECTION 8000 ET SEQ.)

a. **INFORMATION TO BE INCLUDED WITH THE PETITION**

Any petition for probate of a will and for letters testamentary, for letters of administration, or for letters of administration with will annexed shall contain the following information:

(1) If the heir is a minor, the heir's date of birth.

(2) The name of any and all nominated trustees of a trust created by the will.

(3) The name of any and all trustees and beneficiaries of an inter vivos trust created by the decedent and that is in existence at the time of the decedent's death.

(4) The name of any and all trustees of a special needs or other trust created to benefit the decedent and that is in existence at the time of the decedent's death.

*(Subd (a) adopted effective July 1, 2009.)*

b. **INFORMATION CONCERNING A DECEASED BENEFICIARY**

In addition to the information required in Rule 7.12(a), information concerning a deceased beneficiary shall be included in the petition as follows:

(1) If an heir or beneficiary dies before the decedent, that person should be listed with the notation that he or she is predeceased, and date of death. No notice need be given to the successors in interest of the predeceased person unless that person's interest has not lapsed by reason of death, in which case, notice should be given in the same manner as for the postdeceased heir or beneficiary.

(2) If an heir or beneficiary dies after the decedent, that person's name should be listed with the notation "deceased", and date of death. If a personal representative has been appointed, the postdeceased heir or beneficiary should be listed in care of the name and address of the personal representative. If no personal representative has been appointed, that fact should be alleged, and notice given to the last known address of the postdeceased heir or beneficiary.

(3) If a named beneficiary predeceased the decedent or did not survive the decedent for the designated survival period, that fact must be stated, together with the actual or approximate date of death.

*(Subd (b) adopted effective July 1, 2009.)*

*(Rule 7.12 amended and renumbered effective July 1, 2009; adopted as Rule 7.15 effective July 1, 1988; former Rule 7.12, which concerned short cause calendars, repealed effective July 1, 2009.)*

## 7.13 PREPARATION OF ORDERS

a. **PROPOSED ORDERS SUBMITTED PRIOR TO HEARING**
All probate orders in uncontested matters shall be prepared by the petitioner's attorney of record or the petitioner, if unrepresented, and shall be submitted at least four court days prior to the hearing.
*(Subd (a) adopted effective July 1, 2009.)*

b. **MATERIAL TO BE INCLUDED IN PROBATE ORDERS**
All orders or decrees in probate matters must be complete in and of themselves, so that their effect may be understood without reference to the underlying petition. The order or decree shall set forth all matters actually passed on by the court, the relief granted, and the names of persons and descriptions of property or amounts of money affected with the same particularity required of judgments in civil matters. The court will not approve orders or decrees that merely recite that the petition as presented is granted or incorporate by reference the relief sought in the petition. However, in orders settling accounts, the court will ordinarily approve general language approving the account, the report, and the acts reflected therein. With the exception of attached schedules, no written matter shall appear after the judicial officer's signature line.
*(Subd (b) adopted effective July 1, 2009; previously adopted as unlettered portion of Rule 7.19 effective July 1, 1988.)*

*(Rule 7.13 amended and renumbered effective July 1, 2009; adopted as Rule 7.18 effective July 1, 1988; former Rule 7.13, which concerned long cause calendars, repealed effective July 1, 2009.)*

## 7.14 INTEREST ON FUNERAL AND INTERNMENT CLAIMS

When accrued interest has been paid on delayed payment of claims for the reasonable costs of funeral expenses, a specific allegation must be made in the report accompanying the account in which credit has been taken for such payment, setting forth reasons for any delay in payment. The court will not allow credit for payment of interest when the delay in payment of the claims is not justified by the facts set forth. Interest for funeral and internment claims will be allowed only as provided by Health and Safety Code section 7101.

*(Rule 7.14 amended and renumbered effective July 1, 2009; adopted as Rule 7.21 effective July 1, 1988.)*

## 7.15 REAL ESTATE IN INVENTORY AND APPRAISAL

If a decedent's estate contains real property, the inventory and appraisal shall identify that property by its address and shall include a legal description of the property. If the parcel is unimproved, the inventory must so state.

*(Rule 7.15 amended and renumbered effective July 1, 2009; adopted as Rule 7.23 effective July 1, 1988; amended effective July 1, 1989.)*

## 7.16 CASH DEPOSIT

A minimum cash deposit of ten percent (10%) of the purchase price (unless the loan proceeds exceed 90% of the purchase price), shall be deposited in escrow ten days prior to the confirmation of sale hearing date, and written verification of said deposit shall be filed with the court five (5) days prior to the confirmation of sale hearing date.

*(Rule 7.16 renumbered effective July 1, 2009; adopted as Rule 7.24 effective July 1, 1988; previously amended effective July 1, 1989; former Rule 7.16, which concerned attorney's names, repealed July 1, 2009.)*

## 7.17 SECOND DEEDS OF TRUST

The court will approve the taking of a promissory note secured by a second deed of trust upon a showing that it serves the best interests of the estate.

*(Rule 7.17 renumbered effective July 1, 2009; adopted as Rule 7.25 effective July 1, 1988; former rule 7.17, which concerned proof of wills, repealed effective July 1, 2009.)*

## 7.18 EARNEST MONEY DEPOSIT BY OVERBIDDER

When a sale is confirmed to an overbidder, the overbidder must submit at the time of the hearing a certified or casher's check in the amount of ten percent (10%) of the bid.

*(Rule 7.18 renumbered effective July 1, 2009; adopted as Rule 7.26 effective July 1, 1988.)*

## 7.19 APPEARANCES OF COUNSEL

In petitions for confirmation of sales of real estate and for sales of personal property where bidding is authorized, the court will ordinarily not proceed with the confirmation of the sale in the absence of the petitioner's attorney, if the petitioner is represented. Where the personal representative, guardian or conservator is present and requests that the sale proceed, the court may do so, in its discretion.

*(Rule 7.19 amended and renumbered effective July 1, 2009; adopted as Rule 7.27 effective July 1, 1988; previously amended effective July 1, 1988.)*

## 7.20 CONDITIONAL SALES OF REAL PROPERTY

The court will ordinarily not approve a sale of real property which is conditioned upon the occurrence of a subsequent event (such as change in zoning or obtaining approval from an environmental control board). However, if unusual and extraordinary circumstances exist and the necessity and advantage to the estate are set forth in detail, the court may approve such a sale.

*(Rule 7.20 amended and renumbered effective July 1, 2009; adopted as Rule 7.30 effective July 1, 1988; former Rule 7.20, which concerned approval of funeral claims, repealed effective July 1, 2009.)*

## 7.21 BROKER'S COMMISSIONS

a. **IMPROVED REAL PROPERTY**
An agent or broker's commission on the sale of improved real property shall not exceed six percent (6%). A copy of an executed broker's agreement shall be attached to the petition for confirmation of sale.
*(Subd (a) amended effective July 1, 2009; adopted effective July 1, 1988; previously amended effective July 1, 1989.)*

b. **UNIMPROVED REAL PROPERTY**
An agent or broker's commission on the sale of unimproved or raw real property shall not exceed ten percent (10%). A copy of an executed broker's agreement shall be attached to the petition for confirmation of sale.
*(Subd (b) amended effective July 1, 2009; adopted effective July 1, 1988; previously amended effective July 1, 1989.)*

c. **BROKER COMMISSIONS IN OVERBID SITUATIONS**
Broker commissions in overbid situations are governed by Probate Code section 10160 et seq.
*(Subd (c) amended effective July 1, 2009; adopted effective July 1, 1988; previously amended effective July 1, 1989.)*

*(Rule 7.21 amended and renumbered effective July 1, 2009; adopted as Rule 7.31 effective July 1, 1988; previously amended effective July 1, 1989.)*

## 7.22 STATUTORY COMPENSATION FOR PERSONAL REPRESENTATIVE AND ATTORNEY FEES

a. **INCLUSION OF COMPUTATION IN PETITION**
The computation in Rule 7.22, subsection (b), must be made regardless of the estate's value and even though an accounting has been waived. For estates worth in excess of $25,000,000.00 (twenty-five million dollars), the court shall determine the reasonable amount of compensation.
*(Subd (a) adopted effective July 1, 2009.)*

b. **FORMAT OF REQUEST FOR STATUTORY COMPENSATION AND ATTORNEY FEES**
The basis for statutory compensation and attorney fees requested shall be set out in the body of the petition for distribution or on a separate schedule as required per California Rules of Court, rule 7.705.
*(Subd (b) adopted effective July 1, 2009; previously adopted as unlettered portion of Rule 7.36 effective July 1, 1988.)*

*(Rule 7.22 amended and renumbered effective July 1, 2009; adopted as Rule 7.36 effective July 1, 1988; former Rule 7.22, which concerned the filing of creditor claims, repealed effective July 1, 2009.)*

## 7.23 PARTIAL ALLOWANCE OF STATUTORY COMPENSATION OR ATTORNEY FEES

a. **COURT ORDER REQUIRED**
A personal representative may not pay an advance on statutory compensation or attorney fees without prior court order. Petitions for an advance of statutory compensation or attorney fees may not be brought ex parte.
*(Subd (a) adopted effective July 1, 2009.)*

b. **REQUIREMENT OF INVENTORY AND APPRAISAL; ACCOUNTS**
Notwithstanding Probate Code section 10830, the court shall not consider a petition seeking an advance of statutory compensation or attorney fees unless the personal representative's Inventory and Appraisal is filed prior to or concurrently with the petition. The court prefers that attorney fees not be requested until the first account has been filed.
*(Subd (b) adopted effective July 1, 2009.)*

c. **AMOUNT OF STATUTORY COMPENSATION OR ATTORNEY FEES PERMITTED AS AN ADVANCE**
Any allowance for statutory compensation or attorney fees will be made in accordance with the work actually performed. Where no accounting is filed, the allowance may not exceed 50% of the statutory compensation computed upon the total value appearing in the inventories filed to that time. Where an accounting is filed, the allowance may not exceed 75 % of the statutory compensation so computed.
*(Subd (c) amended and relettered effective July 1, 2009; adopted as unlettered portion of Rule 7.37 effective July 1, 1988.)*

d. **APPORTIONMENT OF FEES FOR SUCCESSIVE ATTORNEYS**
Except in a case in which there is an agreement in writing on apportionment, where the personal representative has been represented by successive attorneys, fees will not ordinarily be apportioned to a prior attorney for the personal representative until the final accounting has been approved.
*(Subd (d) amended and relettered effective July 1, 2009; adopted as unlettered portion of Rule 7.37 effective July 1, 1988.)*

*(Rule 7.23 amended and renumbered effective July 1, 2009; adopted as Rule 7.37 effective July 1, 1988; previously amended effective July 1, 1989.)*

## 7.24 APPORTIONMENT OF STATUTORY COMPENSATION BETWEEN TWO OR MORE PERSONAL REPRESENTATIVES

If the statutory compensation is to be divided among co-personal representatives, the petition shall set out facts upon which the court can base the apportionment.

*(Rule 7.24 amended and renumbered effective July 1, 2009; adopted as Rule 7.38 effective July 1, 1988.)*

## 7.25 EXTRAORDINARY COMPENSATION FOR PERSONAL REPRESENTATIVE; EXTRAORDINARY ATTORNEY FEES

a. **CONTENTS OF PETITIONS OR DECLARATIONS FOR EXTRAORDINARY COMPENSATION OR FEES**
All applications for extraordinary compensation for the personal representative's services and for extraordinary attorney's fees must be supported in the petition or in the separate verified declaration requesting said fees. At a minimum, the declaration or petition shall state:

(1) The nature, necessity, success, cost in time, detail of the services performed and value of the services believed to warrant additional fees;

(2) The amount requested; and,

(3) The number of hours spent on ordinary services.

Records of time spent, without substantiated information, are not adequate.

*(Subd (a) amended and relettered effective July 1, 2009; adopted as unlettered portion of Rule 7.39 effective July 1, 1988.)*

b. **FACTORS THAT WILL NOT SUPPORT A REQUEST FOR EXTRAORDINARY COMPENSATION OR FEES**
The routine conduct of any proceeding relating to the collection of assets, processing of claims, conduct of estate administration or distribution will not, in the absence of special circumstances or problems, justify an extraordinary fee.
*(Subd (b) amended and relettered effective July 1, 2009; adopted as unlettered portion of Rule 7.39 effective July 1, 1988.)*

*(Rule 7.25 amended and renumbered effective July 1, 2009; adopted as Rule 7.39 effective July 1, 1988.)*

## 7.26 DISTRIBUTIVE CONTINGENCIES

If the right of a beneficiary to distribution of part of the estate is dependent upon the occurrence of an event (e.g., death of a parent), the petition must allege the occurrence of that event and the order must contain a finding of the occurrence of that event.

*(Rule 7.26 renumbered effective July 1, 2009; adopted as Rule 7.41 effective July 1, 1988.)*

## 7.27 CONTENTS OF PETITION AND DECREE OF PARTIAL OR FINAL DISTRIBUTION

a. **WHEN PROPOSED DECREE REQUIRED**
The proposed form of Decree of Distribution shall be filed with any petition for partial or final distribution.
*(Subd (a) amended and relettered effective July 1, 2009; adopted as unlettered portion of Rule 7.42 effective July 1, 1988.)*

b. **DESCRIPTION OF PROPERTY TO BE DISTRIBUTED**
The distribution of property must be separately stated in detail in both the petition and the decree, listing a description of the property to be distributed under the name of each beneficiary. Real estate shall be legally described and street address, if any, shall be included. The decree must be complete in and of itself. Description by reference to the inventory is not acceptable. In both the petition and decree~~s~~ for final distribution, the distribution schedule shall include a

summary showing the value of the estate distributed to each beneficiary and the total estate distributed which must agree with "Property on Hand" as shown on the final account's Schedule F and in the summary of account. If any beneficiaries previously received an early distribution, the petition and the decree shall so state.
*(Subd (b) amended effective January 1, 2010; amended and relettered effective July 1, 2009; adopted as unlettered portion of Rule 7.42 effective July 1, 1988.)*

c. **TRACING REQUIRED FOR INTESTATE DECEDENT**
If an intestate decedent who survived his spouse leaves no issue, the applicability of Probate Code Section 6402.5 must be alleged and the necessary tracing must be carried out as far as possible.
*(Subd (c) amended and relettered effective July 1, 2009; adopted as unlettered portion of Rule 7.42 effective July 1, 1988.)*

d. **OTHER ITEMS TO BE INCLUDED IN THE PETITION AND DECREE**

(1) A petition and any decree for distribution shall include the names and addresses of all persons who are present and future distributees of the estate, and shall indicate whether each person listed is an adult or a minor. In all cases where a minor is a distributee, the minor's age and birth date must be stated in the petition and the decree for distribution.
*(Subd (1) adopted effective January 1, 2010.)*

(2) If distribution will not be made directly to the beneficiary, the name, address and fiduciary capacity of the recipient must be stated in the petition and the decree for distribution.
*(Subd (2) adopted effective January 1, 2010.)*
*Subd (d) adopted effective January 1, 2010.)*

*(Rule 7.27 amended effective January 1, 2010; ~~amended and renumbered effective July 1, 2009;~~ adopted as Rule 7.42 effective July 1, 1988; previously amended effective July 1, 1989; amended and renumbered effective July 1, 2009.)*

## 7.28 DISTRIBUTIONS TO TRUSTS

a. **DISTRIBUTIONS TO TESTAMENTARY TRUSTS**
The provisions of a decree of distribution establishing a testamentary trust shall include all of the terms of the will relating to the trust. Per California Rules of

Court, rule 7.650, the provisions of the trust shall be stated in the present tense and in the third person, and shall not quote the will verbatim. If a trust beneficiary will receive distribution upon reaching a specific age, the petition for distribution and decree thereon must state the age and birthdate of the beneficiary.
*(Subd (a) amended effective January 1, 2010; amended and relettered effective July 1, 2009; adopted as unlettered portion of Rule 7.43 effective July 1, 1988.)*

b. **DISTRIBUTIONS TO INTER VIVOS TRUSTS**
A decree of distribution which distributes assets to an inter vivos trust shall name the trust and specify the name of the trustee to receive the assets. The decree of distribution shall not be approved absent a declaration by the trustee that he or she has in fact accepted the trust. A decree of distribution for a decedent's estate shall not name as beneficiaries of the estate in the distribution plan any beneficiaries who are entitled to distributions from the trust.
*(Subd (b) adopted effective July 1, 2009.)*

*(Rule 7.28 amended effective January 1, 2010; amended and renumbered effective July 1, 2009; adopted as Rule 7.43 effective July 1, 1988; former Rule 7.28, which concerned overbids, repealed effective July 1, 2009.)*

## 7.29 JOINT TENANCY ASSETS

In the absence of prior court determination or authorization, joint tenancy assets of the decedent and a person other than the decedent's spouse should not be inventoried as assets of the probate estate. However, an asset held in joint tenancy between the decedent and the decedent's spouse, or former spouse in appropriate cases, shall be inventoried if there is an unadjudicated allegation that the asset is in fact community property. A notation concerning the allegation shall be included in all inventory and appraisals until the asset's characterization is determined.

*(Rule 7.29 amended and renumbered effective July 1, 2009; adopted as Rule 7.49 effective July 1, 1988; former Rule 7.29, which concerned increased bid forms, repealed effective July 1, 2009.)*

## 7.30 PERSONAL REPRESENTATIVE COMPENSATION AND ATTORNEY FEES IN CONNECTION WITH TERMINATION OF A JOINT TENANCY OR HANDLING OF OTHER NONPROBATE ASSETS

## PART ONE: Probate Proceedings Other Than Trusts

Assets that pass outside of probate are outside the court's jurisdiction. Therefore, a personal representative or his or her attorney shall not request payment from a probate estate for work done concerning joint tenancy assets or other nonprobate assets, and any request for such relief shall be denied. However, this rule does not prevent a request for extraordinary fees where the termination of joint tenancy with a previously deceased joint tenant is necessary to clear title to property in the decedent's estate.

*(Rule 7.30 amended and renumbered effective July 1, 2009; adopted as Rule 7.50 effective July 1, 1988.*

## PART ONE: Probate Proceedings Other Than Trusts

### 7.31 COURT INVESTIGATOR FEES FOR INVESTIGATION OF PETITION FOR PARTICULAR TRANSACTION

Pursuant to Probate Code section 3140, the court may, in its discretion, appoint a court investigator to evaluate a petition for a proposed transaction involving an incapacitated spouse's community property and report to the court regarding the transaction's advisability. Appointment of a court investigator for such an investigation shall result in an assessment against the petitioning party for the costs of the investigation. The fee amount is determined by the court on an annual basis and is subject to change. The assessed fee is payable within 30 days after the Assessment and Order for Payment is mailed by the Court Investigators Office.

*(Rule 7.31 adopted effective July 1, 2009.)*

### 7.32 NOTICE OF PETITION FOR DISTRIBUTION [REPEALED]

*(Rule 7.32 repealed effective July 1, 2009; adopted effective July 1, 1988.)*

### 7.33 ACCOUNTING (PROBATE CODE SECTION 10900) [REPEALED]

*(Rule 7.33 repealed effective July 1, 2009; adopted effective July 1, 1988; amended effective July 1, 1989.)*

### 7.34 ACCOUNTS REQUIRED ANNUALLY [REPEALED]

*(Rule 7.34 repealed effective July 1, 2009; adopted effective July 1, 1989.)*

### 7.35 WAIVER OF ACCOUNTING (PROBATE CODE SECTION 933; 10954) [REPEALED]

*(Rule 7.35 repealed effective July 1, 2009; revised effective July 1, 1989; adopted effective July 1, 1988.)*

### 7.36 [RENUMBERED]

*(Rule 7.36 renumbered as Rule 7.22 effective July 1, 2009.)*

### 7.37 [RENUMBERED]

*(Rule 7.37 renumbered as Rule 7.23 effective July 1, 2009.)*

**7.38 [RENUMBERED]**

*(Rule 7.38 renumbered as Rule 7.24 effective July 1, 2009.)*

**7.39 [RENUMBERED]**

*(Rule 7.39 renumbered as Rule 7.25 effective July 1, 2009.)*

**7.40 CREDITOR'S CLAIMS [REPEALED]**

*(Rule 7.40 revised effective July 1, 1989; adopted effective July 1, 1988.)*

**7.41 [RENUMBERED]**

*(Rule 7.41 renumbered as Rule 7.26 effective July 1, 2009.)*

**7.42 [RENUMBERED]**

*(Rule 7.42 renumbered as Rule 7.27 effective July 1, 2009.)*

**7.43 [RENUMBERED]**

*(Rule 7.43 renumbered as Rule 7.28 effective July 1, 2009.)*

**7.44 REQUIRED SHOWING (PROBATE CODE SECTION 12250) [REPEALED]**

*(Rule 7.44 repealed effective July 1, 2009; adopted effective July 1, 1988; previously amended effective July 1, 1989; adopted effective July 1, 1988.)*

**7.45 [RENUMBERED]**

*(Rule 7.45 renumbered as Rule 7.50 effective July 1, 2009.)*

**7.46 [RENUMBERED]**

*(Rule 7.46 renumbered as Rule 7.51 effective July 1, 2009.)*

**7.47 – 7.49 [RESERVED]**

## PART TWO: Trusts

### 7.50 BENEFICIARIES OF TESTAMENTARY TRUST TO BE LISTED IN PETITION FOR LETTERS TESTAMENTARY

All petitions involving a testamentary trust must set forth the names and last known addresses of all vested and contingent beneficiaries.

*(Rule 7.50 amended and renumbered effective July 1, 2009; adopted as Rule 7.45 effective July 1, 1988.)*

### 7.51 TRUSTEE FEES

a. **APPLICABILITY OF RULE**
This rule applies to all trusts subject to the continuing jurisdiction of the court, to petitions for approval of trustee compensation, and to objections to petitions for trustee compensation.
*(Subd (a) adopted effective July 1, 2009.)*

b. **PRESUMPTION OF REASONABLE COMPENSATION FOR TRUSTEES**
Trustee compensation shall be presumed reasonable if it does not exceed 1% (one percent) of the asset value of the estate. However, nothing in this rule limits the court's discretion to find as unreasonable a fee totaling less than 1%.
*(Subd (b) adopted effective July 1, 2009.)*

c. **REQUEST FOR ADDITIONAL COMPENSATION**
A trustee may request fees in excess of 1% (one percent) of the asset value of the estate. A trustee requesting such relief shall do one of the following:

(1) File a declaration from the beneficiaries indicating awareness of the fees being requested and a statement waiving objection to those fees.
(2) File a declaration detailing the services rendered justifying the fee requested.

*(Subd (c) amended and relettered effective July 1, 2009; adopted as unlettered portion of Rule 7.46 effective July 1, 1988.)*

*(Rule 7.51 amended and renumbered effective July 1, 2009; adopted as Rule 7.46 effective July 1, 1988; previously amended effective July 1, 1988; former Rule 7.51, which concerned miscellaneous provisions, repealed effective July 1, 2009.)*

## PART TWO: Trusts

### 7.52 INFORMATION TO BE INCLUDED IN PETITIONS CONCERNING TRUSTS

All petitions concerning trusts shall indicate in the pleading title the Probate Code section(s) under which the petition is brought or which supports the relief requested. For example, a petition seeking orders concerning the internal affairs of a trust shall cite Probate Code section 17200 in the pleading title.

*(Rule 7.52 adopted effective July 1, 2009; former Rule 7.52, which concerned scope of guardianship rules, repealed effective July 1, 2009.)*

### 7.53 GENERAL PROCEDURES FOR SPECIAL NEEDS TRUSTS

a. **ESTABLISHMENT OF SPECIAL NEEDS TRUSTS IN SOLANO COUNTY**
If a special needs trust is included as part of a minor's compromise or other judgment entered in Solano County and the trust is to be administered in Solano County, the following procedures shall be followed:

(1) A petition to approve the terms of the special needs trust shall be filed in the civil action or petition to approve minor's compromise. The judge assigned to hear the civil action or petition to approve minor's compromise shall approve the terms of the special needs trust per Probate Code section 3604.

(2) Once so approved and signed, the original special needs trust instrument and a copy of the order approving the trust shall be filed in a separate file and assigned a probate case number. No filing fee shall be charged for said filing as the trust instrument is the result of a petition filed to approve a minor's compromise claim per Probate Code section 3600 et seq. Government Code §70655.

(3) The party filing the special needs trust instrument per subsection (2) shall file a notice in the civil action file or the minor's compromise file indicating the case number assigned to the probate file containing the special needs trust.

*(Subd (a) adopted effective July 1, 2009.)*

b. **TRANSFER OF SPECIAL NEEDS TRUSTS INTO SOLANO COUNTY**
Whenever a special needs trust is transferred into Solano County and the court file being transferred does not contain the original special needs trust instrument, the

trustee shall provide the court with the original trust document within 90 days after the court file is received by Solano County.
*(Subd (b) adopted effective July 1, 2009.)*

*(Rule 7.53 adopted effective July 1, 2009; former Rule 7.53, which concerned the forms to filed at the beginning of a guardianship proceeding, repealed effective July 1, 2009.)*

## 7.54 ACCOUNTINGS AND REPORTS OF SPECIAL NEEDS TRUSTS

a. **EXPENDITURES ON BEHALF OF BENEFICIARY**
In all accountings for special needs trusts, the trustee shall provide an explanation of any unusual or extraordinary expenses incurred by the trustee on behalf of the beneficiary. These include, but are not limited to, payment of all expenses associated with real property partially owned by the trust, payment of automobile insurance for a vehicle not owned by the trust, acquisition or maintenance of assets not ordinarily used by a beneficiary with the beneficiary's type of disability, and so forth.
*(Subd (a) adopted effective July 1, 2009.)*

b. **HIRING OF AGENTS**
The court acknowledges that trustees of special needs trusts often hire agents to advise them concerning the administration of the special needs trusts and the provision of services to the beneficiary. A trustee hiring such an agent shall specify in any report or accounting seeking approval of payment to said agent the type of and need for the services provided by the agent. The trustee shall also include a declaration from the agent concerning the hours spent working with the trustee and the amount of compensation sought.
*(Subd (b) adopted effective July 1, 2009.)*

c. **PARENTS AS CAREGIVERS TO CHILD AS BENEFICIARY**
In an account or report indicating that a parent was hired to provide caregiver services to his or her child, the trustee shall provide the following information:

(1) A description of the services rendered by the parent that are above and beyond the care normally provided by a parent to a child.

(2) A description of the special skills possessed by the parent enabling him or her to perform these services.

(3) The benefit to the beneficiary of having the parent perform the services instead of a professional caregiver.

(4) The hours worked by the parent.

(5) The hourly rate being paid to the parent and a justification of that rate. Justification may include a comparison to the rate charged by a professional for the same or similar services.

(6) Whether caregiving services are being provided through IHSS and if so, the frequency and type of the services provided.

(7) Whether insurance is in place to cover the caregiver parent in case of injury and if so, the amount of the periodic premium being paid by the parent or the trust.

*(Subd (c) adopted effective July 1, 2009.)*

*(Rule 7.54 adopted effective July 1, 2009; former Rule 7.54, which concerned notice of a petition to appoint a guardian, repealed effective July 1, 2009.)*

## 7.55 COMPENSATION OF CONSERVATOR FROM TRUST

If a conservatee is also the beneficiary of a trust and the compensation of a conservator of the person is sought from the trust, a petition seeking approval of the amount of compensation payable to the conservator shall first be filed in the conservatorship matter. The petition shall include a declaration by the trustee as to whether there are sufficient funds in the conservatorship estate to allow for the compensation sought. A trustee shall not pay a conservator's compensation without a court order approving said compensation by the judge assigned to hear the conservatorship matter.

*(Rule 7.55 adopted effective July 1, 2009; former Rule 7.55, which concerned appointment of court investigators, repealed effective July 1, 2009.)*

## PART TWO: Trusts

### 7.56 COURT INVESTIGATOR FEES [REPEALED]

*(Rule 7.56 repealed effective July 1, 2009; adopted as Rule 7.54 effective July 1, 1989.)*

### 7.57 TEMPORARY GUARDIANSHIPS [REPEALED]

*(Rule 7.57 repealed effective July 1, 2009; adopted effective July 1, 2008.)*

### 7.58 EX PARTE APPLICATIONS FOR TEMPORARY GUARDIANSHIP OR OTHER TEMPORARY ORDERS [REPEALED]

*(Rule 7.58 repealed effective July 1, 2009; adopted as Rule 7.55 effective July 1, 1988.)*

### 7.59 CONTESTED GUARDIANSHIPS [REPEALED]

*(Rule 7.59 repealed effective July 1, 2009; adopted as Rule 7.56 effective July 1, 1988.)*

### 7.60 ORDERS FOR VISITATION IN GUARDIANSHIPS [REPEALED]

*(Rule 7.60 repealed effective July 1, 2009; adopted effective July 1, 2008.)*

### 7.61 GUARDIANSHIPS OF THE ESTATE – INVENTORIES AND ACCOUNTINGS; SERVICE OF ACCOUNTINGS; NOTICE OF HEARINGS ON OBJECTIONS TO ACCOUNTINGS [REPEALED]

*(Rule 7.61 repealed effective July 1, 2009; adopted as Rule 7.59 effective July 1, 1992.)*

### 7.62 GUARDIANSHIPS OF THE ESTATE: REPORTS ACCOMPANYING ACCOUNTS [REPEALED]

*(Rule 7.62 repealed effective July 1, 2009; adopted as Rule 7.61 effective July 1, 1989.)*

### 7.63 ALLOWANCE OF FEES IN GUARDIANSHIP PROCEEDINGS [REPEALED]

*(Rule 7.63 repealed effective July 1, 2009; adopted effective July 1, 1988.)*

### 7.64 INVESTMENTS BY GUARDIAN OF THE ESTATE [REPEALED]

*(Rule 7.64 repealed effective July 1, 2009; adopted effective July 1, 1988.)*

## PART TWO: Trusts

### 7.65 APPOINTMENT OF MINOR'S COUNSEL [REPEALED]

*(Rule 7.65 repealed effective July 1, 2009; adopted effective July 1, 2008.)*

### 7.66 TERMINATION OF GUARDIANSHIP [REPEALED]

*(Rule 7.66 repealed effective July 1, 2009; adopted effective July 1, 1988.)*

### 7.67 COOPERATION WITH COURT INVESTIGATOR [REPEALED]

*(Rule 7.67 repealed effective July 1, 2008; adopted effective July 1, 1988.)*

### 7.68 OTHER PROTECTIVE PROCEEDINGS FOR MINORS [REPEALED]

*(Rule 7.68 repealed effective July 1, 2008; adopted effective July 1, 1988.)*

### 7.69 PETITION FOR APPOINTMENT [REPEALED]

*(Rule 7.69 repealed effective July 1, 2009; adopted effective July 1, 1988.)*

### 7.70 APPOINTMENT OF COURT INVESTIGATOR [REPEALED]

*(Rule 7.70 repealed effective July 1, 2009; adopted effective July 1, 1988.)*

### 7.71 TEMPORARY CONSERVATORSHIP [REPEALED]

*(Rule 7.71 repealed effective July 1, 2009; adopted effective July 1, 1988.)*

### 7.72 LEGAL CAPACITY OF CONSERVATEE [REPEALED]

*(Rule 7.72 repealed effective July 1, 2009; adopted effective July 1, 1988.)*

### 7.73 INDEPENDENT EXERCISE OF POWERS [REPEALED]

*(Rule 7.73 repealed effective July 1, 2009; adopted effective July 1, 1988.)*

### 7.74 BOND – CONDITIONS – AMOUNT [REPEALED]

*(Rule 7.74 repealed effective July 1, 2009; adopted effective July 1, 1988.)*

## PART TWO: Trusts

**7.75 ACCOUNTINGS IN CONSERVATORSHIP PROCEEDINGS [REPEALED]**

*(Rule 7.75 repealed effective July 1, 2009; adopted effective July 1, 1988.)*

**7.76 FREQUENCY OF ACCOUNTS [REPEALED]**

*(Rule 7.76 repealed effective July 1, 2009; adopted effective July 1, 1988.)*

**7.77 ASSESSMENT AND ORDER FOR COURT INVESTIGATION [REPEALED]**

*(Rule 7.77 repealed effective July 1, 2009; adopted effective July 1, 1988.)*

**7.78 ALLOWANCE OF FEES [REPEALED]**

*(Rule 7.78 repealed effective July 1, 2009; adopted effective July 1, 1988.)*

**7.79 ORDERS FOR SUPPORT AND SUBSTITUTED JUDGMENT [REPEALED]**

*(Rule 7.79 repealed effective July 1, 2009; adopted effective July 1, 1988.)*

**7.80 INVESTMENT BY CONSERVATOR [REPEALED]**

*(Rule 7.80 repealed effective July 1, 2009; adopted effective July 1, 1988.)*

**7.81 TERMINATION [REPEALED]**

*(Rule 7.81 repealed effective July 1, 2009; adopted effective July 1, 1988.)*

**7.82 APPOINTMENT OF SUCCESSOR CONSERVATOR [REPEALED]**

*(Rule 7.82 repealed effective July 1, 2009; adopted effective July 1, 1988.)*

**Superior Court of California**
**County of Solano**

**Rule 7 – Probate**

**Appendices**

## APPENDIX 7-A: PROBATE RULES CONVERSION TABLE

Effective July 1, 2009

| ***Rule Title*** | ***New Rule Number*** | ***Former Rule Number*** |
|---|---|---|
| Scope of Probate Rules | 7.1 | N/A |
| Use of Judicial Council Forms; Format of Pleadings | 7.2 | 7.1 |
| Signatures and Verifications of Pleadings | 7.3 | 7.2 |
| Titles [*Repealed*] | N/A | 7.3 |
| Copies of Orders [*Repealed*] | N/A | 7.4 |
| Wills and Codicils as Exhibits to Petition [*Repealed*] | N/A | 7.5 |
| Bonding of Personal Representative | 7.4 | 7.6 |
| Declination of Nominated Executor | 7.5 | 7.7 |
| Fees [*Repealed*] | N/A | 7.8 |
| Calendaring [*Repealed*] | N/A | 7.9 |
| Notices | 7.6 | 7.10 |
| Notification to Court of Continuances, Drops, or Stipulations | 7.7 | N/A |
| Pregrants in Probate Matters | 7.8 | N/A |
| Appearances at Hearings | 7.9 | 7.11 |
| Short Cause Calendar [*Repealed*] | N/A | 7.12 |
| Long Cause Calendar [*Repealed*] | N/A | 7.13 |
| Ex Parte Applications | 7.10 | N/A |
| Appointment of Special Administrator | 7.11 | 7.14 |
| Information to be contained in Petitions for Probate of Will and for Letters Testamentary; for Letters of Administration; or for Letters of Administration with Will Annexed (Probate Code section 8000 et seq.) | 7.12 | 7.15 |
| Attorney's Names [*Repealed*] | N/A | 7.16 |
| Proof of Wills [*Repealed*] | N/A | 7.17 |
| Preparation of Orders | 7.13 | 7.18 |
| Material to be Included in Probate Orders [*Repealed*] | N/A | 7.19 |
| Approval of Funeral and Internment Claims [*Repealed*] | N/A | 7.20 |
| Interest on Funeral and Internment Claims | 7.14 | 7.21 |
| Mode of Filing Creditors' Claim [*Repealed*] | N/A | 7.22 |
| Real Estate in Inventory and Appraisal | 7.15 | 7.23 |
| Cash Deposit | 7.16 | 7.24 |
| Second Deeds of Trust | 7.17 | 7.25 |
| Earnest Money Deposit by Overbidder | 7.18 | 7.26 |
| Appearances by Counsel | 7.19 | 7.27 |
| Overbids [*Repealed*] | N/A | 7.28 |
| Increased Bid Forms [*Repealed*] | N/A | 7.29 |

**Superior Court of California**
**County of Solano**

**Rule 7 – Probate**

**Appendices**

| ***Rule Title*** | ***New Rule Number*** | ***Former Rule Number*** |
|---|---|---|
| Conditional Sales of Real Property | 7.20 | 7.30 |
| Broker's Commissions | 7.21 | 7.31 |
| Notice of Petition for Distribution [*Repealed*] | N/A | 7.32 |
| Accounting (Probate Code Section 10900) [*Repealed*] | N/A | 7.33 |
| Accounts Required Annually [*Repealed*] | N/A | 7.34 |
| Waiver of Accounting (Probate Code Sections 933; 10954) [*Repealed*] | N/A | 7.35 |
| Statutory Compensation for Personal Representative and Attorney Fees | 7.22 | 7.36 |
| Partial Allowance of Statutory Compensation or Attorney Fees | 7.23 | 7.37 |
| Apportionment of Statutory Compensation Between Two or More Personal Representatives | 7.24 | 7.38 |
| Extraordinary Compensation for Personal Representative; Extraordinary Attorney Fees | 7.25 | 7.39 |
| Creditor's Claims [*Repealed*] | N/A | 7.40 |
| Distributive Contingencies | 7.26 | 7.41 |
| Contents of Decree of Partial or Final Distribution | 7.27 | 7.42 |
| Distributions to Trusts | 7.28 | 7.43 |
| Required Showing (Probate Code Section 12250) [*Repealed*] | N/A | 7.44 |
| Beneficiaries to Be Listed in Petition [*Repealed*] | N/A | 7.45 |
| Trustee Fees [*Repealed*] | N/A | 7.46 |
| Spousal Set Asides – Requirements [*Repealed*] | N/A | 7.47 |
| Joint Tenancy Proceedings [*Repealed*] | N/A | 7.48 |
| Joint Tenancy Assets | 7.29 | 7.49 |
| Personal Representative Compensation and Attorney Fees in Connection with Termination of a Joint Tenancy or Handling of Other Nonprobate Assets | 7.30 | 7.50 |
| Court Investigator Fees for Investigation of Petition for Particular Transaction | 7.31 | N/A |
| Miscellaneous [*Repealed*] | N/A | 7.51 |

**NOTICE:**
**Former Rules 7.51 through 7.82, all of which concern conservatorships and guardianships, have been moved to Rule 15 effective July 1, 2009.**
**Please consult the table in Appendix 15-A for rule number conversions.**

**Superior Court of California**
**County of Solano**

**Rule 8 – Claims of Minors or Adults with Disabilities~~, Insane or Incompetent Persons~~**

## 8.1 CONTENTS OF PETITION FOR COMPROMISE OF CLAIM OF MINOR OR ADULT WITH DISABILITIES~~, INSANE OR INCOMPETENT PERSON~~

A petition for court approval of a compromise or covenant not to sue regarding a minor or adult with disabilities~~, insane person, incompetent person, or conservatee~~ shall comply in all respects with California Rules of Court, rule 3.1384, and shall be presented on the mandatory Judicial Council form MC-350. In addition, the petition shall include:

(1) A full disclosure of all information concerning the reasonableness of the proposed compromise or covenant not to sue, including the amounts, if any, paid to other claimants.

(2) The original or a photocopy of each bill which, if paid, shall disclose the date of payment, the amount paid, and the name of the payor.

*(Rule 8.1 amended effective January 1, 2010; adopted effective July 1, 1988; previously amended effective July 1, 2009.~~; adopted effective July 1, 1988.~~)*

## 8.2 ATTORNEYS' FEES IN CASES INVOLVING MINORS OR ADULTS WITH DISABILITIES ~~, INSANE OR INCOMPETENT PERSONS~~

a. **FEES**

In actions involving the compromise of a ~~minor's~~ claim of a minor or adult with disabilities,~~, insane person's claim, incompetent person's claim, or a conservatee's claim,~~ the attorneys' fees awarded by the court shall not exceed the following amounts under normal circumstances, which are not otherwise provided by statute:

(1) Twenty-five percent of the amount recovered if the matter is settled before trial.

(2) Thirty-three and one-third percent of the amount recovered if the settlement is achieved during trial after a substantial part of plaintiff's case has been introduced or after judgment.

(3) Forty percent of the amount recovered if the settlement is after the filing of respondent's brief on appeal.

*(Subd (a) amended effective January 1, 2010; adopted effective July 1, 1988.)*

b. **COMPUTATION OF FEES**
In computing fees, parents claiming reimbursement for medical expenses, etc., shall, except in cases of hardship, pay their proportionate share of the attorney's fees. Reasonable costs incurred or paid by an attorney that are itemized and accompanied by appropriate vouchers or other supporting evidence shall not be included in the "amount recovered" for the purpose of fixing fees.

All costs advanced by the attorney shall be deducted from the gross settlement and then attorneys fee percentage shall be computed.
*(Subd (b) adopted effective July 1, 1988.)*

c. **COURT APPROVAL OF ATTORNEY-CLIENT CONTRACT**
Except as otherwise directed by the court for good cause shown, no contract of employment providing for fees higher than those specified in sub-section (a) shall be approved without an appearance by the client(s) at the hearing on application for court approval.
*(Subd (c) amended effective July 1, 2009; adopted effective July 1, 1988.)*

*(Rule 8.2 amended effective January 1, 2010; ~~amended effective July 1, 2009;~~ adopted effective July 1, 1988; amended effective July 1, 2009.)*

## 8.3 ESTABLISHMENT OF SPECIAL NEEDS TRUSTS

If a compromise of claim or covenant not to sue includes the establishment of a special needs trust with the minor or adult with disabilities ~~incompetent person~~ as beneficiary, the establishment of the trust shall comply with S~~s~~olano C~~c~~ounty L~~l~~ocal R~~r~~ules, rule 7.53.

*(Rule 8.3 amended effective January 1, 2010; adopted effective July 1, 2009; previous Rule 8.3, concerning representation of specified parties by counsel at hearings, repealed effective July 1, 2009.)*

**Superior Court of California**
**County of Solano**

**Rule 9 – Attorney Fees in Default Matters,**
**Promissory Notes, Contracts, and Foreclosures**

## 9.1 ATTORNEY FEES - UNLIMITED CIVIL MATTERS

a. **RECOVERY OF "REASONABLE" ATTORNEY FEES IN DEFAULT CASES** ~~**RECOVERY OF "REASONABLE" ATTORNEY FEES IN DEFAULT CASES**~~

Except in open book accounts, whenever the obligation sued upon provides for the recovery of "reasonable" attorney fees and the matter is heard as an unlimited civil matter, the fees in each default case shall be fixed pursuant to the schedule set forth in subsection (d).

*(Subd (a) amended effective January 1, 2009; adopted effective May 13, 1988.)*

b. **ATTORNEY FEES IN JUDGMENTS ISSUED BY THE CLERK OF THE COURT** ~~**ATTORNEY FEES IN JUDGMENTS ISSUED BY THE CLERK OF THE COURT**~~

Except in open book accounts, in unlimited civil matters where the Clerk of the Court may issue a Judgment, attorney fees shall be calculated using the schedule set forth in subsection (d).

*(Subd (b) amended effective January 1, 2009; adopted effective May 13, 1988.)*

c. **REQUEST FOR FEES IN EXCESS OF SCHEDULED FEES** ~~**REQUEST FOR FEES IN EXCESS OF SCHEDULED FEES**~~

Any attorney seeking fees in excess of those provided for in subsection (d) shall be required to apply for a hearing on the Default Calendar and supply an affidavit in accordance with Code of Civil Procedure section 585.

*(Subd (c) amended effective January 1, 2009; adopted effective May 13, 1988.)*

d. **SCHEDULE OF ATTORNEY FEES** ~~**SCHEDULE OF ATTORNEY FEES**~~

Attorney fees shall be calculated using the following formula:

25% of the first $1,000 (with a minimum of $150)
20% of the next $4,000
15% of the next $5,000
10% of the next $10,000
5% of the next $30,000
2% over $50,000

An example of this calculation appears in Appendix A to Rule 9.

*(Subd (d) amended effective January 1, 2010; adopted effective May 13, 1988.)*

~~**Example:**~~

~~**Demand of Complaint - $54,000.00**~~

~~1. 25% of the first $1,000 = $250.00 (the minimum fee of $150 would apply if the amount of the demand was under $1,000)~~
~~Subtract $1,000 from the total demand of the complaint - $54,000 - $1,000 = $53,000~~

~~2. 20% of the next $4,000 = $800~~
~~Subtract $4,000 from the remaining balance - $53,000 = $4,000 = $49,000~~

~~3. 15% of the next $5,000 = $750~~
~~Subtract $5,000 from the remaining balance - $49,000 - $5,000 = $44,000~~

~~4. 10% of the next $10,000 = $1,000~~
~~Subtract $10,000 from the remaining balance - $44,000 = $10,000 = $34,000~~

~~5. 5% of the next $30,000 = $1,500~~
~~Subtract $30,000 from the remaining balance - $34,000 = $30,000 = $4,000~~

~~6. 2% over $50,000 (this percent should be calculated on any remaining amount, in this instance $4,000) - 2% of $4,000 = $80~~

~~**Total attorney's fees: $4,380**~~

e. **ATTORNEY FEES IN UNLAWFUL DETAINER ACTIONS**
The fee schedule set forth in Rule 9.1 shall not apply to unlawful detainer actions, which are governed by Rule 14.2.
*(Subd (e) adopted effective January 1, 2010.)*

*(Rule 9.1 amended effective January 1, 2010~~January 1, 2009~~; adopted effective May 13, 1988; amended effective January 1, 2009.)*

## 9.2 ATTORNEY FEES - LIMITED CIVIL MATTERS

**Superior Court of California**
**County of Solano**

**Rule 9 – Attorney Fees in Default Matters,**
**Promissory Notes, Contracts, and Foreclosures**

a. **ATTORNEY FEES FOR DEFAULT LIMITED CIVIL MATTERS (CCP §585(a))** ~~**ATTORNEY FEES FOR DEFAULT LIMITED CIVIL MATTERS (CODE OF CIVIL PROCEDURE § 585(a))**~~

Except for open book accounts, attorney fees in default limited civil matters shall be calculated per the schedule set forth in subsection (c), subject to any limitations set forth elsewhere in Rule 9.

*(Subd (a) amended effective January 1, 2009; adopted effective May 13, 1988.)*

b. **REQUEST FOR FEES IN EXCESS OF SCHEDULED FEES** ~~**REQUEST FOR FEES IN EXCESS OF SCHEDULED FEES**~~

Any attorney seeking fees in excess of those provided for by the schedule in subsection (c) is required to apply for a hearing on the Default Calendar or supply an affidavit in accordance with Code of Civil Procedure section 585(d).

*(Subd (b) amended effective January 1, 2009; adopted effective May 13, 1988.)*

c. **SCHEDULE OF ATTORNEY FEES** ~~**SCHEDULE OF ATTORNEY FEES**~~

| **Amount** | **Fees** |
|---|---|
| $1.00 to $600.00 | $150.00 |
| $600.00 to $1,000.00 | $150.00 plus 25% of amount over $600.00 |
| $1,000.00 to $10,000.00 | $250.00 plus 15% of amount over $1,000.00 |
| $10,000.00 to $25,000.00 | $1,600.00 plus 10% of amount over $10,000.00 |

*(Subd (c) amended effective January 1, 2009; adopted effective May 13, 1988.)*

d. **ATTORNEY FEES IN UNLAWFUL DETAINER ACTIONS** ~~**ATTORNEY FEES IN UNLAWFUL DETAINER ACTIONS**~~

The fee schedule set forth in Rule 9.2 shall not apply to unlawful detainer actions, which are governed by Rule 14.3.

*(Subd (d) amended effective January 1, 2010; adopted effective May 13, 1988.)*

~~(1) In unlawful detainer actions, the attorney fees are fixed upon the schedule set forth in subsection (c) with a minimum of $300.00. The maximum fee shall not exceed the court's jurisdiction.~~

~~(2) Recapitulation:~~
~~25% of the first $1,000.00, with a minimum of $150.00~~
~~15% of the next $9,000.00~~
~~10% of the next $15,000.00~~

~~(3) Any attorney seeking fees in an unlawful detainer action in excess of those~~

~~provided for by the schedule in subsection (c) is required to apply for a hearing on the Default Calendar or supply an affidavit in accordance with Code of Civil Procedure section 585(d).~~

*(Rule 9.2 amended effective January 1, 2010; adopted effective January 1, 2009; previously adopted as unlettered portion of Rule 9.1 effective May 13, 1988.)*

## 9.3 OPEN BOOK ACCOUNTS - UNLIMITED AND LIMITED CIVIL

a. **ATTORNEY FEES IN OPEN BOOK ACCOUNTS** ~~**ATTORNEY FEES IN OPEN BOOK ACCOUNTS**~~

Subject to subsection (b), attorney fees in all open book accounts shall be calculated pursuant to the following schedule:

| **Amount** | **Fees** |
|---|---|
| $1.00 to $600.00 | $150.00 |
| $600.00 to $1,000.00 | $150.00 plus 25% of amount over $600.00 |
| $1,000.00 to $10,000.00 | $250.00 plus 15% of amount over $1,000.00 |
| $10,000.00 to $25,000.00 | $1,600.00 plus 10% of amount over $10,000.00 |

b. **MAXIMUM ALLOWABLE ATTORNEY FEES IN OPEN BOOK ACCOUNTS** ~~**MAXIMUM ALLOWABLE ATTORNEY FEES IN OPEN BOOK ACCOUNTS**~~

Per Civil Code section 1717.5, the maximum fee allowable in open book accounts shall be the lesser of the following:

(1) 25% (Twenty-five percent) of the principal obligation owing under the contract; or.

(2) The following amount:

(a) $800.00 based upon an obligation owing by a natural person for goods, moneys, or services which were primarily for personal, family, or household purposes.

(b) $1,000.00 for all other book accounts.

*(Rule 9.3 adopted effective January 1, 2009.)*

**Superior Court of California**
**County of Solano**

**Rule 9 – Attorney Fees in Default Matters,**
**Promissory Notes, Contracts, and Foreclosures**

## APPENDIX A

**Example of Attorney Fee Calculation per Rule 9.1:**

**Demand of Complaint - $54,000.00**

1. 25% of the first $1,000 = $250.00 (the minimum fee of $150 would apply if the amount of the demand was under $1,000)
   Subtract $1,000 from the total demand of the complaint - $54,000 - $1,000 = $53,000

2. 20% of the next $4,000 = $800
   Subtract $4,000 from the remaining balance - $53,000 = $4,000 = $49,000

3. 15% of the next $5,000 = $750
   Subtract $5,000 from the remaining balance - $49,000 - $5,000 = $44,000

4. 10% of the next $10,000 = $1,000
   Subtract $10,000 from the remaining balance - $44,000 = $10,000 = $34,000

5. 5% of the next $30,000 = $1,500
   Subtract $30,000 from the remaining balance - $34,000 = $30,000 = $4,000

6. 2% over $50,000 (this percent should be calculated on any remaining amount, in this instance $4,000) – 2% of $4,000 = $80

**Total attorney's fees: $4,380**

**Superior Court of California**
**County of Solano**

**Rule 10 – Administration**

## 10.1 EXECUTIVE OFFICER

A majority of the judges of the court may appoint a court executive officer pursuant to section 71620 of the Government Code who also acts as jury commissioner and clerk of the court. Any reference in these rules, the California Rules of Court, or statutes, to the executive officer, clerk of the court or jury commissioners refers to the executive officer, who functions in each of these capacities.

The powers, duties and responsibilities transferred from the county clerk to the court executive officer pursuant to this rule include all of those performed by the county clerk with respect to court sections, proceedings and records.

The county clerk is hereby relieved of any obligation imposed by law with respect to the above powers, duties and responsibilities. This rule does not transfer from the county clerk to the court executive officer obligations in reference to the issuance of marriage licenses or the filing of fictitious business names.
~~The Superior Court shall have an Executive Officer who shall act as Jury Commissioner pursuant to Government Code Section 69898, Section 195 of the Code of Civil Procedure and perform the duties prescribed in Rule 3.712 of the California Rules of Court.~~

*(Rule 10.1 amended effective January 1, 2010; adopted effective July 1, 1988.)*

## ~~10.2 TRANSFER OF STAFF~~

~~Pursuant to the authority contained in Government Code, Section 69898, the Court hereby transfers from the County Clerk to the Superior Court Executive Officer, under the direction of the Presiding Judge, the powers, duties and responsibilities of the County Clerk with respect to the employment and supervision of personnel whose principal activities are to serve the courts in the following capacities:~~

~~1 - Supervising Courtroom Clerk~~

~~8 - Courtroom Clerks~~

~~Nothing contained herein shall be construed to, in any way, affect the constitutional office of the Clerk of the Court exercised ex officio by the County Clerk, nor is this rule intended to diminish or in any impair the authority of the Office of the Clerk of the Superior Court.~~

~~*(Rule 10.2 adopted effective July 1, 1988.)*~~

## ~~10.3. TRANSFER OF CLERK FUNCTIONS TO EXECUTIVE OFFICER~~

~~Pursuant to the provisions of Government Code Section 69898, the Court hereby transfers from the County Clerk to the Superior Court Executive Officer, the powers, duties and responsibilities exercised or permitted to be exercised by the County Clerk of Solano County in connection with judicial actions, proceedings and records. The County Clerk is hereby relieved of any obligation otherwise imposed by law with respect to the following functions, powers, duties and responsibilities which shall be performed by the Court Executive Officer.~~

~~(a) The filing, receipt, and processing of all documents, pleadings, records, minutes, orders, and exhibits relating to the court's civil, criminal, mental health, juvenile court, family law, probate, adoption, conservator/guardian, Welfare and Institution 300 calendar, appellate, and related Superior Court calendars.~~

~~(b) Collection of fees and the processing of all documents, records, motions, and pleadings regarding any civil or criminal appeal or writ proceeding.~~

~~(c) The preparation of courtroom calendars, dockets, minutes; the processing, filing, and entry of court orders, findings and judgment. The entry, service, posting and publication of notice of all orders, judgments, petitions, and court related documents. Calendar preparation and management of all programs for vertical case management, complex litigation, and automated case management and filing systems.~~

~~(d) The issuance of process, notices and summons; entry of defaults; and acceptance for filing of confessions of judgment.~~

~~(e) All clerk functions relating to the entry, issuance, processing, certification, and authentication of orders, judgments, decrees, abstracts of judgment, writs, writs of attachment, writs of execution, citations, summons, and subpoenas.~~

~~(f) The preparation and maintenance of a register of action or its alternative, general indexes, plaintiff/defendant indexes in civil actions, defendant indexes in criminal actions, and judgment books.~~

~~(g) The acceptance of papers for filing regarding any appeal, the filing of briefs on appeal, the collection of fees for appeals, and the preparation of clerk's transcripts on appeal.~~

~~(h) All clerk functions for administering oaths to witnesses and impaneling juries.~~

~~(i) The storage, archiving, microfilming, and destruction of all court documents, files records, and exhibits.~~

~~(j) The functions relating to court interpreter services, court reporting services records management, central file room services, and archiving.~~

~~(k) The collection, receipt, deposit, and accounting of all court filing fees, jury fees, bonds, undertakings, fines, forfeitures, and revenues relating to court activities.~~

~~(l) The printing, inventory and sale of court forms and rules of court.~~

~~(m) Assist in arranging for court accommodations, facilities, books, libraries, equipment and supplies.~~

~~(n) Supervise and assign work to the staff that serves the judges in the execution of the court's business.~~

~~(o) Provide necessary administrative direction in the dispatch of judicial business; manage all personnel functions, facilities, and procurement functions relating to the court, court filings, court records and exhibits, and record archiving and storage.~~

~~(p) Provide administrative support to the Grand Jury in budgeting, supervision, staff support, facility management, procurement, and office operations.~~

~~*(Rule 10.3 adopted effective January 1, 1991.)*~~

## 10.2 ~~10.4.~~ RESERVATION OF GOVERNMENT CODE 71620~~69898~~ POWERS

The Court reserves the power to delegate to the Court Executive Officer any other functions, duties and responsibilities relating to the operation of the court not otherwise specifically set forth in this chapter, as provided for by Government Code 71620~~69898~~.

*(Rule 10.2~~10.4~~ amended and renumbered effective January 1, 2010; adopted as Rule 10.4 effective January 1, 1991; former Rule 10.2, which concerned transfer of staff, repealed effective January 1, 2010.)*

## 10.3 TRANSFER OF CLERK FUNCTIONS TO EXECUTIVE OFFICER [REPEALED]

*(Rule 10.3 repealed effective January 1, 2010; adopted effective January 1, 1991.)*

**10.4 [RENUMBERED]**

*(Rule 10.4 renumbered as Rule 10.2 effective January 1, 2010.)*

**10.5. TRANSFER OF FORMER COUNTY CLERK EMPLOYEES [REPEALED]**

~~All former employees of the County Clerk whose primary job tasks support the functions of the Clerk of the Court in connection with judicial actions, proceedings, and records, shall be transferred to the supervision and control of the Executive Officer. Said employees shall maintain existing seniority status, salary, and benefits of County employment and shall have the rights, privileges and obligations of Superior Court employees pursuant to the Personnel Plan of Superior Court.~~

*(Rule 10.5 repealed effective January 1, 2010; adopted effective January 1, 1991.)*

**10.6. TRANSFER OF REVENUES, FACILITIES AND EQUIPMENT [REPEALED]**

~~Subsequent to appropriate action by the Solano County Board of Supervisors, all revenues, budgeted funds, facilities, fixed assets, and equipment relating to the functions of the Clerk of the Court, shall be transferred to the superior Court and made a part of the Superior Court budget.~~

*(Rule 10.6 repealed effective January 1, 2010; adopted effective January 1, 1991.)*

**Superior Court of California**
**County of Solano**

**Rule 11 – Jury Management ~~(RESERVED)~~**

**11.1 – 11.99 [RESERVED]**

~~RULE 11~~

~~JURY MANAGEMENT (Reserved)~~

**Superior Court of California**
**County of Solano**

**Rule 12 – Misdemeanor Criminal Cases ~~(RESERVED)~~**

**12.1 – 12.99 [RESERVED]**

~~RULE 12~~

~~CRIMINAL (Reserved)~~

**Superior Court of California**
**County of Solano**

**Rule 13 – Appeals~~[RESERVED]~~**

## 13.1 FEE WAIVER APPLICATIONS FOR MATTERS BEING APPEALED TO THE COURT OF APPEAL

a. **FEE WAIVER REQUEST PROCEDURE GENERALLY**

Where a party appealing a matter seeks a waiver of court fees and costs from the Superior Court of California, County of Solano as well as from the First District Court of Appeal and a fee waiver request has not been filed directly with the First District Court of Appeal, the party shall submit two separate *Request to Waive Court Fees* forms (Judicial Council form FW-001) to the Clerk of the Superior Court. One form shall be directed to the superior court and the other form shall be directed to the First District Court of Appeal.
*(Subd (a) adopted effective January 1, 2010.)*

b. **PROCEDURE FOR WAIVING FEES AT THE SUPERIOR COURT**

The request to waive fees on appeal at the superior court level shall be processed and determined per Government Code section 68630 et seq.
*(Subd (b) adopted effective January 1, 2010.)*

c. **PROCEDURE FOR WAIVING FEES AT THE COURT OF APPEAL**

The superior court shall receive and transmit to the First District Court of Appeal for filing, processing and determination any fee waiver which seeks to waive fees charged by the First District Court of Appeal. The superior court's acceptance of the FW-001 form on behalf of the Court of Appeal shall not be deemed a "filing" for purposes of Government Code section 68634.5, subdivision (f).
*(Subd (c) adopted effective January 1, 2010.)*

*(Rule 13.1 adopted effective January 1, 2010.)*

~~RULE 13~~

~~(Reserved)~~

**Superior Court of California**
**County of Solano**

**Rule 14 – Unlawful Detainer**

## 14.1 TELEPHONIC APPEARANCES

Telephonic appearances in unlawful detainer cases will be permitted only to the extent authorized by California Rules of Court, rule 3.670, and in the manner required by that rule and Solano County Local Rules, rule 4.12~~4.14~~(h).

*(Rule 14.1 amended effective January 1, 2010; adopted effective January 1, 2009.)*

## 14.2 TRIAL MANAGEMENT

The court may, in its discretion, order the parties to an unlawful detainer matter to participate in a trial management conference and/or settlement conference in cases where the case is to be tried by a jury.

*(Rule 14.2 adopted effective January 1, 2010.)*

## 14.3 ATTORNEY FEES IN DEFAULT MATTERS

a. **CASES FILED AS LIMITED CIVIL MATTERS**

In default unlawful detainer actions filed as limited civil matters, the attorney fees are fixed upon the schedule set forth in subsection (c) with a minimum of $300.00. The maximum fee shall not exceed the court's jurisdiction. Any attorney seeking fees in an unlawful detainer action in excess of those provided for by the schedule in subsection (c) is required to apply for a hearing on the Default Calendar or supply an affidavit in accordance with Code of Civil Procedure section 585(d).

*(Subd (a) adopted effective January 1, 2010; previously adopted as unlettered portion of Rule 9.1 effective May 13, 1988; amended and relettered as Subd (d) of Rule 9.1 effective January 1, 2009.)*

b. **CASES FILED AS UNLIMITED CIVIL MATTERS**

In default unlawful detainer actions filed as unlimited civil matters, the attorney fees are fixed upon the schedule set forth in subsection (c) with a minimum of $300.00. Any attorney seeking fees in an unlawful detainer action in excess of those provided for by the schedule in subsection (c) is required to apply for a hearing on the Default Calendar or supply an affidavit in accordance with Code of Civil Procedure section 585(d).

*(Subd (b) adopted effective January 1, 2010.)*

c. **SCHEDULE OF ATTORNEY FEES**

Attorney fees in unlawful detainer actions shall be calculated as follows:

25% of the first $1,000, with a minimum of $300
15% of the next $9,000
10% of the next $15,000
*(Subd (c) adopted effective January 1, 2010.)*

*(Rule 14.3 adopted effective January 1, 2010.)*

**Superior Court of California**
**County of Solano**

**Rule 15 – Guardianships and Conservatorships**

**PART ONE: Guardianships**

## 15.1 SCOPE OF GUARDIANSHIP RULES; TERMINOLOGY

a. **MATTERS TO WHICH RULE 15 APPLIES**
These guardianship rules apply to all probate guardianships of the person, the estate, or both, which are filed pursuant to Probate Code section 1500 et seq.
*(Subd (a) adopted effective July 1, 2009.)*

b. **MATTERS TO WHICH RULE 15 DOES NOT APPLY**
These guardianship rules do not apply to child custody matters filed pursuant to the Family Code or to guardianships under the Welfare and Institutions Code.
*(Subd (b) adopted effective July 1, 2009.)*

c. **TERMINOLOGY**
Unless otherwise indicated in a particular rule, all references to a "ward" shall include a proposed ward and references to a "guardian" shall include a proposed guardian.
*(Subd (c) adopted effective July 1, 2009.)*

*(Rule 15.1 adopted effective July 1, 2009; adopted as Rule 7.52 effective July 1, 2008.)*

## 15.2 FORMS TO BE FILED AT COMMENCEMENT OF PROCEEDING

a. **FORMS FOR GENERAL GUARDIANSHIP OF THE PERSON ONLY**
A petitioner seeking the appointment of a guardian of the person only must file the following forms with the clerk of the court:

(1) Notice of Hearing – Guardianship or Conservatorship (Judicial Council form GC-020);

(2) Petition for Appointment of Guardian of Minor (Judicial Council form GC-210)
OR
Petition for Appointment of Guardian of the Person (Judicial Council form GC-210(P));

(3) Guardianship Petition – Child Information Attachment (Judicial Council form GC-210(CA));

(4) Indian Child Inquiry Attachment (Judicial Council form ICWA-010(A));

(5) Declaration Regarding Venue (Solano County Local Form no. ~~3700~~), or a declaration contained within the petition that is in substantial compliance with rule 15.2(e);

(6) Consent of Guardian, Nomination, and Waiver of Notice (Judicial Council form GC-211);

(7) Confidential Guardian Screening Form (Judicial Council form GC-212);

(8) Duties of Guardian (Judicial Council form GC-248);

(9) Declaration under Uniform Child Custody Jurisdiction and Enforcement Act (Judicial Council form FL-105);

(10) Court Investigator's Information and Referral Form (Solano County Local Form no. ~~3490~~);

(11) Order Appointing Investigator (Solano County Local Form no. ~~3510~~);

(12) Order Appointing Guardian of Minor (Judicial Council form GC-240); and,

(13) Letters of Guardianship (Judicial Council form GC-250).

*(Subd (a) adopted effective July 1, 2009.)*

b. **FORMS AND DECLARATIONS FOR GENERAL GUARDIANSHIP OF THE PERSON AND THE ESTATE**

A petitioner seeking the appointment of a guardian of the person and the estate must file the following forms and declarations with the clerk of the court:

(1) Notice of Hearing – Guardianship or Conservatorship (Judicial Council form GC-020)

(2) Petition for Appointment of Guardian of Minor (Judicial Council form GC-210)

(3) Guardianship Petition – Child Information Attachment (Judicial Council form GC-210(CA))

(4) Indian Child Inquiry Attachment (Judicial Council form ICWA-010(A));

(5) Declaration Regarding Venue (Solano County Local Form no. ~~3700~~), or a declaration contained within the petition that is in substantial compliance with rule 15.2(e);

(6) Preliminary Inventory of Guardianship Estate (Solano County Local Form no. ~~3800~~);

(7) Consent of Guardian, Nomination, and Waiver of Notice (Judicial Council form GC-211);

(8) Confidential Guardian Screening Form (Judicial Council form GC-212);

(9) Duties of Guardian (Judicial Council form GC-248);

(10) Declaration under Uniform Child Custody Jurisdiction and Enforcement Act (Judicial Council form FL-105);

(11) Court Investigator's Information and Referral Form (Solano County Local Form no. ~~3490~~);

(12) Order Appointing Investigator (Solano County Local Form no. ~~3510~~);

(13) Order Appointing Guardian of Minor (Judicial Council form GC-240); and,

(14) Letters of Guardianship (Judicial Council form GC-250).

*(Subd (b) adopted effective July 1, 2009.)*

c. **FORMS FOR GENERAL GUARDIANSHIP OF THE ESTATE ONLY**

A petitioner seeking the appointment of a guardian of the person and the estate must file the following forms with the clerk of the court:

(1) Notice of Hearing – Guardianship or Conservatorship (Judicial Council form GC-020)

(2) Petition for Appointment of Guardian of Minor (Judicial Council form GC-210)

(3) Guardianship Petition – Child Information Attachment (Judicial Council form GC-210(CA))

(4) Declaration Regarding Venue (Solano County Local Form no. ~~3700~~), or a declaration contained within the petition that is in substantial compliance with rule 15.2(e);

(5) Preliminary Inventory of Guardianship Estate (Solano County Local Form no. ~~3800~~);

(6) Consent of Guardian, Nomination, and Waiver of Notice (Judicial Council form GC-211);

(7) Confidential Guardian Screening Form (Judicial Council form GC-212);

(8) Duties of Guardian (Judicial Council form GC-248);

(9) Court Investigator's Information and Referral Form (Solano County Local Form no. ~~3490~~);

(10) Order Appointing Investigator (Solano County Local Form no. ~~3510~~);

(11) Order Appointing Guardian of Minor (Judicial Council form GC-240); and,

(12) Letters of Guardianship (Judicial Council form GC-250).

*(Subd (c) adopted effective July 1, 2009.)*

d. **FORMS FOR TEMPORARY GUARDIANSHIP OF THE PERSON AND/OR THE ESTATE**
In addition to the forms listed above for the appropriate form of general guardianship, a petitioner seeking the appointment of a temporary guardian of the person and/or the estate must file the following forms:

(1) Petition for Appointment of Temporary Guardian (Judicial Council form GC-110)
OR
Petition for Appointment of Temporary Guardian of the Person (Judicial Council form GC-110(P));

(2) Order Appointing Temporary Guardian or Conservator (Judicial Council form GC-140); and,

(3) Letters of Temporary Guardianship or Conservatorship (Judicial Council form GC-150).

The petition shall include a detailed declaration indicating why a temporary guardianship is necessary or appropriate.
*(Subd (d) adopted effective July 1, 2009.)*

e. **DECLARATION REGARDING VENUE**

(1) *Proposed Wards who are Residents of California*
In all petitions for guardianship of the person and/or the estate where the proposed ward is a resident of the State of California, the petitioner shall include a declaration indicating whether the proposed ward is a resident of Solano County at the time the petition is filed. If the proposed ward is not a resident of Solano County, the declaration shall state why it is in the proposed ward's best interests to have the guardianship proceeding heard in Solano County. The declaration may be filed on a *Declaration re: Venue* (Solano County Local Form no. ~~3700~~) or in a declaration in substantial compliance with this rule, or may be included in the body of the petition for guardianship.
*(Subd (1) adopted effective July 1, 2009.)*

(2) *Proposed Wards who are Not Residents of California – Guardianships of the Person*
In all petitions for guardianship of the person where the proposed ward is not a resident of the State of California, the petitioner shall include a declaration indicating whether the proposed ward is temporarily living in Solano County at the time the petition is filed. If the proposed ward is not temporarily living in Solano County, the declaration shall state why it is in the proposed ward's best interests to have the guardianship proceeding heard in Solano County. The declaration may be filed on a Declaration re: Venue (Solano County Local Form no. ~~3700~~) or in a declaration in substantial compliance with this rule, or may be included in the body of the petition for guardianship.
*(Subd (2) adopted effective July 1, 2009.)*

(3) *Proposed Wards who are Not Residents of California – Guardianships of the Estate*
In all petitions for guardianship of the estate where the proposed ward is not a resident of the State of California, the petitioner shall include a declaration indicating whether the proposed ward is temporarily living in Solano County at the time the petition is filed or whether the proposed ward has property in Solano County. If the proposed ward is not temporarily living in Solano County and does not have property in Solano County, the declaration shall state why it is in the proposed ward's best interests to have the guardianship proceeding heard in Solano County. The declaration may be filed on a Declaration re: Venue (Solano County Local Form no. ~~3700~~) or in a declaration in substantial compliance with this rule, or may be included in the body of the petition for guardianship.
*(Subd (3) adopted effective July 1, 2009.)*

*(Subd (e) adopted effective July 1, 2009.)*

*(Rule 15.2 adopted effective July 1, 2009; adopted as Rule 7.53 effective July 1, 2008.)*

## 15.3 NOTICE OF PETITION FOR APPOINTMENT OF GUARDIAN OR TEMPORARY GUARDIAN

a. **MINIMUM NOTICE REQUIREMENTS – RELATIVE GUARDIANSHIPS**
Except as excused by court order or as otherwise stated elsewhere in these rules, in proceedings where the proposed guardian is related to the proposed ward within the second degree as defined by Probate Code section 1513, subdivision (g), the petitioner shall provide notice of his or her petition for appointment of guardian as required by Probate Code section 1511. The court may, in its discretion, require notice to other relatives, including a person alleged to be a ward's parent, or other interested parties.
*(Subd (a) amended effective July 1, 2009.)*

b. **MINIMUM NOTICE REQUIREMENTS – NON-RELATIVE GUARDIANSHIPS**
Except as excused by court order or as otherwise stated elsewhere in these rules, in proceedings where the proposed guardian is not related to the proposed ward within the second degree as defined by Probate Code section 1513, subdivision (g), the petitioner shall provide notice of his or her petition for appointment of guardian as required by Probate Code sections 1511 and 1542. The addresses for the Director of Social Services and the Solano County Health and Social Services Department, the local agency designated for court investigations per

Probate Code section 1542, are listed in Appendix 15-A. The court may, in its discretion, require notice to other relatives, including a person alleged to be a ward's parent, or other interested parties.
*(Subd (b) adopted effective July 1, 2009.)*

c. **DOCUMENTS TO BE SERVED**
A petitioner must have the following documents served on any person who is entitled to notice of the petition for guardianship per Probate Code section 1511 and/or by order of the court:

(1) A copy of the filed Petition for Appointment of Guardian (Judicial Council form GC-210 or GC-210(P)) with any and all attachments; and,

(2) Notice of Hearing – Guardianship or Conservatorship (Judicial Council form GC-020).
*(Subd (c) adopted effective July 1, 2009.)*

d. **PROOF OF PERSONAL SERVICE**
Any person effectuating personal service on one or more individuals shall fill out and sign a Proof of Personal Service of Notice of Hearing (Judicial Council form GC-020(P)). The server may instead prepare and sign a declaration substantially equivalent to Judicial Council form GC-020(P). The server shall provide the completed and signed form or declaration to the petitioner. The petitioner shall attach the completed form to the original Notice of Hearing (Judicial Council form GC-020) and file both original forms with the court at least five calendar days before the scheduled hearing date.
*(Subd (d) adopted effective July 1, 2009.)*

e. **PROOF OF SERVICE BY MAIL**
Any person effectuating service by mail on one or more individuals or government agencies shall fill out and sign a Proof of Service by First-Class Mail – Civil (Judicial Council form POS-030). The server may instead prepare and sign a declaration substantially equivalent to Judicial Council form POS-030. The server shall provide the completed and signed form or declaration to the petitioner. The petitioner shall file the original Notice of Hearing (Judicial Council form GC-020) and the proof of service by mail with the court at least five calendar days before the scheduled hearing date.
*(Subd (e) adopted effective July 1, 2009.)*

f. **DECLARATION OF DUE DILIGENCE**

If a petitioner cannot locate a relative or other person for whom notice is required, the petitioner shall file a Declaration of Due Diligence (Solano County Local Form no. 3705) or a substantially equivalent declaration which complies with this rule. The declaration must specify the name of the relative or other person whose whereabouts are unknown, the last known address of the person, the approximate date when the person was last known to reside at that address, all efforts undertaken to identify and locate the person, and any facts that explain why the person cannot be located. At a minimum, the petitioner shall make all of the following efforts and state the results in the declaration:

(1) Search the public records in any county where the person was last known or believed to reside, including real and personal property indexes in the recorder's and assessor's offices, the local telephone directory and directory assistance, the county's voter registration, the county's vital statistics office, and any non-confidential court files concerning or involving the person;

(2) Search all appropriate Internet search engines;

(3) Inquiry of the person's current or former employer(s);

(4) Inquiry of the person's current or former landlord(s) and neighbors;

(5) Inquiry of the person's last known residential address and any neighbors of that address;

(6) Inquiry of any relatives, friends, or other individuals who might have knowledge of the person's whereabouts; and,

(7) Inquiry of any appropriate county, state, and federal correctional systems in which the petitioner believes or has reason to believe the person is or may be incarcerated.

*(Subd (f) adopted effective July 1, 2009.)*

g. **ORDER DISPENSING WITH NOTICE**

A petitioner seeking an order dispensing with notice for one or more persons shall submit an Order Dispensing with Notice (Judicial Council form GC-021) to the court prior to or at the hearing on the petition for guardianship. The court will

not grant an order dispensing with notice unless the petitioner has filed a Declaration of Due Diligence pursuant to Solano County Local Rules, rule 15.3, subdivision (f).
*(Subd (g) adopted effective July 1, 2009.)*

h. **NOTICE IN TEMPORARY GUARDIANSHIPS**
Notice in temporary guardianships is governed by Probate Code section 2250(e).
*(Subd (h) adopted effective July 1, 2008.)*

*(Rule 15.3 adopted effective July 1, 2009; adopted as Rule 7.52 effective July 1, 1989.)*

## 15.4 APPOINTMENT OF INVESTIGATOR

a. **APPOINTMENT OF INVESTIGATOR IN RELATIVE GUARDIANSHIPS**
The court shall appoint the Court Investigators Office to perform an investigation pursuant to Probate Code section 1513 where the proposed guardian is a relative of the ward within the second degree. For purposes of this rule, a person shall be considered a relative within the second degree if they are related to the ward as described in Probate Code section 1513, subdivision (g).
*(Subd (a) adopted effective July 1, 2009.)*

b. **APPOINTMENT OF INVESTIGATOR IN NON-RELATIVE GUARDIANSHIPS**
In all probate guardianship matters where the proposed guardian is not a relative of the ward within the second degree as defined by Probate Code section 1513, subdivision (g), the court shall appoint the Solano County Department of Health & Social Services to perform an investigation pursuant to Probate Code sections 1513 and 1543.
*(Subd (b) adopted effective July 1, 2009.)*

c. **SERVICE OF DOCUMENTS ON INVESTIGATOR – RELATIVE GUARDIANSHIPS**
In guardianship proceedings where the court has appointed the Court Investigators Office, the petitioner or the petitioner's attorney must serve the Court Investigators Office with a copy of the following documents at least thirty (30) days prior to the hearing date:

(1) Notice of Hearing – Guardianship or Conservatorship (Judicial Council form GC-020);

(2) A copy of the Petition for Guardianships (Judicial Council form GC-210 or GC-210(P)); and

(3) A completed Court Investigator's Information and Referral Form (Solano County Local Form no. ~~3490-G~~)

The documents shall be delivered or mailed to:
Court Investigators Office
Superior Court of California, County of Solano
600 Union Avenue
Fairfield, California 94533
*(Subd (c) adopted effective July 1, 2009.)*

d. **SERVICE OF DOCUMENTS ON INVESTIGATOR – NON-RELATIVE GUARDIANSHIPS**
In guardianship proceedings where the court has appointed the Solano County Department of Health & Social Services ("Department") to investigate the guardianship petition, the petitioner or the petitioner's attorney must serve the Department with a copy of the following documents thirty (30) days prior to the hearing date:

(1) Notice of Hearing – Guardianship or Conservatorship (Judicial Council form GC-020);

(2) A copy of the Petition for Guardianship (Judicial Council form GC-210 or GC-210(P)); and,

(3) Any other forms that may be required by the Department.

The documents shall be delivered or mailed to:
Supervisor – Court Unit, Children's Bureau
Department of Health & Social Services
275 Beck Avenue MS5-230
Fairfield, CA 94533
*(Subd (d) adopted July 1, 2009.)*

e. **DUTY TO UPDATE INFORMATION GIVEN TO INVESTIGATOR**
The petitioner must advise the investigating office of any changes to the contact information of the ward, guardian, or proposed guardian.
*(Subd (e) adopted effective July 1, 2009.)*

f. **DUTY TO COOPERATE WITH INVESTIGATOR**
All parties, including but not limited to the petitioner, proposed or appointed guardian, parent(s) of the ward, and any attorneys for the parties, including appointed counsel for the ward or proposed ward, are to cooperate fully with the appointed investigator. Failure to cooperate may be punishable with sanctions pursuant to Code of Civil Procedure, section 575.2, in the court's discretion.
*(Subd (f) adopted effective July 1, 2009.)*

*(Rule 15.4 adopted effective July 1, 2009; adopted as Rule 7.55 effective July 1, 2008.)*

## 15.5 COURT INVESTIGATOR FEES

a. **COURT INVESTIGATOR FEES GENERALLY**
A fee for the services of the Court Investigators Office shall be imposed upon the person(s) so responsible for payment per Probate Code section1513.1. The rate of this fee depends on the nature of the investigation and is determined by the court on an annual basis. All rates are subject to change. The amount of the fee payable shall be determined by the fee schedule in effect on the date the petition triggering the investigation is filed, the date the accounting being reviewed is filed, or the due date of any reviews mandated by law. A list of current fees is available from the Court Investigators Office or the Family Law Clerk's Office. The assessed fee is payable within 30 days after the Assessment and Order for Payment is mailed by the Court Investigators Office.
*(Subd (a) amended effective January 1, 2010; adopted effective July 1, 2009.)*

b. **PAYMENT OF COURT INVESTIGATOR FEES**
Any and all assessments not waived by the court or county shall be paid to the court.
*(Subd (b) adopted effective July 1, 2009.)*

c. **DEFERMENT OR WAIVER OF COURT INVESTIGATOR FEES**
Upon application by a guardian or proposed guardian, a custodial parent, or a ward or proposed ward, the court may defer or waive a portion or all of the assessed court investigator fees if the court finds that ordering payment of the assessed fees would constitute a hardship for the ward or the ward's estate pursuant to Probate Code section 1513.1. The court may also defer fees pursuant to Probate Code section 2628. There shall be a rebuttable presumption that the assessed court investigator fees constitute a hardship on a ward or proposed ward

if the proposed guardian qualifies for a fee waiver under Government Code section 68630 et seq.

The court may periodically review the person's ability to pay the assessed fee. If the court becomes aware of a change in circumstances permitting payment of the fees by the person, the court shall order the fees paid after notice to the person and an opportunity to be heard.
*(Subd (c) adopted effective July 1, 2009.)*

*(Rule 15.5 amended effective January 1, 2010; adopted effective July 1, 2009; previously adopted as Rule 7.54 effective July 1, 1989; previously renumbered as Rule 7.56 effective July 1, 2008.)*

## 15.6 TEMPORARY GUARDIANSHIPS

a. **GUARDIANSHIPS OF THE PERSON**
The court will not normally grant a temporary guardianship of the person if the proposed ward is not living with or otherwise in the physical custody of the proposed guardian.
*(Subd (a) adopted effective July 1, 2009.)*

b. **GUARDIANSHIPS OF THE ESTATE**
The court will ordinarily require a bond for a temporary guardian of the estate. Unless the bond requirement is waived by the court, letters of temporary guardianship shall not issue until the temporary guardian has filed the requisite proof of bond per Probate Code section 2251.
*(Subd (b) adopted effective July 1, 2009.)*

*(Rule 15.6 adopted effective July 1, 2009; adopted as Rule 7.57 effective July 1, 2008.)*

## 15.7 EX PARTE APPLICATIONS FOR TEMPORARY GUARDIANSHIP OR OTHER TEMPORARY ORDERS

a. **EX PARTE APPLICATIONS GENERALLY**
Ex parte applications are extraordinary remedies. Except as set forth in an individual rule, ex parte applications for a temporary guardianship of either the estate or the person, or for temporary orders pertaining to an existing guardianship, are appropriate only where the applicant makes a showing per Caliornia Rules of Court, rule 7.1012 that an exception to the notice requirements

is necessary to protect the ward or the proposed ward or his or her estate from immediate and substantial harm.
*(Subd (a) adopted effective July 1, 2009.)*

b. **GUIDELINES FOR EX PARTE APPLICATIONS**
Unless the petitioner makes a showing of immediate and substantial harm or other good cause for an ex parte granting of a temporary guardianship or other orders as set forth in California Rules of Court, rule 7.1012, the court ordinarily will not entertain an ex parte application for appointment of a temporary guardian or for other temporary orders, even where all those entitled to notice have joined in the petition. In cases where the court determines that immediate appointment of a temporary guardian is necessary, said appointment shall be governed by the provisions of Probate Code section 2250.
*(Subd (b) adopted effective July 1, 2009.)*

c. **FORMS TO BE FILED FOR EX PARTE APPLICATIONS**
In addition to the Judicial Council and local forms required for temporary and general guardianships, a petitioner seeking an ex parte order appointing a temporary guardian or seeking temporary orders in an existing guardianship shall be required to file an *Ex Parte Application for Temporary Guardianship or Other Orders* (Solano County Local Form no. ~~3710~~).
*(Subd (c) adopted effective July 1, 2009.)*

d. **EX PARTE NOTICE REQUIREMENTS**

(1) Before submitting an ex parte application for the court's consideration, the applicant shall comply with the procedures in Probate Code section 1051, California Rules of Court, rule 7.55, and all applicable local rules. Unless otherwise stated in the Solano County Local Rules, the applicant must comply with all requirements for a declaration setting forth that NOTICE of the ex parte request has been given to all required persons or the reason notice has not been given. At the time of submission of the application, a completed *Declaration Re Notice Upon Ex Parte Application for Orders – Guardianships* (Solano County Local Form no. ~~1070-G~~) or a declaration in substantial compliance therewith, shall accompany all applications for ex parte orders and shall be filed before the ex parte hearing. The moving party shall make available a copy of the filed *Declaration Re Notice Upon Ex Parte Application for Orders* to the judicial officer, and to the opposing

party or attorney if one appears, at the time of the ex parte hearing, or the ex parte hearing may be ordered rescheduled.
*(Subd (1) adopted effective July 1, 2009.)*

(2) Unless otherwise ordered by the court, notice of the ex parte application for temporary orders shall be given by the petitioner to all those who are entitled to notice per Probate Code section 1511 and 1542. The notice shall include the date, time, and place the request will be made, a summary of the relief requested, and the facts upon which the request will be made. In its discretion, the court may require that the entire moving papers package be served in a prescribed manner upon another party, interested person, or his or her attorney, at a specified time before the ex parte hearing. Notice may be excused pursuant to these rules.
*(Subd (2) adopted effective July 1, 2009.)*

*(Subd (d) adopted effective July 1, 2009.)*

e. **PROCEDURE FOR EX PARTE APPLICATIONS**

(1) To determine whether, if taken as true, the moving papers demonstrate immediate and substantial harm or otherwise set forth good cause for granting a temporary emergency order, the assigned judicial officer shall consider the requesting party's papers and, in his or her discretion, determine that the matter should be addressed in an ex parte hearing, or with an order shortening time for notice or for a hearing, or with a regularly set petition. All ex parte applications must be submitted for screening by 1:30 p.m. for consideration on that same court day. Presenting the ex parte motion for this screening process does not in and of itself constitute submission of the motion for the court's consideration per Solano County Local Rules, rule 15.7 (d), above.
*(Subd (1) adopted effective July 1, 2009.)*

(2) Before a hearing on an ex parte application may take place, the moving party shall present proof (such as a receipt) that the additional ex parte filing fees have been paid or shall provide proof that the party has a current fee waiver on file in the guardianship case. Unless the moving party has a valid and current fee waiver on file, failure to present proof of payment of the ex parte fees will result in the hearing being taken off calendar,
*(Subd (2) adopted effective July 1, 2009.)*

(3) At the ex parte hearing, the party requesting ex parte orders must inform the judicial officer whether the opposing party is represented by counsel or is unrepresented. Per California Rules of Court, rule 7.55, the party requesting ex parte orders must also disclose whether special notice has been requested and if so, whether special notice has been given to or waived by the person who requested it.
*(Subd (3) adopted effective July 1, 2009.)*

*(Subd (e) adopted effective July 1, 2009.)*

*(Rule 15.7 adopted effective July 1, 2009; adopted as Rule 7.55 effective July 1988; renumbered as Rule 7.58 effective July 1, 2008.)*

## 15.8 CONTESTED GUARDIANSHIPS

a. **DISCLOSURE OF PROCEEDINGS AFFECTING THE WARD OR PROPOSED WARD**
The petitioner shall fully disclose in the petition (or thereafter as required by Probate Code section 1512) any information the petitioner has concerning any other pending or concluded proceeding involving the custody or guardianship of the minor. This shall include, but is not limited to, any adoption, juvenile court, marriage dissolution, domestic relations, or other similar proceeding affecting the ward or proposed ward in any jurisdiction, including other counties, states, or foreign countries.
*(Subd (a) adopted effective July 1, 2009.)*

b. **OBJECTIONS TO THE APPOINTMENT OF GUARDIAN**
A person objecting to the appointment of a temporary or general guardian of the person and/or estate shall file an *Objection to Appointment of Guardian* (Solano County Local Form no. ~~3455~~) as far in advance as possible of the appropriate guardianship hearing date. For example, an objection to the appointment of a temporary guardian shall be filed prior to the hearing on the temporary guardianship. The objection shall be served on all parties entitled to notice per Probate Code sections 1511 and 1542 as well as the Court Investigators Office. A proof of service showing service on each individual shall be filed with the court. If filing and service of the objection is not possible prior to the hearing date, the objecting party shall appear at the hearing either personally or through counsel to state their objection(s) on the record; however, unless otherwise ordered by the court, appearance at the hearing does not excuse the objecting party from filing

his or her Objection to Appointment of Guardian and complying with the service requirements in this rule.
*(Subd (b) adopted effective July 1, 2009.)*

c. **NOMINATION OF ALTERNATE GUARDIAN**
A person's nomination of an alternate guardian for a proposed ward in an *Objection to Appointment of Guardian* (Solano County Local Form no. 3455) shall not be considered unless and until a petition naming the alternate proposed guardian is filed and the alternate proposed guardian indicates in writing that he or she consents to the nomination. A petition filed under this rule shall be filed in the same case number as the original petition. A petition filed pursuant to this rule is subject to the same service and notice requirements as the original petition for guardianship.
*(Subd (c) adopted effective July 1, 2009.)*

*(Rule 15.8 adopted effective July 1, 2009; adopted as Rule 7.56 effective July 1, 1988; renumbered as Rule 7.59 effective July 1, 2008.)*

## 15.9 ORDERS FOR VISITATION IN GUARDIANSHIPS

a. **REQUEST FOR VISITATION ORDERS**
A party seeking orders granting visitation with a ward or proposed ward shall file a petition seeking visitation orders. The court may promulgate a local form for use in filing a petition for visitation. Except as excused by court order or as otherwise stated elsewhere in these rules, the party shall provide notice of his or her petition as required by Probate Code section 1511 and Solano County Local Rules, rule 15.3. The court may, in its discretion, require notice to other relatives, including a person alleged to be a ward's parent, or other interested parties.
*(Subd (a) adopted effective July 1, 2009.)*

b. **DOCUMENTS TO BE SERVED**
A party requesting visitation orders must have the following documents served on any person who is entitled to notice of the petition for guardianship per Probate Code section 1511, Solano County Local Rules, rule 15.3, and/or by order of the court:

(1) A copy of the filed petition for visitation with any and all attachments; and,

(2) Notice of Hearing – Guardianship or Conservatorship (Judicial Council form GC-020).

*(Subd (b) adopted effective July 1, 2009.)*

c. **PROOFS OF SERVICE; DECLARATIONS OF DUE DILIGENCE**

A party requesting visitation shall file one or more proofs of service demonstrating that all persons entitled to notice per Solano County Local Rules, rule 15.3 have been served as required. The proofs of service shall be completed and filed as described in rule 15.3, subdivisions (d) and (e), as appropriate. A party who cannot locate or provide notice to a particular individual shall comply with rule 15.3, subdivision (f).

*(Subd (c) adopted effective July 1, 2009.)*

d. **MEDIATION**

If a dispute exists as to the request for visitation, the matter shall be referred to mediation with Family Court Services. Mediations ordered as a result of this local rule shall be subject to all provisions found in Chapter 11 (commencing with Family Code section 3160) of Part 3 of Division 8 of the Family Code, all applicable provisions in the California Rules of Court, and Solano County Local Rules, rule 5.11.

*(Subd (d) adopted effective July 1, 2009.)*

e. **ORDERS FOR VISITATION**

Stipulations between the parties for visitation between a ward and another individual shall be prepared as a pleading or on a form designated by the court for use in guardianship matters. All other court orders concerning visitation with a ward shall be prepared and filed as a pleading or on a form designated by the court for use in guardianship matters.

*(Subd (e) adopted effective July 1, 2009.)*

*(Rule 15.9 adopted effective July 1, 2009; adopted as Rule 7.60 effective July 1, 2008.)*

## 15.10 GUARDIANSHIPS OF THE ESTATE – INVENTORIES AND APPRAISALS

a. **INVENTORIES AND APPRAISALS GENERALLY**

Inventories and appraisals in guardianships of the estate are governed by Chapter 7 of Part 4 of Division 4 of the Probate Code (commencing with section 2600). The use of mandatory Judicial Council forms is required, and the use of optional

Judicial Council forms is strongly encouraged, in the preparation of all inventories and appraisals.
*(Subd (a) adopted effective July 1, 2009.)*

b. **REVIEW HEARING FOR INVENTORIES AND APPRAISALS**
At the time of the appointment of a guardian of the estate or a guardian of the person and the estate, the court shall set a review hearing to take place four (4) months after the date of appointment. The date of the initial compliance review hearing shall be listed as part of the order appointing the guardian. The court may set additional review hearings as needed for the initial and any subsequent inventories and appraisals.
*(Subd (b) adopted effective July 1, 2009.)*

c. **FILING OF INVENTORIES AND APPRAISALS**
The guardian shall file the inventory and appraisal required by Probate Code section 2610 at least thirty (30) days prior to the date of the review hearing set pursuant to Rule 15.10, subsection (b), concerning that inventory and appraisal.
*(Subd (c) adopted effective July 1, 2009.)*

d. **SERVICE OF INVENTORIES AND APPRAISALS**
At the time that the guardian of the estate presents an inventory and appraisal to the court pursuant to Probate Code sections 2610 or 2620 or any other section of the Probate Code, the guardian shall also serve an exact copy of the inventory and appraisal on the Court Investigators Office, if the inventory is in a relative guardianship of the estate, or on the Solano County Department of Health & Social Services, if the inventory is in a non-relative guardianship of the estate.
*(Subd (d) adopted effective July 1, 2009.)*

e. **SERVICE OF NOTICE OF HEARING ON OBJECTIONS TO INVENTORIES AND APPRAISALS**
A person who files an objection to the inventory and appraisal of a guardian shall timely serve a notice of hearing on the Court Investigators Office, if the inventory and appraisal is in a relative guardianship of the estate, or on the Solano County Department of Health & Social Services, if the inventory and appraisal is in a non-relative guardianship of the estate. This notice of hearing shall only be required for a hearing set by the objecting party that is not already on calendar. No notice of the hearing is required for the review hearings set automatically by the court.
*(Subd (e) adopted effective July 1, 2009.)*

*(Rule 15.10 adopted effective July 1, 2009; adopted as Rule 7.59 effective July 1, 1992; renumbered as Rule 7.61 effective July 1, 2008.)*

## 15.11 GUARDIANSHIPS OF THE ESTATE – ACCOUNTINGS

a. **ACCOUNTINGS GENERALLY**
Accountings in guardianships of the estate are governed by Chapter 7 of Part 4 of Division 4 of the Probate Code (commencing with section 2600). The use of mandatory Judicial Council forms is required, and the use of optional Judicial Council forms is strongly encouraged, in the preparation of all accountings.
*(Subd (a) adopted effective July 1, 2009.)*

b. **SUPPLEMENTAL REPORT TO ACCOMPANY ACCOUNTING**
In addition to the information required by Probate Code section 2620, each accounting shall include a report containing the following information:

(1) An explanation of any unusual items appearing in the account;

(2) A report of the stewardship of the fiduciary in the management of the assets of the ward's estate during the period covered by the account;

(3) In cases where a bond has been ordered, a statement attesting that bond premiums have been paid regularly; and,

(4) If income-producing property is inventoried in the guardianship and the account fails to indicate that income is being produced by the property, an explanation as to the lack of income.

*(Subd (b) adopted effective July 1, 2009.)*

c. **REVIEW HEARING FOR ACCOUNTINGS**
At the time of the appointment of a guardian of the estate or a guardian of the person and the estate, the court shall set a review hearing to take place fourteen (14) months after the date of appointment. The date of the compliance review hearing shall be listed as part of the order appointing the guardian. The court may set additional review hearings as needed for the initial and any subsequent accounts.
*(Subd (c) adopted effective July 1, 2009.)*

d. **FILING OF ACCOUNTINGS**
The guardian shall file the accounting required by Probate Code section 2620 at least thirty (30) days prior to the date of the review hearing set pursuant to Rule 15.11, subsection (c), concerning that accounting.
*(Subd (d) adopted effective July 1, 2009.)*

e. **SERVICE OF ACCOUNTINGS**
At the time that the guardian of the estate presents an accounting to the court pursuant to Probate Code section 2620 et seq. or any other section of the Probate Code, the guardian shall also serve an exact copy of the inventory on the Court Investigators Office, if the inventory is in a relative guardianship of the estate, or on the Solano County Department of Health & Social Services, if the inventory is in a non-relative guardianship of the estate. Said service shall be at least thirty (30) days prior to the date of the review hearing set pursuant to Rule 15.11, subsection (c). Absent a court order to the contrary, any subsequent accountings shall likewise be filed and served on at least 30 days prior to any subsequent compliance review hearings.
*(Subd (e) adopted effective July 1, 2009.)*

f. **SERVICE OF NOTICE OF HEARING ON OBJECTIONS TO ACCOUNTINGS**
A person who files an objection to the accounting of a guardian shall timely serve a notice of hearing on the Court Investigators Office, if the inventory is in a relative guardianship of the estate, or on the Solano County Department of Health & Social Services, if the inventory is in a non-relative guardianship of the estate. This notice of hearing shall only be required for a hearing set by the objecting party that is not already on calendar. No notice of the hearing is required for the review hearings set automatically by the court.
*(Subd (f) adopted effective July 1, 2009.)*

*(Rule 15.11 adopted effective July 1, 2009; adopted as Rule 7.61 effective July 1, 1989; renumbered as Rule 7.62 effective July 1, 2008.)*

## 15.12 ALLOWANCE OF FEES IN GUARDIANSHIP PROCEEDINGS

a. **COMPENSATION FOR GUARDIAN OR GUARDIAN'S COUNSEL**
A guardian of the estate or the person and/or his or her attorney may petition the court for just and reasonable compensation in accordance with Probate Code sections 2640 and 2642. In determining whether to award compensation, the court shall take into consideration the following:

(1) The nature and difficulty of the services rendered to the ward and/or the ward's estate;

(2) The results achieved from those services;

(3) The benefit to the ward and/or the ward's estate of those services;

(4) The productivity of the guardian's and/or attorney's time spent in performing the services;

(5) The expertise and experience of the person requesting the fees;

(6) The hourly rate of the person performing the services; and,

(7) The total amount of compensation requested in relation to size and income of the ward's estate, if applicable.

*(Subd (a) adopted effective July 1, 2009.)*

*(Rule 15.12 adopted effective July 1, 2009; adopted as Rule 7.63 effective July 1, 1989.)*

## 15.13 INVESTMENTS BY GUARDIAN OF THE ESTATE

a. **GENERAL GUIDELINES FOR INVESTMENTS**

Unless otherwise authorized by court order, a guardian of the estate shall normally be subject to the following guidelines when investing on behalf of a ward's estate:

(1) The investments shall be prudent and in keeping with the size and character of the ward's estate;

(2) Investments in small estates should be limited to those not likely to fluctuate in value;

(3) Larger guardianship estates may be diversified to permit a part of the estate funds to be invested in securities likely to yield higher growth; and,

(4) Investments in existence at the time of the creation of the guardianship usually may be maintained.

*(Subd (a) adopted effective July 1, 2009.)*

b. **PROHIBITED INVESTMENTS**
Unless otherwise permitted by court order upon application by the guardian and a showing of good cause, the court will not authorize the following types of investments on behalf of a ward's estate:

(1) Unsecured loans using estate funds or assets;

(2) Secured loans to a relative of the guardian or the ward;

(3) Debenture bonds;

(4) Bonds or obligations of foreign governments or corporations, whether payable in dollars or not;

(5) Investments in real estate, unless supported by an appraisal by the court's probate referee and the purchase is made with cash; or,

(6) Any type of life insurance policy on the ward's life.
*(Subd (b) adopted effective July 1, 2009.)*

c. **EX PARTE APPLICATIONS FOR ORDERS AUTHORIZING INVESTMENTS**
If a request for special notice has not been filed, a petition to invest may be heard ex parte.
*(Subd (c) adopted effective July 1, 2009.)*

*(Rule 15.13 adopted effective July 1, 2009; adopted as Rule 7.64 effective July 1, 1988.)*

## 15.14 APPOINTMENT OF COUNSEL FOR WARD

a. **ELIGIBILITY FOR INITIAL APPOINTMENT**
An attorney wishing to be considered for appointment on any guardianship case on or after January 1, 2008, must comply with California Rules of Court, rule 7.1101, and submit a request to the court to be placed on the panel of appointed attorneys in guardianship cases. The request must be accompanied by a *Certification of Attorney Concerning Qualifications For Court Appointment in Conservatorships or Guardianships* (Judicial Council form GC-010). An attorney

whose request is approved by the court is thereafter eligible for appointment in guardianship cases.
*(Subd (a) adopted effective July 1, 2009.)*

b. **RENEWAL OF ELIGIBILITY FOR APPOINTMENT**
An attorney who is eligible for appointment in guardianship cases pursuant to rule 15.14, subdivision (a), shall certify to the court by March 31 of each year following the attorney's initial approval that he or she has completed the education requirements set forth in California Rules of Court, rule 7.1101. The certification shall be on the *Annual Certification of Court-Appointed Attorney* form (Judicial Council form GC-011). Failure to timely comply with the certification requirements or with the education requirements in rule 7.1101 shall result in the removal of the attorney from the approved panel of appointed attorneys; however, the court may reinstate the attorney upon the prompt filing of an affidavit to the court demonstrating good cause why the certification was not timely submitted to the court.
*(Subd (b) adopted effective July 1, 2009.)*

**c.** **STANDARDS GOVERNING COUNSEL FOR WARD**
Counsel appointed to represent a ward in a guardianship proceeding shall be subject to, and shall have all applicable rights and responsibilities found in, California Rules of Court, rule 5.242.
*(Subd (c) adopted effective July 1, 2009.)*

d. **COMPENSATION OF COUNSEL FOR WARD**
Compensation of counsel appointed to represent a ward shall be governed by Probate Code section 1470. All orders appointing minor's counsel in guardianship proceedings, including orders setting compensation, shall be on an *Order Appointing Minor's Counsel* form (Solano County Local Form no. 3750).
*(Subd (d) adopted effective July 1, 2009.)*

*(Rule 15.14 adopted effective July 1, 2009; adopted as Rule 7.65 effective July 1, 2008.)*

## 15.15 TERMINATION OF GUARDIANSHIP

a. **FORMS TO BE FILED FOR TERMINATION OF GUARDIANSHIP**
A party wishing to terminate a guardianship for a ward who is not deceased or emancipated must file the following forms:

(1) Notice of Hearing – Guardianship or Conservatorship (Judicial Council form GC-020);

(2) Petition for Termination of Guardianship (Judicial Council form GC-255); and,

(3) Order Terminating Guardianship (Judicial Council form GC-260).
*(Subd (a) adopted effective July 1, 2009.)*

b. **NOTICE OF THE PETITION TO TERMINATE**
The party filing a petition to terminate the guardianship is subject to the service and notice requirements stated in Solano County Local Rules, rule 15.3. A copy of the petition and the Notice of Hearing shall also be served on the Court Investigators Office, if the guardianship to be terminated is a relative guardianship, or on the Solano County Department of Health & Social Services, if the guardianship to be terminated is a non-relative guardianship.
*(Subd (b) adopted effective July 1, 2009.)*

c. **LODGING OF ORDER TERMINATING GUARDIANSHIP**
In the event the court makes custody orders as part of an order terminating a guardianship pursuant to Probate Code section 1601, a copy of the custody order shall be filed in any pending or subsequently commenced proceeding concerning custody of the child. The custody order shall be prepared as a pleading or on a form designated by the court for use pursuant to this rule.
*(Subd (c) adopted effective July 1, 2009.)*

*(Rule 15.15 adopted effective July 1, 2009; adopted as Rule 7.81 effective July 1, 1988; renumbered as Rule 7.66 effective July 1, 2008.)*

## 15.16 SANCTIONS

Failure to comply with these local rules in guardianship matters may result in the imposition of sanctions pursuant to Code of Civil Procedure section 575.2.

*(Rule 15.16 adopted effective July 1, 2009.)*

## 15.17 GUARDIANSHIPS OF THE PERSON – STATUS REPORT

To the extent that the court determines that court resources are available, the court may order on a case-by-case basis that a guardian of the person or a guardian of the person and estate shall comply with the annual status report requirement per Probate Code section 1513.2.

*(Rule 15.17 adopted effective January 1, 2010.)*

**15.18 – 15.49 [RESERVED]**

## PART TWO: Conservatorships

### 15.50 CONSERVATORSHIP MATTERS TO WHICH RULE 15 APPLIES

Unless otherwise stated in an individual rule, Rule 15 shall apply to all conservatorship matters brought pursuant to the Probate Code. It does not apply to LPS conservatorships brought pursuant to Welfare & Institutions Code section 5000 et seq.

*(Rule 15.50 adopted effective July 1, 2009.)*

### 15.51 CONTINUANCE OF HEARING WHERE CONSERVATEE NOT SERVED WITH CITATION

If the proposed conservatee has not been served with the citation as required by Probate Code section 1824, the petitioner shall notify the court and all persons entitled to notice at least 15 days prior to the hearing and request a new hearing date. The original citation shall be filed showing no service and an amended citation shall be issued with the new hearing date. The petitioner shall also serve a notice to all interested persons of the new hearing date.

*(Rule 15.51 adopted effective July 1, 2009; previously adopted as portion of Rule 7.69 effective July 1, 1988.)*

### 15.52 INFORMATION TO BE PROVIDED PRIOR TO ISSUANCE OF LETTERS

Pursuant to Probate Code section 1834, subsection (b), Solano County requires that a conservator provide the court with the conservator's social security number and driver's license numbers. A conservator shall be deemed to have complied with this requirement by submitting a fully completed and signed *Confidential Conservator Screening Form* (Judicial Council form GC-314) to the Court Investigators Office as part of the initial conservatorship investigation process.

*(Rule 15.52 adopted effective July 1, 2009; previously adopted as portion of Rule 7.69 effective July 1, 1988.)*

### 15.53 COURT INVESTIGATOR

a. **AUTOMATIC APPOINTMENT OF COURT INVESTIGATOR**
The court automatically appoints the court investigator to conduct investigations into probate conservatorships and proposed probate conservatorships.
*(Subd (a) adopted effective July 1, 2009.)*

b. **SERVICE OF DOCUMENTS ON COURT INVESTIGATOR UPON COMMENCEMENT OF THE PROCEEDING**

Immediately upon the filing of a Petition for Appointment of Temporary Conservator or Petition for Appointment of Probate Conservator, the petitioner or the petitioner's attorney must submit the following documents to the Court Investigators Office:

(1) Notice of Hearing – Guardianship or Conservatorship (Judicial Council form GC-020);

(2) A copy of the Petition for Appointment of Probate Conservator (Judicial Council form GC-311);

(3) A copy of the Petition for Appointment of Temporary Conservator (Judicial Council form GC-111), if one was filed; and,

(4) The Confidential Conservator Screening Form (Judicial Council form GC-314).

The documents shall be delivered or mailed to:

Court Investigators Office
Superior Court of California, County of Solano
600 Union Avenue
Fairfield, California 94533

*(Subd (b) adopted effective July 1, 2009.)*

c. **SERVICE OF PETITIONS AND OTHER DOCUMENTS ON COURT INVESTIGATOR AFTER APPOINTMENT OF CONSERVATOR**

A copy of any pleadings or documents filed in the court file shall be immediately provided to the Court Investigators Office by the party or attorney filing said pleadings or documents.

*(Subd (c) adopted effective July 1, 2009.)*

d. **DUTY TO UPDATE INFORMATION GIVEN TO INVESTIGATOR**

The petitioner must advise the investigating office of any changes to the contact information of the conservatee or proposed conservatee.

*(Subd (d) adopted effective July 1, 2009.)*

e. **DUTY TO COOPERATE WITH INVESTIGATOR**
All parties, including but not limited to the petitioner, proposed or appointed conservator, conservatee or proposed conservatee, and any attorneys for the parties, including appointed counsel for the conservatee or proposed conservatee, are to cooperate fully with the appointed investigator. Failure to cooperate may be punishable with sanctions pursuant to Code of Civil Procedure section 575.2, in the court's discretion.
*(Subd (e) adopted effective July 1, 2009.)*

*(Rule 15.53 adopted effective July 1, 2009; previously adopted as Rule 7.70 effective July 1, 1988.)*

## 15.54 COURT INVESTIGATOR FEES

a. **COURT INVESTIGATOR FEES GENERALLY**
A fee for the services of the Court Investigators Office shall be imposed upon the person(s) so responsible for payment per Probate Code section 1851.5. The rate of this fee depends on the nature of the investigation and is determined by the court on an annual basis. All rates are subject to change. The amount of the fee payable shall be determined by the fee schedule in effect on the date the petition triggering the investigation is filed, the date the accounting being reviewed is filed, or the due date of any reviews mandated by law. A list of current fees is available from the Court Investigators Office or the Family Law Clerk's Office. The assessed fee is payable within 30 days after the Assessment and Order for Payment is mailed by the Court Investigators Office.
*(Subd (a) amended effective January 1, 2010; adopted effective July 1, 2009.)*

b. **PAYMENT OF COURT INVESTIGATOR FEES**
Any and all assessments not waived by the court shall be paid to the court.
*(Subd (b) adopted effective July 1, 2009.)*

c. **DEFERRAL OR WAIVER OF COURT INVESTIGATOR FEES**
Upon application by the conservator or proposed conservator or the conservatee or proposed conservatee, the court may defer or waive a portion or all of the assessed court investigator fees if the court finds that ordering payment of the assessed fees at the time of the assessment would constitute a hardship for the conservatee or conservatee's estate pursuant to Probate Code section 1851.5. The court may also defer fees pursuant to Probate Code section 2628. There shall be a rebuttable presumption that the assessed court investigator fees constitute a

hardship on a conservatee or proposed conservatee if the conservatee qualifies for a fee waiver under Government Code section 68630 et seq. The court shall review the conservatee's ability to pay the assessed fee at every review of the conservatorship. If the court finds the conservatee is able to pay the fee at the time of a review, or if the court otherwise becomes aware of a change in circumstances permitting payment of the fees by the conservatee, the court shall order the fees paid.
*(Subd (c) adopted effective July 1, 2009.)*

*(Rule 15.54 amended effective January 1, 2010; adopted effective July 1, 2009.)*

## 15.55 APPOINTMENT OF COUNSEL FOR CONSERVATEE

a. **ELIGIBILITY FOR INITIAL APPOINTMENT**
An attorney wishing to be considered for appointment on any conservatorship case on or after January 1, 2008, must comply with California Rules of Court, rule 7.1101, and submit a request to the court to be placed on the panel of appointed attorneys in conservatorship cases. The request must be accompanied by a *Certification of Attorney Concerning Qualifications For Court Appointment in Conservatorships or Guardianships* (Judicial Council form GC-010). An attorney whose application is approved by the court is thereafter eligible for appointment in conservatorship cases.
*(Subd (a) adopted effective July 1, 2009.)*

b. **RENEWAL OF ELIGIBILITY FOR APPOINTMENT**
An attorney who is eligible for appointment in conservatorship cases pursuant to rule 15.55, subdivision (a), shall certify to the court by March 31 of each year following the attorney's initial approval that he or she has completed the education requirements set forth in California Rules of Court, rule 7.1101. The certification shall be on the *Annual Certification of Court-Appointed Attorney* form (Judicial Council form GC-011). Failure to timely comply with the certification requirements or with the education requirements in rule 7.1101 shall result in the removal of the attorney from the approved panel of appointed attorneys; however, the court may reinstate the attorney upon the prompt filing of an affidavit to the court demonstrating good cause why the certification was not timely submitted to the court.
*(Subd (b) adopted effective July 1, 2009.)*

c. **COMPENSATION OF COUNSEL**
Compensation of counsel appointed to represent a conservatee shall be governed by Probate Code section 1470.
*(Subd (c) adopted effective July 1, 2009.)*

*(Rule 15.55 adopted effective July 1, 2009.)*

## 15.56 EX PARTE APPLICATIONS FOR TEMPORARY CONSERVATORSHIP AND OTHER ORDERS

a. **EX PARTE APPLICATIONS GENERALLY**
Ex parte applications are extraordinary remedies. Except as set forth in an individual rule, ex parte applications for a temporary conservatorship of either the estate or the person, or for temporary orders pertaining to an existing conservatorship, are appropriate only where the applicant makes a showing per California Rules of Court, rule 7.1062 that an exception to the notice requirements is necessary to protect the conservatee or the proposed conservatee or his or her estate from immediate and substantial harm.
*(Subd (a) adopted effective July 1, 2009.)*

b. **EX PARTE PETITION FOR APPOINTMENT OF A TEMPORARY CONSERVATOR**
Unless the petitioner makes a showing of immediate and substantial harm or other good cause for an ex parte granting of a temporary conservatorship per California Rules of Court, rule 7.1062, the court ordinarily will not entertain an ex parte application for appointment of a temporary conservator, even where all those entitled to notice have joined in the petition. In cases where the court determines that immediate appointment of a temporary conservator is necessary, said appointment shall be governed by the provisions of Probate Code section 2250.
*(Subd (b) adopted effective July 1, 2009.)*

c. **EX PARTE NOTICE REQUIREMENTS**

(1) Before submitting an ex parte application for the court's consideration, the applicant shall comply with the procedures in Probate Code section 1051, California Rules of Court, rule 7.55, and all applicable local rules. Unless otherwise stated in the Solano County Local Rules, the applicant must comply with all requirements for a declaration setting forth that notice of the ex parte request has been given to all required persons or the reason

notice has not been given. At the time of submission of the application, a completed *Declaration Re Notice Upon Ex Parte Application for Orders – Conservatorships* (Solano County Local Form no. 1070-C) or a declaration in substantial compliance therewith, shall accompany all applications for ex parte orders and shall be filed before the ex parte hearing. The moving party shall make available a copy of the filed *Declaration Re Notice Upon Ex Parte Application for Orders* to the judicial officer, and to the opposing party or attorney if one appears, at the time of the ex parte hearing, or the ex parte hearing may be ordered rescheduled.
*(Subd (1) adopted effective July 1, 2009.)*

(2) Unless otherwise ordered by the court, notice of the ex parte application for temporary orders shall be given by the petitioner to all those who are entitled to notice per Probate Code section 2250, subsection (e). The notice shall include the date, time, and place the request will be made, a summary of the relief requested, and the facts upon which the request will be made. In its discretion, the court may require that the entire moving papers package be served in a prescribed manner upon another party, interested person, or his or her attorney, at a specified time before the ex parte hearing. Notice may be excused pursuant to these rules.
*(Subd (2) adopted effective July 1, 2009.)*

*(Subd (c) adopted effective July 1, 2009.)*

d. **DECLARATION OF DUE DILIGENCE**

If a petitioner cannot locate a relative or other person for whom notice is required, the petitioner shall file a *Declaration of Due Diligence* (Solano County Local Form no. 3705) or a substantially equivalent declaration which complies with this rule. The declaration must specify the name of the relative or other person whose whereabouts are unknown, the last known address of the person, the approximate date when the person was last known to reside at that address, all efforts undertaken to identify and locate the person, and any facts that explain why the person cannot be located. At a minimum, the petitioner shall make all of the following efforts and state the results in the declaration:

(1) Search the public records in any county where the person was last known or believed to reside, including real and personal property indexes in the recorder's and assessor's offices, the local telephone directory and directory assistance, the county's voter registration, the county's vital

statistics office, and any non-confidential court files concerning or involving the person;

(2) Search all appropriate Internet search engines;

(3) Inquiry of the person's current or former employer(s);

(4) Inquiry of the person's current or former landlord(s) and neighbors;

(5) Inquiry of the person's last known residential address and any neighbors of that address;

(6) Inquiry of any relatives, friends, or other individuals who might have knowledge of the person's whereabouts; and,

(7) Inquiry of any appropriate county, state, and federal correctional systems in which the petitioner believes or has reason to believe the person is or may be incarcerated.

*(Subd (d) adopted effective July 1, 2009.)*

e. **ORDER DISPENSING WITH NOTICE**

A petitioner seeking an order dispensing with notice for one or more persons shall submit an *Order Dispensing with Notice* (Judicial Council form GC-021) to the court prior to or at the hearing on the petition for conservatorship. The court will not grant an order dispensing with notice unless the petitioner has filed a *Declaration of Due Diligence* pursuant to Solano County Local Rules, rule 15.56, subdivision (d).

*(Subd (e) adopted effective July 1, 2009.)*

*(Rule 15.56 adopted effective July 1, 2009; previousy adopted as Rule 7.71 effective July 1, 1988.)*

## 15.57 INDEPENDENT EXERCISE OF POWERS

No powers specified in Probate Code Section 2591 will be granted in the absence of a clear and convincing factual showing that the grant of each power requested is needed to administer the estate, and that the grant of such power is for the advantage, benefit and best interest of the estate.

*(Rule 15.57 adopted effective July 1, 2009; previously adopted as Rule 7.73 effective July 1, 1988.)*

## 15.58 CONSERVATORSHIP INVENTORIES AND APPRAISALS

a. **INVENTORIES AND APPRAISALS GENERALLY**
Inventories and appraisals in conservatorships of the estate are governed by Chapter 7 of Part 4 of Division 4 of the Probate Code (commencing with section 2600). The use of mandatory Judicial Council forms is required, and the use of optional Judicial Council forms is strongly encouraged, in the preparation of all inventories and appraisals.

b. **REVIEW HEARING FOR INVENTORIES AND APPRAISALS**
At the time of the appointment of a conservator of the estate or a conservator of the person and the estate, the court shall set a review hearing to take place four (4) months after the date of appointment. The date of the initial compliance review hearing shall be listed as part of the order appointing the conservator. The court may set additional review hearings as needed for the initial and any subsequent inventories and appraisals.

c. **FILING OF INVENTORIES AND APPRAISALS**
The conservator shall file the inventory and appraisal required by Probate Code section 2610 at least thirty (30) days prior to the date of the review hearing set pursuant to Rule 15.58, subsection (b).

d. **SERVICE OF INVENTORIES AND APPRAISALS**
At the time that the conservator of the estate presents an inventory and appraisal to the court pursuant to Probate Code sections 2610 or 2620 or any other section of the Probate Code, the conservator shall also serve an exact copy of the inventory and appraisal on the Court Investigators Office.

e. **SERVICE OF NOTICE OF HEARING ON OBJECTIONS TO INVENTORIES AND APPRAISALS**
A person who files an objection to the inventory or appraisal of a conservator shall timely serve a notice of hearing on the Court Investigators Office. This notice of hearing shall only be required for a hearing set by the objecting party that is not already on calendar. No notice of the hearing is required for the review hearings set automatically by the court.

*(Rule 15.58 adopted effective July 1, 2009; previously adopted as Rule 7.75 effective July 1, 1988.)*

## 15.59 CONSERVATORSHIP ACCOUNTINGS

a. **ACCOUNTINGS GENERALLY**
Accountings in conservatorships of the estate are governed by Chapter 7 of Part 4 of Division 4 of the Probate Code (commencing with section 2600). The use of mandatory Judicial Council forms is required, and the use of optional Judicial Council forms is strongly encouraged, in the preparation of all accountings.
*(Subd (a) adopted effective July 1, 2009.)*

b. **SUPPLEMENTAL REPORT TO ACCOMPANY ACCOUNTING**
In addition to the information required by Probate Code section 2620, each accounting shall include a report containing the following information:

(1) An explanation of any unusual items appearing in the account;

(2) A report of the stewardship of the fiduciary in the management of the assets of the conservatee's estate during the period covered by the account;

(3) In cases where a bond has been ordered, a statement attesting that bond premiums have been paid regularly; and,

(4) If income-producing property is inventoried in the conservatorship and the account fails to indicate that income is being produced by the property, an explanation as to the lack of income.

*(Subd (b) adopted effective July 1, 2009.)*

c. **REVIEW HEARING FOR ACCOUNTINGS**
At the time of the appointment of a conservator of the estate or a conservator of the person and the estate, the court shall set a review hearing to take place fourteen (14) months after the date of appointment. The date of the compliance review hearing shall be listed as part of the order appointing the conservator. The court may set additional review hearings as needed concerning the initial or subsequent accountings.
*(Subd (c) adopted effective July 1, 2009.)*

d. **FILING OF ACCOUNTINGS**
The conservator shall file the accounting required by Probate Code section 2620 at least thirty (30) days prior to the date of the review hearing set pursuant to Rule 15.59, subsection (c), concerning that accounting.
*(Subd (d) adopted effective July 1, 2009.)*

e. **SERVICE OF ACCOUNTINGS**
At the time that the conservator of the estate presents an accounting to the court pursuant to Probate Code section 2620 et seq. or any other section of the Probate Code, the conservator shall also serve an exact copy of the inventory on the Court Investigators Office. Said service shall be at least thirty (30) days prior to the date of the review hearing set pursuant to Rule 15.59, subsection (c). Absent a court order to the contrary, any subsequent accountings shall likewise be filed and served on the Court Investigators Office at least 30 days prior to any subsequent compliance review hearings.
*(Subd (e) adopted effective July 1, 2009.)*

f. **SERVICE OF NOTICE OF HEARING ON OBJECTIONS TO ACCOUNTINGS**
A person who files an objection to the accounting of a conservator shall timely serve a notice of hearing on the Court Investigators Office. This notice of hearing shall only be required for a hearing set by the objecting party that is not already on calendar. No notice of the hearing is required for the review hearings set automatically by the court.
*(Subd (f) adopted effective July 1, 2009.)*

*(Rule 15.59 adopted effective July 1, 2009; previously adopted as Rule 7.76 effective July 1, 1988.)*

## 15.60 ALLOWANCE OF FEES

a. **GUIDELINES FOR COMPENSATION**

A conservator of the estate or the person and/or his or her attorney may petition the court for just and reasonable compensation in accordance with Probate Code sections 2640 and 2642. In determining whether to award compensation, the court shall take into consideration the following:

(1) The nature and difficulty of the services rendered to the conservatee and/or the conservatee's estate;

(2) The results achieved from those services;

(3) The benefit to the conservatee and/or the conservatee's estate of those services;

(4) The productivity of the conservator's and/or attorney's time spent in performing the services;

(5) The expertise and experience of the person requesting the fees;

(6) The hourly rate of the person performing the services; and,

(7) The total amount of compensation requested in relation to size and income of the conservatee's estate, if applicable.

*(Subd (a) adopted effective July 1, 2009.)*

b. **COMPENSATION OF CONSERVATOR FROM TRUST**

If a conservatee is also the beneficiary of a trust and the compensation of a conservator of the person is sought from the trust, a petition seeking approval of the amount of compensation payable to the conservator shall first be filed in the conservatorship matter. The petition shall include a declaration by the trustee as to whether there are sufficient funds in the conservatorship estate to allow for the compensation sought. A trustee shall not pay a conservator's compensation without a court order approving said compensation by the judge assigned to hear the conservatorship matter.

*(Subd (b) adopted effective July 1, 2009.)*

*(Rule 15.60 adopted effective July 1, 2009; previously adopted as Rule 7.78 effective July 1, 1988.)*

## 15.61 ORDERS FOR SUPPORT AND SUBSTITUTED JUDGMENT

a. **SUBSTITUTED JUDGMENT**

(1) Prior court approval is required for any action specified in Probate Code Section 2580, et seq., such as making gifts or establishing trusts.

(2) A clear factual showing as required by Probate Code Section 2583 must be presented to the court before the matter will be considered.

(3) Notice must be given under Probate Code Section 2581, and such notice may require a prior order dispensing with notice to some persons.

*(Rule 15.61 adopted effective July 1, 2009; previously adopted as Rule 7.79 effective July 1, 1988.)*

## 15.62 PAYMENTS TO CAREGIVER SPOUSE OF CONSERVATEE

In an account or report indicating that a conservatee's spouse was hired to provide caregiver services to conservatee, the conservator shall provide the following information:

(1) A description of the services rendered by the spouse that are above and beyond the care normally provided by one spouse to another.

(2) A description of the special skills possessed by the spouse enabling him or her to perform these services.

(3) The benefit to the conservatee of having his or her spouse perform the services instead of a professional caregiver.

(4) The hours worked by the spouse.

(5) The hourly rate being paid to the spouse and a justification of that rate. Justification may include a comparison to the rate charged by a professional for the same or similar services.

(6) Whether caregiving services are being provided through IHSS and if so, the frequency and type of the services provided.

(7) Whether insurance is in place to cover the caregiver spouse in case of injury and if so, the amount of the periodic premium being paid by the spouse or the conservator.

*(Rule 15.62 adopted effective July 1, 2009.)*

## 15.63 TERMINATION OF CONSERVATORSHIP

a. **NOTIFICATION OF CONSERVATEE'S DEATH**
The conservator shall file a declaration with the court within 30 days of the conservatee's death, indicating the date of death, place of death and whether the conservatee died testate or intestate. If the conservatee died testate, the conservator shall notify the conservatee's nominated executor within 30 days of the conservatee's death, unless the will fails to nominate an executor or the conservator is the nominated executor.
*(Subd (a) adopted effective July 1, 2009.)*

b. **TERMINATION OF CONSERVATORSHIP FOR REASONS OTHER THAN DEATH OF CONSERVATEE**
Termination of a conservatorship for reasons other than the death of the conservatee shall be by noticed petition pursuant to Probate Code sections 1580 et seq., 1860 et seq., or 2626. The filing of a certification of competency issued by the superintendent of a state hospital pursuant to Welfare and Institutions Code Section 7357, or other provisions of law, does not by itself terminate a conservatorship.
*(Subd (b) adopted effective July 1, 2009.)*

c. **HEARING ON PETITION TO TERMINATE**
A hearing on a petition to terminate a conservatorship shall be set out a minimum of sixty (60) days in order to allow time for the court investigator's investigation and report.
*(Subd (c) adopted effective July 1, 2009.)*

*(Rule 15.63 adopted effective July 1, 2009; previously adopted as Rule 7.81 effective July 1, 1988.)*

## 15.64 CONSERVATORSHIPS FOR DEVELOPMENTALLY DISABLED INDIVIDUALS

A petition to establish a conservatorship for a developmentally disabled adult shall be filed as a limited conservatorship, unless the petition makes a factual showing that a general conservatorship is more appropriate.

*(Rule 15.64 adopted effective July 1, 2009.)*

## 15.65 SANCTIONS

Failure to comply with these local rules in conservatorship matters may result in the imposition of sanctions pursuant to Code of Civil Procedure section 575.2.

*(Rule 15.65 adopted effective July 1, 2009.)*

**Superior Court of California**
**County of Solano**

**Rule 15 – Guardianships and Conservatorships**

**Appendices**

**Appendix 15-A:** **Service Addresses for Non-Relative Guardianships**
*(Effective July 1, 2009)*

**Appendix 15-B:** **Guardianship and Conservatorship Rules Conversion Table**
*(Effective July 1, 2009)*

## APPENDIX 15-A: SERVICE ADDRESSES FOR NONRELATIVE GUARDIANSHIPS

Effective July 1, 2009

Director
Department of Social Services
744 P Street
Sacramento, CA 95814

Supervisor – Court Unit, Children's Bureau
Solano County Department of Health and Social Services
275 Beck Avenue MS5-230
Fairfield, CA 94533

## APPENDIX 15-B: GUARDIANSHIP AND CONSERVATORSHIP RULES CONVERSION TABLE

Effective July 1, 2009

| ***Rule Title*** | ***New Rule Number*** | ***Former Rule Number*** |
|---|---|---|
| Scope of Guardianship Rules; Terminology | 15.1 | 7.52 |
| Forms to be Filed at Commencement of Proceeding | 15.2 | 7.53 |
| Notice of Petition for Appointment of Guardian or Temporary Guardian | 15.3 | 7.54 |
| Appointment of Investigator | 15.4 | 7.55 |
| Court Investigator Fees | 15.5 | 7.56 |
| Temporary Guardianships | 15.6 | 7.57 |
| Ex Parte Applications for Temporary Guardianship or Other Temporary Orders | 15.7 | 7.58 |
| Contested Guardianships | 15.8 | 7.59 |
| Orders for Visitation in Guardianships | 15.9 | 7.60 |
| Guardianships of the Estate – Inventories and Appraisals | 15.10 | 7.61 |
| Guardianships of the Estate – Accountings | 15.11 | 7.62 |
| Allowance of Fees in Guardianship Proceedings | 15.12 | 7.63 |
| Investments by Guardian of the Estate | 15.13 | 7.64 |
| Appointment of Counsel for Ward | 15.14 | 7.65 |
| Termination of Guardianships | 15.15 | 7.66 |
| Sanctions | 15.16 | N/A |
| Conservatorship Matters to Which Rule 15 Applies | 15.50 | N/A |
| Cooperation with Court Investigator *[Repealed]* | N/A | 7.67 |
| Other Protective Proceedings for Minors *[Repealed]* | N/A | 7.68 |
| Continuance of Hearing Where Conservatee not Served with Citation | 15.51 | 7.69 (portion) |
| Information to be Provided Prior to Issuance of Letters | 15.52 | 7.69 (portion) |
| Court Investigator | 15.53 | 7.70 |
| Court Investigator Fees | 15.54 | N/A |
| Appointment of Counsel for Conservatee | 15.55 | N/A |
| Ex Parte Applications for Temporary Conservatorship and Other Orders | 15.56 | 7.71 |
| Legal Capacity of Conservatee *[Repealed]* | N/A | 7.72 |
| Independent Exercise of Powers | 15.57 | 7.73 |
| Bond – Conditions – Amount *[Repealed]* | N/A | 7.74 |
| Conservatorship Inventories and Appraisals | 15.58 | 7.75 |
| Conservatorship Accountings | 15.59 | 7.76 |
| Assessment and Order for Court Investigation *[Repealed]* | N/A | 7.77 |
| Allowance of Fees | 15.60 | 7.78 |

**Superior Court of California**
**County of Solano**

## Rule 15 – Guardianships and Conservatorships

## Appendices

| ***Rule Title*** | ***New Rule Number*** | ***Former Rule Number*** |
|---|---|---|
| Orders for Support and Substituted Judgment | 15.61 | 7.79 |
| Payments to Caregiver Spouse of Conservatee | 15.62 | N/A |
| Investment by Conservator *[Repealed]* | N/A | 7.80 |
| Termination of Conservatorships | 15.63 | 7.81 |
| Conservatorships for Developmentally Disabled Individuals | 15.64 | N/A |
| Sanctions | 15.65 | N/A |

# Response Form

I am commenting on the proposed revisions to: ☐ the local rules ☐ the local forms

☐ Agree with proposed changes

☐ Agree with proposed changes with modifications (*please explain below*)

☐ Do not agree with proposed changes (*please explain below*)

Comments: _____

_____

_____

_____

_____

_____

_____

_____

Name: _____

Address: _____

City, State, ZIP code: _____

**TO SUBMIT COMMENTS:**

Comments may be written on this form, prepared in a letter format, or e-mailed. If you are not commenting directly on this form, please include the information requested above. Questions may be directed to the Executive Office at (707) 207-7475.

E-mail: CourtOutreach@solano.courts.ca.gov

Mail: Superior Court of California, County of Solano
Executive Office
600 Union Avenue
Fairfield, CA 94533

FAX: (707) 426-1631

**DEADLINE FOR COMMENT: 5:00 p.m. on Monday, November 9, 2009**