

## **DISTRIBUTION FOR PUBLIC COMMENT PROPOSED REVISIONS OF LOCAL RULES OF THE SUPERIOR COURT, MONO COUNTY**

*(Submitted to the Judicial Council of California with a proposed effective date of July 1, 2017)*

### Current Proposed Local Rule Revisions

The Superior Court of Mono County pursuant California Rules of Court (CRC) Rule 10.613 is revising the local rules that are listed below. These revisions are proposed to take affect July 1, 2017. The majority of these revisions are to remove and or replace statutory and CRC references that are no longer current and correct. Persons wishing to comment on the proposed rules can send their comments by either email or by regular mail on or before noon May 17, 2017. By the end business on May 17, 2017, the court will file with the Judicial Council the final rule revisions with the proposed effective date of July 1, 2017. Email your comments to Hector Gonzalez, Court Executive Officer at superiorcourt@monocourt.org . If you prefer to send your comments by regular mail, Mail your comments to Hector Gonzalez- Court Executive Officer, Mono County Superior Court, PO Box 1037, Mammoth Lakes, CA 93546).

### Court Plan for Future Local Rule Revisions and or New Rules

The current proposed revisions are the starting point of a comprehensive on-going review of all the local rules for our court. The purpose of this review is to improve our local rules by revision of current rules and or promulgation of new rules. The court will focus next on revisions to our local “Family Law” rules and “Juvenile Court” rules. The court plans to complete and submit for public comment these proposed new and revised local rules on these two subject areas by September 2017. The court intends to submit these “Family Law” rules and “Juvenile Court” new rules and or revisions with a proposed effective date of January 1, 2018. The court is encouraging the public and attorneys to submit suggestions of new family law and or juvenile law rules and or rule revisions to the court. The court will also accept suggestions for new rules and or rule revisions for other subject areas. You can submit suggestions to Hector Gonzalez, Court Executive Officer at superiorcourt@monocourt.org . If you prefer to send your suggestions by regular mail, Mail your suggestions to Hector Gonzalez- Court Executive Officer, Mono County Superior Court, PO Box 1037, Mammoth Lakes, CA 93546).

### List of Local Revised Rules *(revised rules in their entirety attached at the end of the following list)*

- ✓ RULE 1.1 “ADOPTION OF RULES” - revised to capitalize a word
- ✓ RULE 1.5 “ DEFINITION OF TERMS”- revised to replace references to outdated rules of the California Rules of Court (CRC) with current and correct CRC references
- ✓ RULE 2.11 “TELEPHONES, CELLULAR PHONES, AND BEEPERS” – revised to inserts limitations on the use of cell phones and personal digital devices in courtrooms

- ✓ RULE “2.16 FORM OF PAPERS PRESENTED FOR FILING” - revised to replace references to outdated rules of the California Rules of Court (CRC) with current and correct CRC references
- ✓ RULE 3.3 “SANCTIONS” - revised to replace reference to outdated rule of the California Rules of Court (CRC) with current and correct CRC reference
- ✓ RULE 3.4 “REGULAR LAW AND MOTION”- revised to eliminate the prohibition of hearing Law and Motion matters on the fifth Thursday of any month
- ✓ RULE 3.9 “REQUESTS FOR CHANGES IN TRIAL DATES” - revised to replace outdated reference to rule of the California Rules of Court (CRC) with current and correct CRC reference
- ✓ RULE 3.12 “NOTICE OF TRIAL” – revised to remove a reference to a rule of the California Rules of Court (CRC) that no longer exists
- ✓ RULE 4.7 “CASE MANAGEMENT CONFERENCE” – revised to replace outdated reference to a rule of the California Rules of Court (CRC) with current and correct CRC references. This revision also adds new text to the rule
- ✓ 4.10.2 “DUTIES OF COUNSEL PRIOR TO CONFERENCE” – revised to insert the word “court” in sub-section (A) to define the “days” before a settlement conference that parties will lodge settlement conference statement with the court and serve on opposing parties. There is also a correction of the inappropriate use of the plural “statements” by replacing it with grammatically correct “statement”
- ✓ RULE 4.11.4 “HEADINGS ON PLEADINGS IDENTIFYING PARTIES” – revision deletes the Rule 4.11.4 in its entirety. The rule is unnecessary, it makes reference to “municipal court” which no longer exist since the unification of superior, municipal and justice courts
- ✓ RULE 5.2 “TELEPHONE APPEARANCE AND FACSIMILE FILING” – revised to replace outdated California Rules of Court (CRC) references with current and correct CRC references
- ✓ RULE 5.3 “TELEPHONE APPEARANCE AND FACSIMILE FILING” – revised to replace outdated California Rules of Court (CRC) reference with current and correct CRC references
- ✓ RULE 6.1 “COURT REPORTER” – revised to remove the requirement that the court will provide a court reporter for Law and Motion calendars and make a court provided court reporter optional based on court funding
- ✓ RULE 6.2 “COURT REPORTER”- revised to replace outdated California Rules of Court (CRC) reference with current and correct CRC reference
- ✓ RULE 8.1 “CHILD CUSTODY AND/OR VISITATION” – revised to add the acronym “FCSC” for the term “Family Court Services Coordinator”. Also replaces outdated California Rules of Court (CRC) references with current and correct CRC references
- ✓ RULE 8.2 “FINANCIAL DECLARATIONS” – revised to delete and replace outdated statutory reference. Outdated California Rules of Court (CRC) references are also deleted
- ✓ RULE 8.3 “PRE-HEARING CONFERENCE” - revised to delete and replace outdated statutory reference
- ✓ RULE 11.3 “COMPETENCY OF COUNSEL IN DEPENDENCY PROCEEDINGS” – revised to replace outdated California Rules of Court (CRC) reference with current and correct CRC reference. Also revised to correctly capitalize “Court”.

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OF LOCAL RULES OF THE SUPERIOR COURT, MONO COUNTY

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- ✓ RULE 12.1 “ADDITIONAL FACILITATOR DUTIES” – revised to correct typographical error make in original local rule reference to Family Code §10003
- ✓ RULE 13.5 “DEPOSIT AND REFUND OF JURY FEES” – revised to reflect change in law that makes jury fees nonrefundable and able to be retained by the court
- ✓ RULE 14.2 “EXCUSES FROM TRIAL JURY SERVICE” - revised to replace outdated reference to a rule of the California Rules of Court (CRC) with current and correct CRC reference

END OF LIST REVISED LOCAL RULES  
*(revised rules in their entirety begin on the next page)*

## **RULE 1.1 ADOPTION OF RULES**

These rules are adopted by the Superior Court of the County of Mono pursuant to Government Code §§68070 and 68071, and Code of **Civil** ~~civil~~ Procedure §§128 and 187, and are effective July 1, 2001.

*(Effective July 1, 2001, amended proposed effective July 1, 2017.)*

### **END OF RULE REVISION**

(~~STRIKEOUT~~ IS USED TO DELETE ORIGINAL RULE TEXT AND **HIGHLIGHT** IS USED ADD NEW TEXT TO THE RULE)

*This revision is being proposed to correct lower case "civil" to capitalized "Civil".*

## **RULE 1.5 DEFINITION OF TERMS**

The definitions set forth in the California Rules of Court apply with equal force and for all purposes to the local rules unless the context or subject matter otherwise requires. Set forth below are definitions of selected terms used in these rules:

**Court:** The word court shall mean the particular court in which a matter is pending, unless otherwise specifically noted and shall include and apply to:

--Any judge who is appointed or elected a member of this court;

--Any judge, including a retired judge, who is assigned by the Chairperson of the Judicial Council to serve this court;

--Any commissioner or referee who is appointed by the judges of this court;

--Any retired commissioner who is assigned by the Presiding Judge pursuant to Government Code §72190 to serve the court; and,

Any member of the State Bar of California ordered to act as a temporary judge to serve this court pursuant to Article VI, Section 21 of the California Constitution and Rule ~~5.32~~ **2.830 to 2.834** of the California Rules of Court.

**California Rules of Court:** California Rules of Court mean the rules of court administration, practice and procedure adopted by the Judicial Council of California.

**Judicial Officer:** The term judicial officer includes any judge who is appointed or elected a member of this court and any commissioner or referee who is appointed by the judges of this court.

**Presiding Judge:** The word, Presiding Judge, shall mean the Presiding Judge of the Superior court of Mono County. The presiding judge shall be selected in accordance with Government Code §69508.5 and Rule ~~6.602, CRC~~ **10.602 of the California Rules of Court.**

**Clerk:** The word Clerk includes the Court Executive Officer and any duly appointed and sworn deputy clerks of the courts.

**Person:** The word person includes corporations, associations, public entities and all other entities as well as natural persons.

**Paper:** The word paper includes all documents except as otherwise provided in the California Rules of

Court.

**Judgment:** The word judgment includes and applies to any judgment and to any order or decree from which an appeal lies.

*(Effective July 1, 2004. Revised July 1, 2017; amended proposed effective date July 1, 2017)*

**END OF RULE REVISION**

(~~STRIKEOUT~~ IS USED TO DELETE ORIGINAL RULE TEXT AND **HIGHLIGHT** IS USED ADD NEW TEXT TO THE RULE)

*This revision is being proposed to replace outdated California Rules of Court (CRC) references with current and correct CRC references.*

**RULE 2.11 TELEPHONES, CELLULAR PHONES, **PERSONAL DIGITAL DEVICES** AND BEEPERS**

- a. No one other than a judicial officer or a member of the court's staff shall use a courtroom telephone without the specific permission of the court.
- b. Cellular phones **and or personal digital devices** shall not be used within the courtroom at anytime, **except for court related purpose by judicial officers, court staff, attorneys and self-represented litigants.**
- c. All noise alert devices related to such cellular phones **and or personal digital devices** shall be turned off when in the courtroom.
- d. All beepers and other noise alert devices shall be turned off in the courtroom.

*Effective July 1, 2001; amended proposed effective date of July 1, 2017)*

**END OF RULE REVISION**

(~~STRIKEOUT~~ IS USED TO DELETE ORIGINAL RULE TEXT AND **HIGHLIGHT** IS USED ADD NEW TEXT TO THE RULE)

*This revision inserts limitations on the use of cell phones and personal digital devices in courtrooms.*

**RULE 2.16 FORM OF PAPERS PRESENTED FOR FILING**

All papers presented for filing shall comply with California Rules of Court, ~~Rule 201~~ **Rules 2.100 to 2.119**. The use of white-out to delete or amend any of the contents of such papers is not permitted.

*(Effective July 1, 2001; amended effective January 1, 2003; amended proposed effective date July 1, 2017)*

**END OF RULE REVISION**

(~~STRIKEOUT~~ IS USED TO DELETE ORIGINAL RULE TEXT AND **HIGHLIGHT** IS USED ADD NEW TEXT TO THE RULE)

*This revision is being proposed to replace outdated California Rules of Court (CRC) reference with current and correct CRC references.*

### **RULE 3.3 SANCTIONS**

Failure to comply with any local rule or California Rules of Court may subject the party to sanctions pursuant to California Rules of Court, ~~rule 227~~ **Rule 2.30**; Code of Civil Procedure sections 177.5 and 575.2.  
(Effective July 1, 2001; amended proposed effective date of July 1, 2017)

#### **END OF RULE REVISION**

(~~STRIKEOUT~~ IS USED TO DELETE ORIGINAL RULE TEXT AND **HIGHLIGHT** IS USED ADD NEW TEXT TO THE RULE)

*This revision is being proposed to replace outdated California Rules of Court (CRC) reference with current and correct CRC reference.*

### **RULE 34 REGULAR LAW AND MOTION**

Civil Law and Motion matters are heard on Thursdays in Mammoth Lakes, ~~(no Law and Motion matters will be set on the 5th Thursday of any month)~~ and as ~~need~~ **needed** in Bridgeport. Contact clerk for date. Matters in which the time estimates are 20 minutes or less are heard at 9:30 a.m.

*(Effective July 1, 2001; amended July 1, 2006; amended proposed effective date July 1, 2017)*

#### **END OF RULE REVISION**

(~~STRIKEOUT~~ IS USED TO DELETE ORIGINAL RULE TEXT AND **HIGHLIGHT** IS USED ADD NEW TEXT TO THE RULE)

*This revision is being proposed to eliminate the prohibition of hearing Law and Motion matters on the fifth Thursday of any month.*

### **RULE 3.9 REQUESTS FOR CHANGES IN TRIAL DATES**

All requests for a change in trial date must either conform to section 3.10, or be brought by motion pursuant to Rule ~~375~~ **3.1332**, California Rule of Court.

*(Amended proposed effective date of July 1, 2017)*

#### **END OF RULE REVISION**

(~~STRIKEOUT~~ IS USED TO DELETE ORIGINAL RULE TEXT AND **HIGHLIGHT** IS USED ADD NEW TEXT TO THE RULE)

*This revision is being proposed to replace outdated reference to a rule of the California Rules of Court (CRC) with current and correct CRC reference.*

### **RULE 3.12 NOTICE OF TRIAL**

Following the trial setting conference, the Clerk shall mail notice of trial, ~~pursuant to Rule 221, California Rules of Court.~~

*(Effective July 1, 2001; amended proposed effective date July 1, 2017)*

#### **END OF RULE REVISION**

(~~STRIKEOUT~~ IS USED TO DELETE ORIGINAL RULE TEXT AND **HIGHLIGHT** IS USED ADD NEW TEXT TO THE RULE)

*This revision will remove a reference to a rule of the California Rules of Court (CRC) that no longer exists.*

## **RULE 4.7 CASE MANAGEMENT CONFERENCE**

Case Management Conferences shall be conducted pursuant to California Rules of Court, ~~Rule 212~~ **Rules 3.720 to 3.730.**

(A) Filing of Complaint. Upon filing a Complaint, the plaintiff shall receive the following from the

Clerk: (1) Summons and Complaint indicating case number.

(2) Notice and date of the Case Management Conference which will be set within one hundred eighty (180) days of the filing of the original complaint; and

(3) A Notice of Filing Complaint and Dispute Resolution Packet.

(B) Notice. At the time of serving the Summons and Complaint (and a cross-complaint upon a new party), the responding party shall be served with the Notice of **initial** Case Management Conference.

(C) Case Management Conference. Counsel for each appearing party shall attend the Case Management Conference, shall be familiar with the case, and shall be prepared to discuss all matters. Counsel who fail to attend or participate shall be subject to sanctions. At the Case Management Conference, the Court may make all the appropriate pretrial orders, which can include the following:

(a) *Alternative Dispute Resolution.* The Court may make Orders on stipulations to binding arbitration and filing of the award, and/or set a future status conference date for referral to arbitration.

(b) The Court shall examine and consider alternative dispute resolution programs or procedures available to the parties;

(c) *Discovery.* Orders establishing a plan regulating the timing, scope, issues, and deadlines for completing any remaining discovery;

(d) *Law and Motion.* Orders scheduling dates by which Law and motion matters must be completed; (e) *Subsequent Conferences and Trial Date.* Orders setting further interim status conferences and

setting the issue conference/trial date. (Failure to file cross-complaints shall not be considered a valid ground for enlarging the time for trial, arbitration, or other processes). Untimely cross-complaints shall, in most cases, be served so as not to delay the orderly processes of the Court.

**(D) Counsel and self-represented parties are not to attend an initial Case Management Conference in limited civil cases unless ordered to do so by the Court.**

*(Effective July 1, 2001; amended effective January 1, 2003;  
amended effective July 1, 2006; amended proposed effective date of July 1, 2017)*

### **END OF RULE REVISION**

(~~STRIKEOUT~~ IS USED TO DELETE ORIGINAL RULE TEXT AND **HIGHLIGHT** IS USED ADD NEW TEXT TO THE RULE)

*This revision will replace outdated reference to a rule of the California Rules of Court (CRC) with current and correct CRC references. This revision also adds "initial" to sub-section "(B)" and adds new sub-section "(D)".*

#### **4.10.2 DUTIES OF COUNSEL PRIOR TO CONFERENCE**

- (A) Settlement Conference Statement. At least five (5) **court** days before the conference, counsel for each party will lodge with the Clerk of this Court, and serve upon all other counsel, a detailed settlement conference statement. The statement will not form a part of the Clerk's file but will be retained by the settlement conference judge following the conference, if a party designates the statement as a confidential **statement** ~~statements~~. Any party's settlement conference statement may incorporate another party's settlement conference statement by reference.
- (B) Content. In every case, the statement will contain a summary of the facts, the harm claimed by plaintiff to have been produced by defendant's conduct and the legal issues involved as well as a proposal for the settlement of the case.

(C) Tort Actions – Damages. In actions seeking damages for injury to person or property, the statement shall contain a detailed summary of all items of claimed damage and a statement that copies of all medical or other bills evidencing some damage have been delivered to opposing counsel. In actions seeking damages for personal injury, the statement of each party shall have attached to it a copy of that party's most recent medical report and a statement that either copies of all medical reports in the possession of that party have been delivered to all other parties or that, for a specified reason, certain reports will not be so delivered. When damage for earning or profit loss is claimed, the claimant's statement shall show in detail how the amount of the claimed loss is composed and shall include a statement that copies of all wage statements or other earnings or profit records available to the claimant have been delivered to opposing counsel.

*(Effective July 1, 2001; amended proposed effective date of July 1, 2017)*

#### **END OF RULE REVISION**

(~~STRIKEOUT~~ IS USED TO DELETE ORIGINAL RULE TEXT AND **HIGHLIGHT** IS USED ADD NEW TEXT TO THE RULE)

*This revision inserts the word "court" in sub-section (A) to define the "days" before a settlement conference that parties will lodge with the court and serve on opposing parties settlement conference statement. There is also a correction of the inappropriate use of the plural "statements" by replacing it with grammatically correct "statement".*

#### **~~RULE 4.11.4 HEADINGS ON PLEADINGS IDENTIFYING PARTIES~~**

~~Each pleading shall contain a heading which includes a brief description of the pleading and the identity of the party for whom it is filed (e.g. "Defendant Dorothy Shaw's Answer to Complaint" or "Cross Defendant Peter Smith's Answer to Cross Complaint of Ace Corporation"). No clerk shall accept for filing or file any papers which do not comply with this rule and California Rules of Court 311 through 319 inclusive.~~

~~If the matter is one that prior to unification would have been filed in the municipal court, or if it is a matter described in California Rules of Court, rule 709, insert the word "Limited". The clerk will assume all filings not marked limited are unlimited filings and will charge the appropriate "higher" fee. Each pleading shall comply in all respects with California Rules of Court 311.~~

*(Effective July 1, 2001; amended proposed effective date of July 1, 2017)*

#### **END OF RULE REVISION**

(~~STRIKEOUT~~ IS USED TO DELETE ORIGINAL RULE TEXT AND **HIGHLIGHT** IS USED ADD NEW TEXT TO THE RULE)

*This revision deletes the Rule 4.11.4. The rule is unnecessary, it makes reference "municipal court" which no longer exist since the unification of superior, municipal and justice courts.*



**RULE 5.2 TELEPHONE APPEARANCE AND FACSIMILE FILING**-Facsimile filing pursuant to Rule ~~2006~~ **2.304**, California Rules of Court, will be accepted by the court. Filing fees must be paid at the time of the filing by facsimile pursuant to paragraph (e) of Rule ~~2006~~ **2.304** and will be subject to the additional charge set forth in paragraph (e)(3) thereof. Filing fee accounts pursuant to paragraph ~~(e)~~ **(f)** of Rule ~~2006~~ **2.304** will not be allowed. The additional fee set forth in paragraph ~~(e)~~ **(e)(3)** of Rule ~~2006~~ **2.304** shall be charged and must also be paid at the time of filing by facsimile.

*(Effective July 1, 2001; amended proposed effective date of July 1, 2017)*

**END OF RULE REVISION**

~~(STRIKEOUT IS USED TO DELETE ORIGINAL RULE TEXT AND~~ **HIGHLIGHT** IS USED ADD NEW TEXT TO THE RULE)

*This revision is being proposed to replace outdated California Rules of Court (CRC) references with current and correct CRC references.*

**RULE 5.3 TELEPHONE APPEARANCE AND FACSIMILE FILING** - A document filed by facsimile shall comply with Rule ~~201~~ **2.100 to 2.119**, California Rules of Court and all applicable rules of this court.

*(Effective July 1, 2001; amended proposed effective date of July 1, 2017)*

**END OF RULE REVISION**

~~(STRIKEOUT IS USED TO DELETE ORIGINAL RULE TEXT AND~~ **HIGHLIGHT** IS USED ADD NEW TEXT TO THE RULE)

*This revision is being proposed to replace outdated California Rules of Court (CRC) reference with current and correct CRC references.*

**RULE 6.1 “COURT REPORTER”**- The court shall provide a court reporter in all matters statutorily required (Felony criminal proceedings, juvenile proceedings, etc.). ~~and on~~ **For law and motion calendars, the court may provide a court reporter if the court has sufficient funding. On or before August 31<sup>st</sup> of each year, the court will make a determination if the court has sufficient funding. The court will publicize that determination in accordance with California Rule of Court 2.956.**

*(Effective July 1, 2001; amended effective date of July 1, 2017)*

**END OF RULE REVISION**

~~(STRIKEOUT IS USED TO DELETE ORIGINAL RULE TEXT AND~~ **HIGHLIGHT** IS USED ADD NEW TEXT TO THE RULE)

*This revision is being proposed to remove the requirement that the court will provide a court reporter for Law and Motion calendars and make it optional based on court funding.*

**RULE 6.2 “COURT REPORTER”**- In accordance with Gov. Code §68086 and **California Rule of Court Rule 2.956** ~~891 CRC~~ when a party requests a court reporter and the reporter is not required by the foregoing rule or by statute to report the court proceeding, such party shall provide and pay for a certified court reporter approved by the court.

*(Effective July 1, 2001; amended effective date of July 1, 2017)*

**END OF RULE REVISION**

(~~STRIKEOUT~~ IS USED TO DELETE ORIGINAL RULE TEXT AND **HIGHLIGHT** IS USED ADD NEW TEXT TO THE RULE)

*This revision is being proposed to replace outdated California Rules of Court (CRC) reference with current and correct CRC reference.*

**RULE 8.1 CHILD CUSTODY AND/OR VISITATION**

**Section A Applicability/General Procedure**

e. This rule applies to all Family Law cases involving a dispute regarding child custody and/or visitation, including any action for Dissolution of Marriage, Legal Separation, Paternity (excluding District Attorney actions) or Domestic Violence.

f. This rule and the name and telephone number of the Family Court Services Coordinator (**FCSC**) shall be provided by the clerk of the court to a petitioner upon any filing of a petition or moving papers. The petitioner shall serve the same, along with the petition or moving papers, on the responding party.

g. The clerk of the court will not schedule a court date until the requirements set forth in Section B of this rule have been met.

**Section B Family Court Services Mmediation Completion Requirements**

(1) The parties shall contact the Family Court Services Coordinator to set up an appointment to attend a mediation orientation session (a pre-mediation video) explaining the mediation process. The parties may attend the orientation session separately. Both parties must attend the orientation session unless the court has specifically ordered otherwise. Generally, the court will not exempt parties from attending the orientation session unless it would cause undue hardship (i.e., you reside out of state and the court has authorized telephonic mediation).

(2) After attending the orientation session the parties will be given a form verifying the parties attendance and a list of approved "court mediators". (Court mediators have agreed to the court's compensation schedule, and have demonstrated they meet the qualifications for a mediator set forth in the California Family Code and California Rules of Court). The parties must give the verification form to their attorneys for filing with the court, or if the parties don't have attorneys, they should bring the form with them to the next court appearance at which time deliver it to the court clerk.

(3) The parties are directed to agree on a mediator. You may select any mediator you wish, however, the court can only pay for mediation provided by a mediator who is on the court's list of approved "court mediators". If you elect to use a mediator who is not on the court's list you will be responsible for paying the mediator's fees. If the parties cannot agree on a mediator, the FCSC will select a mediator from the list of "court mediators" at random. The parties shall each have one peremptory challenge of a mediator if the FCSC random selection is required.

(1) The mediation session shall be held in private and all communications from the parties to the mediator shall be deemed official information within the meaning of Evidence Code Section 1040. Only the parents or the parties involved in the action shall be present in the mediation session.

(2) It is the parties' responsibility to schedule the mediation with the mediator selected, and to attend the mediation session as scheduled, prior to the date of any child custody and/or visitation hearing. The FCSC will verify attendance with the mediator; and, if mediation has been completed, the FCSC will notify the clerk of the court to schedule a hearing date.

(3) Pursuant to §575.2 of the Code of Civil Procedure, appropriate sanctions may be imposed by the court upon any party for failure to attend the orientation session or mediation.

(4) If after mediation all issues regarding custody and/or visitation have been resolved the parties shall file a stipulation to that effect.

#### Section C Custody and/or Visitation Issues Filed Under the Domestic Violence Act

- **Separate Mediation Sessions.** In any proceeding for which mediation is required and there is a history of domestic violence between the parties, or where a protective order as defined in Family Code §6218 is in effect, then at the request of the party who alleges domestic violence (in a written declaration under penalty of perjury) or who is protected by the order, the appointed Mediator shall meet with the parties individually, and at separate times.

- **Conducting the Mediation.** If the parties agree to meet jointly rather than individually with the Mediator, then during the mediation a support person may accompany any party who is protected by a restraining order. However, the mediator may exclude a support person from a session if that person disrupts the process of mediation.

#### Section D Custody and/or Visitation Evaluations

- The court may order an investigation or evaluation pursuant to **California Rule of Court 4257 5.220** of a family and the other pertinent parties, and a report thereon, to assist it in assessing the health, safety, welfare and best interests of a minor child or children, when there are disputed custody and/or visitation issues.

- Where the parties stipulate to such an investigation or evaluation, such stipulation will be approved only where the court deems it to be warranted.

- The parties may stipulate to an investigator or evaluator. However, absent such stipulation, the court will appoint an investigator or evaluator of its selection, or may for good cause appoint someone other than as stipulated. In any event, any investigator or evaluator appointed by the court shall meet the requirements set forth in **Rules 4257.3 5.220, 5.225 and 5.230 of the California Rules of Court**. Investigators/evaluators appointed by the court are not subject to preemptory challenge.

- At the time an evaluation order is executed, whether pursuant to stipulation or otherwise, the costs associated with evaluations must be determined. The court will order payment according to the Court's assessment of ability to pay. Generally, fees are not waived for these evaluations. The court will require an initial deposit of the estimated costs thereof, but not less than \$1,500 to be made by the parties prior to commencement of the evaluation.

A copy of the evaluator's report shall be provided to the court and to any attorneys of record not less than ten (10) days before any related hearings. A copy of the report may be made available for review in the courtroom to self-represented parties only upon order of the court. The report may not be used for any purpose other than as evidence at a custody or visitation hearing, unless otherwise ordered by the court. The court's copy of the report shall be placed in a confidential envelope, to be kept in the court file,

not to be opened, except by a judicial officer or as may otherwise be ordered by the court after prior notice to all parties.

(6) Grievances in connection with court-ordered evaluations shall be presented, in writing to the Presiding Judge within ten (10) days of receipt of the report and such grievances shall be addressed at the scheduled custody hearing.

*(Rule 7.1 renumbered rule 8.1 effective July 1, 2005; adopted effective July 1, 2001; amended effective January 1, 2003; amended proposed effective date of July 1, 2017.)*

**END OF RULE REVISION**

(~~STRIKEOUT~~ IS USED TO DELETE ORIGINAL RULE TEXT AND **HIGHLIGHT** IS USED ADD NEW TEXT TO THE RULE)

*This revision adds the acronym "FCSC" for the term Family Court Services Coordinator. Also outdated California Rules of Court (CRC) references are replaced with current and correct CRC references.*

## **RULE 8.2 FINANCIAL DECLARATIONS**

In all proceedings brought under the Family **Code** ~~Law Act~~, prior to every default hearing and every contested hearing, there shall be filed by each party an income and expense declaration and a property declaration, using the applicable Judicial Council forms ~~prescribed by applicable respectively by Rule 5.77 rules 1285.50 and 1285.55 of the California Rules of Court~~, unless the matter to be considered at the hearing does not involve the consideration of any financial issue. Such statements shall show conditions as they existed no earlier than three (3) weeks prior to the hearing, shall be completely filled out so that every blank calling for information available to the declarant is filled out (with the word "none", if that be an appropriate response), and shall be filed no later than the Court day prior to the hearing, unless an earlier filing is required by rule or statute.

*(Rule 7.2 renumbered rule 8.2 effective July 1, 2005; adopted effective July 1, 2001; amended proposed effective date of July 1, 2017.)*

**END OF RULE REVISION**

(~~STRIKEOUT~~ IS USED TO DELETE ORIGINAL RULE TEXT AND **HIGHLIGHT** IS USED ADD NEW TEXT TO THE RULE)

*This revision will delete "Law Act" and substitute "Code" to reflect the current description used in California law. Outdated California Rules of Court (CRC) references have also been deleted.*

## **RULE 8.3 PRE-HEARING CONFERENCE**

No matter (including a motion, order to show cause, or trial) in a proceeding brought under the Family **Code** ~~Law Act~~ will be heard until counsel, with their respective clients are either physically present or immediately physically available, or parties in pro per, have met and conferred in a good faith effort to resolve all issues. Such Conference shall include an exchange of all documents which may be relevant to contested issued or which may be offered in evidence. At the onset of the hearing on the matter, counsel, or parties in pro per, will be expected to represent to the Court that there has been compliance with this rule. Non-compliance with the rule may result in the matter being dropped from the calendar or continued, or the rejection of documents not exchanged, or other appropriate sanctions.

*(Rule 7.3 renumbered rule 8.3 effective July 1, 2005; adopted effective July 1, 2001; amended proposed effective date of July 1, 2017.)*

**END OF RULE REVISION**

(~~STRIKEOUT~~ IS USED TO DELETE ORIGINAL RULE TEXT AND **HIGHLIGHT** IS USED ADD NEW TEXT TO THE RULE)

*This revision will delete "Law Act" and substitute "Code" to reflect the current description used in California law.*

## **RULE 11.3 COMPETENCY OF COUNSEL IN DEPENDENCY PROCEEDINGS**

### **Section A Purpose and Applicability**

This rule is established to comply with Section 317 of the Welfare and Institutions Code and **Rule 5.660 1438** of the California Rules of ~~court~~ **Court**. On proper application and showing, the requirements of these Rules pertaining to competence of counsel can be waived or modified when necessary to provide counsel in juvenile dependency cases (Court automatically appoints counsel for children for duration of court's jurisdiction over minor child. Counsel will only be relieved upon proper motion and order of the Court.)

### **Section B General Competency Requirement**

Any party in a dependency proceeding who is represented by an attorney is entitled to competent counsel.

(1) [Definition] "Competent counsel" means an attorney who is a member in good standing of the State Bar of California, who has participated in training in the law of juvenile dependency, and who demonstrates adequate forensic skills, knowledge and comprehension of the statutory scheme, the purposes and goals of dependency proceedings, the specific statutes, rules of court, and cases relevant to such proceedings, and procedures for filing petitions for extraordinary writs.

(2) [Evidence of Competence] The court may require evidence of competency of any attorney appointed to represent a party in a dependency proceeding.

h. [Experience and Education] Only those attorneys who have completed a minimum of eight (8) hours of training or education in the area of juvenile dependency, or who have sufficient recent experience in dependency proceedings in which the attorney has demonstrated competency, may be appointed to represent parties. Training and education must include information on child development, child abuse, domestic violence, family reunification and preservation. Within every three years attorneys must complete at least eight (8) hours of continuing education related to dependency proceedings.

i. [Standards of Representation] Attorneys or their agents are expected to meet regularly with clients including clients who are children, regardless of the age of the child or the child's ability to communicate verbally, to contact social workers and other professionals associated with the client's case, to work with other counsel to resolve disputed aspects of a case without a contested hearing, and to adhere to the mandated timelines. The attorney for the child must have sufficient contact with the child to establish and maintain an adequate and professional attorney-client relationship.

### **Section C Procedure For Reviewing and Resolving Complaints**

Any party to a dependency proceeding may lodge a written complaint with the Court concerning the performance of his or her appointed counsel in that proceeding.

(4) When counsel is appointed the Court shall advise each adult, in general terms, of the procedure for lodging complaints with the Court concerning the performance of an appointed attorney. In the case of a minor client the notice shall be given to the current caretaker of the child.

(3) All complaints to the Court shall be in writing and directed to the judge assigned to the proceeding and filed with a court clerk. The Court shall review all complaints received. If the Court determines that the complaint presents reasonable cause to believe that the attorney may have failed to act competently or professionally, the Court shall notify the attorney in question of the complaint and shall give the attorney the opportunity to respond in writing within 10 court days, or up to 30 calendar days if good cause shown. The Court shall review the complaint and response and make additional inquiry to determine if the attorney acted incompetently or unprofessionally. If the Court so finds, the Court may replace the attorney, impose sanctions as provided by law and/or refer the matter to the State Bar of California for further action. The Court shall notify the attorney and the party in writing of its determination concerning the allegations of the complaint.

Section D Time Lines/Procedures

Attorneys for parties are required to adhere to the statutory time lines (Rules of court, Welfare and Institutions Code) for all hearings.

*(Effective July 1, 2006; amended proposed effective date of July 1, 2017)*

**END OF RULE REVISION**

(~~STRIKEOUT~~ IS USED TO DELETE ORIGINAL RULE TEXT AND **HIGHLIGHT** IS USED ADD NEW TEXT TO THE RULE)

*This revision is being proposed to replace outdated California Rules of Court (CRC) reference with current and correct CRC reference. Lower case "court" being replaced with capitalized "Court".*

**RULE 12.1 ADDITIONAL FACILITATOR DUTIES**

(A) In addition to the duties designated by the Family Law Facilitator Act, the duties of the family law facilitator may include, but are not limited to, the following:

(1) Meeting with litigants to mediate issues of child support, spousal support, and maintenance of health insurance, subject to §10012 of the Family Code. Actions in which one or both of the parties are unrepresented by counsel shall have priority.

(2) Drafting stipulations to include all issues agreed to by the parties, which may include issues other than those specified in Section § **10003** ~~1003~~ of the Family Code.

j. If the parties are unable to resolve issues with the assistance of the family law facilitator, prior to or at the hearing, and at the request of the court, the family law facilitator shall review the paperwork, examine documents, prepare support schedules, and advise the judge whether or not the matter is ready to proceed.

k. Assisting the clerk in maintaining records.

l. Preparing formal orders consistent with the court's announced order in cases where both parties are unrepresented.

m. Serving as a special master in proceedings and making findings to the court unless he or she has served as a mediator in that case.

(B) If staff and other resources are available (B) and the duties listed in subdivision (A) have been accomplished, the duties of the family Law facilitator may also include the following:

(1) Assisting the court with research and any other responsibilities which will enable the court to be responsive to the litigants' needs.

(2) Developing programs for bar and community outreach through day and evening programs, videotapes, and other innovative means that will assist unrepresented and financially disadvantaged litigants in gaining meaningful access to family court. These programs shall specifically include information concerning underutilized legislation, such as expedited child support orders and preexisting, court-sponsored programs such as appointment of attorneys for children.

*(Rule 11.1 renumbered rule 13.1 effective July 1, 2005; adopted effective July 1, 2001; amended proposed effective date of July 1, 2017.)*

**END OF RULE REVISION**

(~~STRIKEOUT~~ IS USED TO DELETE ORIGINAL RULE TEXT AND **HIGHLIGHT** IS USED ADD NEW TEXT TO THE RULE)

*This revision is being proposed to correct typographical error make in reference to Family Code §10003.*

### **RULE 13.5 DEPOSIT AND REFUND OF ~~NONREFUNDABLE~~ JURY FEES**

A nonrefundable deposit of jury fees in the statutory amount shall be made by the party requesting a trial by jury as provided in section 631 of the Code of Civil Procedure. In the event that a jury is not required for the trial of any case for which a deposit of jury fees has been made, the deposit will be appropriated by the **court clerk** to the extent of the costs involved in summoning the venire and compensating members of the venire for their attendance and the remainder of the deposit will be refunded to the depositor unless the venire is used for some other case in which event the entire deposit will be refunded to the depositor.

*(Rule 12.5 renumbered rule 13.5 effective July 1, 2005; adopted effective July 1, 2001; amended proposed effective date of July 1, 2017)*

**END OF RULE REVISION**

(~~STRIKEOUT~~ IS USED TO DELETE ORIGINAL RULE TEXT AND **HIGHLIGHT** IS USED ADD NEW TEXT TO THE RULE)

*This revision is being proposed to reflect a change in law that makes jury fees nonrefundable and able to be retained by the court.*

### **RULE 14.2 EXCUSES FROM TRIAL JURY SERVICE**

Excuses from trial jury service shall be administered pursuant to Code of Civil Procedures §204 and California Rules of Court, Rule-~~860~~ **2.1008**.

*(Rule 13.2 renumbered rule 14.2 effective July 1, 2005; adopted effective July 1, 2002; amended proposed effective date of July 1, 2017.)*

**END OF RULE REVISION**

(~~STRIKEOUT~~ IS USED TO DELETE ORIGINAL RULE TEXT AND **HIGHLIGHT** IS USED ADD NEW TEXT TO THE RULE)

*This revision is being proposed to replace outdated reference to a rule of the California Rules of Court (CRC) with current and correct CRC reference.*