

# Courtroom Clerking

21<sup>st</sup> Annual AB 1058 Child Support  
Training Conference  
September 12-15, 2017

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## Kathryn Whitney

**Court Clerk III  
Calaveras Superior Court**

**[kwhitney@Calaveras.courts.ca.gov](mailto:kwhitney@Calaveras.courts.ca.gov)  
(209) 754-5967**

**Please feel free to contact me.**

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# TELEPHONE APPEARANCES

- ❖ Governmental Request for Telephone Appearance
- ❖ California Rules of Court §5.324
- ❖ Judicial Council Form FL-679

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- ❖ REQUEST TO APPEAR TELEPHONICALLY must be filed by a party, attorney, witness, or parent wishing to appear via telephone. It must be filed twelve (12) court days before the hearing and served on the other parties.
  - ❖ Note – there is no Judicial Council order form.
- ❖ OPPOSITION TO TELEPHONE APPEARANCE REQUEST. This must be complete in a declaration format and is to be filed eight (8) court days before the hearing and served on the other parties.
- ❖ COURT'S DECISION ON TELEPHONE APPEARANCE. Five (5) court dates before the hearing, the Court will give notice of its decision on the request either by telephone, fax, express mail, e-mail, in person or other reasonable means to ensure notification.
  - ❖ ***The time requirements set forth in the rule can always be shortened by the court.***

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- ❖ What are your Court's guidelines for persons wishing to appear telephonically?
- ❖ How do your Courts handle telephonic appearance requests?
- ❖ How are these cases handled in your Courtroom?
- ❖ How does this process compare with the code sections?

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**Request for Telephonic Appearance  
FL-679**

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| <ul style="list-style-type: none"> <li>❖ CRC 3.760 and 5.324</li> <li>❖ Adopted Mandatory Use           <ul style="list-style-type: none"> <li>❖ Note: Courts may choose to use their own forms and/or practices</li> </ul> </li> <li>❖ Some Court Call Vendors may charge/waive fee.</li> <li>❖ Issues with Fee Waiver Collections           <ul style="list-style-type: none"> <li>❖ How does your court deal with fee waivers? For convenience, does your court send copy to vendor?</li> <li>❖ Does your vendor accept an e-mail from the Court as proof?</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>❖ All relevant participants may request to appear telephonically</li> <li>❖ Note: Commissioner advisement is stated on the form</li> <li>❖ Page 2, item 11: If financial issues to be decided, party acknowledges filing all "necessary pleadings"           <ul style="list-style-type: none"> <li>❖ Response, I&amp;E; etc.</li> </ul> </li> <li>❖ Not Allowed:           <ul style="list-style-type: none"> <li>❖ Contested Trials;</li> <li>❖ Contempts,</li> <li>❖ OEXs,</li> <li>❖ Under Subpoena</li> <li>❖ As ordered by Court</li> </ul> </li> </ul> |
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REQUEST FOR TELEPHONE APPEARANCE

Fee Waivers (FW-001 AND FW-003) \*If applicable for Court Call

Opposition to telephone appearance request. Done in declaration format, filed 8 court days before the hearing, and served on the other parties. It must be delivered to the other parties by close of the next court day after the form is filed.

Court's Decision on Telephone Appearance 5 court days before the hearing the court will give notice of its decision on the request either by telephone, fax, express mail, e-mail, in person, or other reasonable means to ensure notification.

ADVISMENT REGARDING TELEPHONE APPEARANCE

I, the undersigned, being duly sworn, depose and say that I am the petitioner/respondent in the within captioned matter and that I am the author of the foregoing petition for telephone appearance and the information contained therein is true and correct.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: \_\_\_\_\_

REQUEST FOR TELEPHONE APPEARANCE

PROOF OF SERVICE

1. At the time of service I was at least 18 years of age and not a party to the legal action.

2. My residence or business address is (specify):

3. I served a copy of the foregoing Request for Telephone Appearance (Governmental) and all attachments as follows (check a, b, or c for each method served):

(a) Personal delivery. I personally delivered a copy and all attachments as follows:

(1) Name of party or attorney served: \_\_\_\_\_ (2) Name of local child support agency served: \_\_\_\_\_

(a) Address where delivered: \_\_\_\_\_ (a) Date delivered: \_\_\_\_\_ (b) Time delivered: \_\_\_\_\_

(b) Mail. I am a resident of or employed in the county where the mailing occurred:

(1) I enclosed a copy in an envelope and: (a)  Replied the sealed envelope with the U.S. Postal Service with the postage fully prepaid. (b) I placed the envelope for collection and mailing on the date and at the place shown below, following our ordinary business practices. I am readily familiar with the business practices for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the U.S. Postal Service in a sealed envelope with postage fully prepaid.

(2) Name of party or attorney served: \_\_\_\_\_ (3) Name of local child support agency served: \_\_\_\_\_

(a) Address: \_\_\_\_\_ (a) Date mailed: \_\_\_\_\_ (b) Place of mailing (city and state): \_\_\_\_\_

(c) Address Verification (please specify):

(1) I served a request to verify a child custody, visitation, or child support judgment or permanent order, which included an address verification declaration (Declaration Regarding Address Verification - DVAD) (Form FW-001) or a child custody, visitation, or child support order (Form FW-003) as required by the DVAD.

(2) The address for each individual identified in Item 3a and 3b was: (a)  verified by the California Child Support Enforcement System (CSES) as the current primary mailing address on file; (b)  other (specify): \_\_\_\_\_

(c) Additional page is attached.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: \_\_\_\_\_

REQUEST FOR TELEPHONE APPEARANCE

# Opposing Telephonic Appearances

## Party Objecting

- ❖ NO Exclusive Form (see examples next two slides)
- ❖ May Use Declaration MC-030
- ❖ Must be Signed "Under Penalty of Perjury"
- ❖ Filed at Least 8 Court Days Before Hearing
- ❖ Served on All Parties by Next Day

*\*Court Practices may vary*

## Court

- ❖ Remember: Flag to Court
- ❖ Court Issues Decision on Objections at least 5 Court Days Before Hearing
- ❖ Parties Noticed:
  - ❖ Telephone
  - ❖ In Person
  - ❖ Fax
  - ❖ Express Mail
  - ❖ Email
  - ❖ Other
- ❖ Certificate of Notice

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❖ Example from Kern Court (order only)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA 3055 Cleveland Avenue Santa Rosa, CA 95403		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA Plaintiff/Defendant: Defendant/Respondent: Other Parent/Claimant:		
ORDER RE: TELEPHONIC COURT APPEARANCE		Case No. _____

The request for \_\_\_\_\_ in appeal to telephone at the hearing set for \_\_\_\_\_ from \_\_\_\_\_ to Department \_\_\_\_\_ has been:

**GRANTED.** Call the CourtCall Telephonic Appearance Program at 800 822 4878 at least three (3) court days prior to the court hearing to set up the call. The cost for CourtCall is \$60.00. This will be added to provide a credit card number. A fee for the \$35 will be charged if the request to the make a payment is less than five days before the scheduled appearance (except as the entrance listed in California Rules of Court 4.97(b)(2)).

To waive the fee for CourtCall you must provide CourtCall with a copy of an Order Granting Fee Waiver (Judicial Council Form 10-005). A copy of the Order Granting Fee Waiver can be downloaded to 800 822 3269 or mailed to CourtCall(800) Avenue Center, Los Angeles, California, 90046.

**DENIED.** Please be advised that if you do not appear personally at the hearing, the court may make orders based upon the information presented at the hearing.

The hearing date of \_\_\_\_\_ has been dropped. The matter has been rescheduled for the date and hour listed above.

IT IS SO ORDERED:

DATED: \_\_\_\_\_ JUDICIAL OFFICER \_\_\_\_\_

A copy of this order was given to the parties in open Court.

Local Form 9-001 Revised 05/01, 10/11, 01/13, 10/16, 2015	ORDER RE: TELEPHONIC COURT APPEARANCE	Local Rule 9-0
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❖ Example from Placer Court (Request and Order all in one document)

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF PLACER	
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, Date, Day, Month, and Address)	FOR COURT USE ONLY
TELEPHONE NO. FAX NO. E-MAIL ADDRESS	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF PLACER 11 2020 Justice Center Drive P.O. Box 630073 Sacramento, CA 95861-8073	11 1011 N. Lake Blvd. P.O. Box 1469 Tahoe City, CA 96145
PETITIONER: RESPONDENT:	CASE NUMBER:
REQUEST FOR TELEPHONIC APPEARANCE (FAMILY LAW)	
TYPE OF HEARING: _____ DATE: _____ TIME: _____ DEPT: _____	
1. I am the <input type="checkbox"/> petitioner <input type="checkbox"/> respondent's counsel <input type="checkbox"/> respondent's counsel <input type="checkbox"/> Other _____	
2. I request the court to allow me to appear from the following telephone number: <input type="checkbox"/> _____	
3. I request to appear telephonically for the following reason: _____	
4. I have filed this request at least five (5) court days prior to the hearing and will serve all parties (attorneys with this form within one (1) court day after filing this form.	
5. I understand that the court, in its discretion, may decide to terminate the telephonic appearance if a demotion during the hearing that I am not available on the scheduled call or other due to disruption, noise, interference, a communication problem, a technical problem, or other cause.	
6. I understand the court may decide at any time to require a personal appearance and continue the hearing.	
7. I assume the risk of cost, time, delay, repeated telephone calls, technical failure, a wrong number, and/or other issues that may arise with all telephonic appearances.	
8. I understand that except as provided in California Rules of Court, rule 1.150, court proceedings shall not be photographed, recorded, or transmitted.	
I have read the aforementioned contents of this form and Local Rules 10.3.3.10.17, and I understand that the same apply to me.	
I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.	
DATE _____	
PRINTED NAME _____	SIGNATURE _____
FOR COURT USE ONLY By Judicial Officer: The request is <input type="checkbox"/> GRANTED <input type="checkbox"/> DENIED Done _____ Judicial Officer _____	

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# Minutes

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The clerk's minutes is the official record of the Court's proceedings, required by law, showing who was present at the hearing and what happened, as well as what findings and orders the court made.

Meskeil v. Culver City Unified School District (1970) 12 Cal.App.3d 815, 821)

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## Government Code §69844

The clerk of the superior court shall keep the minutes and other records of the court, entering at length within the time specified by law, or forthwith if no time is specified, any order, judgment, and decree of the court which is required to be entered and showing the date when each entry is made. Failure so to enter the date or failure to enter the order, judgment, or decree within the time specified in this section shall not affect the validity or effectiveness of the entry.

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**Mandatory items needed on minutes:**

- ❖ Date of hearing
- ❖ Judicial Officer
- ❖ Court Clerk
- ❖ Court Reporter (if any)
- ❖ Bailiff (if any)
- ❖ Type of Hearing
- ❖ Parties who are present
- ❖ Family Law Code §4251 Advisement (if case heard by Commissioner)
- ❖ Findings made by judge
- ❖ Orders made by judge
- ❖ Future hearing dates (if any)
- ❖ Exhibits (if any)

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- ❖ Note the clerk’s minutes is not a detailed word-for-word description of the court hearing, but rather an outline of the important components of the court hearing
- ❖ Not all information needs to be in the body of the minutes – it may be in the heading

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**Guidelines for Minutes**

- ❖ Use complete sentences.
- ❖ Present tense or past tense (need to be consistent)
- ❖ Better to say too much than too little
- ❖ Chronological record of events
- ❖ Do not use abbreviations (i.e. OSC, FTA, BW, NRPS)
- ❖ Keep in mind your minutes may be read by Judicial Officers, counsel, the public, the Appellate Court, and possibly the Supreme Court
- ❖ Judicial Council Form FL-692, adopted for *alternative mandatory use*.

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## Family Code §4057

- ❖ Deviations to Guideline
- ❖ May be downward (less than guideline) or upward (more than guideline)
- ❖ Must include Court's findings as to why deviation is in the best interest of the child(ren)

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### FAMILY CODE – 4057 (excerpts)

- ❖ (a) The amount of child support established by the formula provided in subdivision (a) of Section 4055 is presumed to be the correct amount of child support to be ordered.
- ❖ (b) The presumption of subdivision (a) is a rebuttable presumption affecting the burden of proof and may be rebutted by admissible evidence showing that application of the formula would be unjust or inappropriate in the particular case, consistent with the principles set forth in Section 4053, because one or more of the following factors is found to be applicable by a preponderance of the evidence, and the court states in writing or on the record the information required in subdivision (a) of Section 4056:
  - ❖ (1) The parties have stipulated to a different amount of child support under subdivision (a) of Section 4065.

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### Family Code §4057(b)(3)

- ❖ (3) The parent being ordered to pay child support has an extraordinarily high income and the amount determined under the formula would exceed the needs of the children.

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## Marriage of Cryer, Jon & Sarah

Court of Appeal, Second District, California Case No. B222906

- ❖ Mom originally had custody; Dad paid \$10,000/month child support per stipulation
- ❖ Due to CPS case, Dad got full custody and requested reduction to zero
- ❖ Per child support calculator, guideline child support should be \$1,141 from Dad to Mom

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## Marriage of Cryer, Jon & Sarah

Court of Appeal, Second District, California Case No. B222906

- ❖ Court deviated UPWARD per Family Code §4057 (b) and ordered Dad to pay Mom child support of \$8,000 due to the disparity in their incomes
- ❖ Dad ordered to pay \$40,000 for Mom's attorneys' fees (she had requested \$90,000)
- ❖ Court of Appeal upheld trial court's orders

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## Group discussion...

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# Examples of minute orders from Odyssey

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Only the  
Child  
Support  
Agency  
Attorney is  
present

400 Government Center Drive  
San Andreas, CA 95249  
SUPERIOR COURT OF CALIFORNIA  
IN AND FOR THE COUNTY OF CALAVERAS  
Phone: 209-754-9800  
www.calaveras.courts.ca.gov

COUNTY OF CALAVERAS VS [REDACTED] CV16342881  
9:00 AM Review Hearing  
08/10/2017

Heard By: Sanders, David M. Courtroom Clerk: K. Whitney  
Location: Courtroom 4 Bailiff: J. Jorgensen

**Parties Present:** Future Hearings:  
Central Sierra Child Support Attorney  
Agency

Matter is regularly called at 9:00 a.m.  
Commissioner gives Family Code Section 4251 advisement. There are no objections.  
Attorney Reesa Miller is present on behalf of Central Sierra Child Support Agency.  
Ms. Miller states Agency's motion show the hearing at 10:00 a.m. Matter is trail to 10:00 a.m. to allow parties to appear at time noticed.  
Matter is recalled at 10:25 a.m. Parties have not appeared.  
Ms. Miller reviews motion and prior hearing.  
The Court considered a potential equitable adjustment with regard to when Joseph resided with Dal, and took the various declaration's as submitting the matter on the pleadings. Court finds burden of proof was not met to establish that custody did not change for a full month and therefore denies any equitable adjustment; Court states the three weeks in question were factored in a visitation percentage in determining guideline support.  
Court orders child of \$296 for the period of 2/1/17 through 4/30/17; and child support \$475 per month effective 5/1/17.

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The Child  
Support  
Agency  
Attorney and  
both Defendant  
and Other  
Parent are  
present

400 Government Center Drive  
San Andreas, CA 95249  
SUPERIOR COURT OF CALIFORNIA  
IN AND FOR THE COUNTY OF CALAVERAS  
Phone: 209-754-9800  
www.calaveras.courts.ca.gov

COUNTY OF CALAVERAS VS [REDACTED] CV168802  
10:00 AM Motion Hearing  
08/03/2017

Heard By: Sanders, David M. Courtroom Clerk: K. Whitney  
Location: Courtroom 4 Bailiff: J. Jorgensen

**Parties Present:** Future Hearings:  
Central Sierra Child Support Attorney  
Agency  
[REDACTED] Linda Other Parent  
[REDACTED] Bernice Kay Defendant

- Tentative Ruling: Respondent's retirement account (Wells Fargo IRA [REDACTED]) is unblockaded and disbursements and/or withdrawals are allowed. Linda [REDACTED] to remain the beneficiary of said account.  
Commissioner gives Family Code Section 4251 advisement. There are no objections.  
Attorney Reesa Miller is present on behalf of Central Sierra Child Support Agency. Ms. Miller states there is a slight error in case number 01 ends in 81, but Agency concurs with tentative ruling.  
Defendant reads statement regarding account and amounts owed to Other Parent.  
Court notes Defendant did not file a reply to motion.  
Ms. Miller reviews amounts of approximately \$129,000.  
Levy and Claim of Exemption processes discussed.  
Court adopts tentative ruling, as amended to show correct case number, Wells Fargo IRA [REDACTED]  
Ms. [REDACTED] to remain as beneficiary of account.  
Ms. Miller makes oral motion to add Linda [REDACTED] as Other Parent in case; court so grants.

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## Oaths

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## Witness

Do you solemnly state under penalty of perjury, that the evidence that you shall give in this issue or matter shall be the truth, the whole truth, and nothing but the truth? Please be seated, state your full name, and spell your last name for the record. [CCP §2094(2)]

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## Hearing Impaired Interpreter

Do you solemnly state under penalty of perjury, that you will and truly interpret the spoken language into the sign language, and the sign language into the spoken language, in the case now pending before this court?

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**Order of Examination  
(OEX)**

Do you solemnly state that you will truthfully answer such questions as may be asked of you by the Judgment Creditor concerning your employment, wages, assets or your financial ability to pay this debt?

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**Interpreter**

Do you solemnly state that you will interpret the \_\_\_\_\_ language into the English language, and the English language into the \_\_\_\_\_ language, to the best of your skill and judgment?

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**EXHIBITS**

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- ❖ Before a document is presented to a witness or referred to, it should be “marked for identification”. The clerk will place a tag or label to the exhibit according to their court’s procedure. *Do not place exhibit tags on any printed portion of documents or front of pictures.*
- ❖ Exhibits that are marked for identification only cannot be considered by a Judicial Officer as evidence. Only exhibits that have been admitted (received) into evidence may be considered by a Judicial Officer.
- ❖ Plaintiff/Petitioner’s exhibits generally marked with Numbers.
- ❖ Defendant/Respondent’s exhibits generally marked with Letters.

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- ❖ The minutes must include that the exhibit was marked, if it was received into evidence, the number/letter assigned to it, and a brief description.
- ❖ Once the exhibit is introduced, marked for identification only, or received/admitted into evidence, it becomes the sole responsibility of the clerk. (PC §1417)
- ❖ If the exhibit is returned to the submitting party during the hearing, so indicate on the minutes.
- ❖ The clerk must not release any exhibit except on order of the court. The clerk must require a signed receipt for a released exhibit [CRC 2.400(c)(1)].

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**Example of Exhibit**

- ❖ Letter submitted by Defendant’s Counsel
- ❖ Marked as Defendant’s Exhibit A – with date of hearing and case number on Exhibit Tab.
- ❖ Enter in Minutes as “two-page letter from Paar Law Group dated June 19, 2017, which is marked as Defendant’s Exhibit A”. If the exhibit is accepted and entered into evidence later in the hearing, make sure to note in the minutes.

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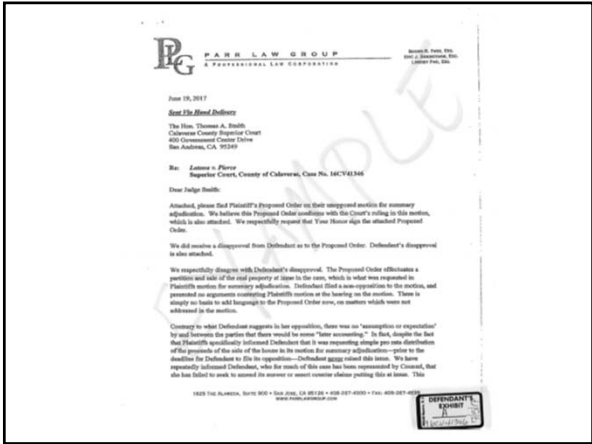
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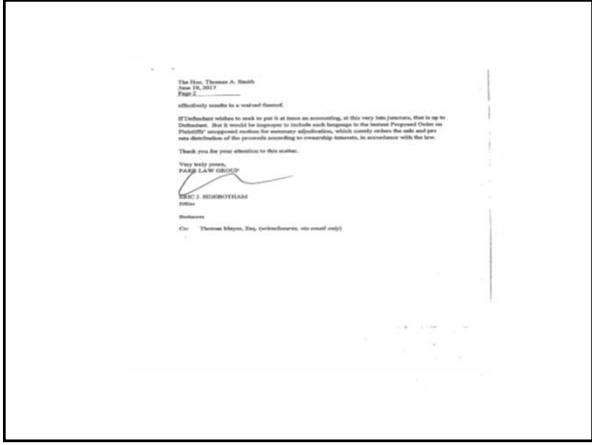
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**TIMECARDS**

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❖ Any employee whose time is charge to a grant program of Judicial Council shall complete the mandatory grant timesheet.

❖ Per Federal regulations, all hours worked must be accounted for, regardless if reimbursable by grant or not.

❖

❖ The timesheet must include "I hereby certify under penalty of perjury that the information provided here accurately represents official records and any leave time charged or authorized to any grant included does not exceed leave time earned while working on the grant." **This certification may not be removed or modified.**

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❖ When any IV-D matters are heard by a Judge (not a Commissioner), that time may not be counted as AB1058 time on the timesheets for the court, judge, or clerk.

❖ Clerks need to track their time and complete the timesheet accordingly.

❖ Example in Section D of clerk's training manual.

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STATE OF CALIFORNIA JOB 4 TIMESHEET (JOB 4-TS)												
JUDICIAL COUNCIL OF CALIFORNIA GRANT TIMESHEET												
SUPERIOR COURT OF CALIFORNIA, COUNTY OF CALAVERAS												
EMPLOYEE NAME: [Name] [Address]				PAY PERIOD START: [Date]				PAY PERIOD END: [Date]				
A	B	C	D	E	F	G	H	I	J	K	L	M
DATE	TITLE OR ID NUMBER CODE	TITLE OR ID NUMBER FFL	TITLE OR ID NUMBER JUDGE/CLERK	FUNCTION INFORMATION	Self Help Center	Grant Program (Hours)	Grant Program (Hours)	Other Hours	Total Hours Worked	TOTALS (Hours)	TOTALS (Dollars)	TOTALS (Dollars)
01/01/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/02/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/03/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/04/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/05/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/06/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/07/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/08/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/09/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/10/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/11/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/12/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/13/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/14/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/15/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/16/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/17/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/18/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/19/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/20/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/21/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/22/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/23/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/24/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/25/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/26/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/27/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/28/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/29/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/30/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
01/31/10	300					8.00	8.00	0.00	8.00	8.00	200.00	8.00
TOTAL	300					73.00	73.00	0.00	73.00	73.00	182.50	73.00

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