Sierra County

SUPERIOR COURT RULES

EFFECTIVE JANUARY 1, 2009

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RULE 1. GENERAL RULES

1.1 NAME, CITATION AND EFFECTIVE DATE

(a) Rules Citation. These rules shall be known as the Sierra County Superior Court Rules and may be cited as SCR. These rules become effective on January 1, 2009 and supersede all other local rules previously adopted by the Sierra County Superior Court.

(b) Construction And Application Of Rules. These rules shall be construed and applied in such a manner as to not conflict with the California Rules of Court and shall be liberally construed to serve the proper and efficient administration of justice in the Superior Courts of Sierra County.

The Court may *sua sponte* or on motion change, dispense with, or waive any of these rules in the interest of justice.

(c) Severability Of Rules. If any of these rules are found to be in conflict with any statute, rule or decision, the rule(s) shall be deemed to conform to said statute, rule or decision, and the remaining rules shall remain in force and effect.

(d) Telephonic Appearance. All counsel are required to be present at any contested hearing. Counsel may appear telephonically at all uncontested hearings, such as a Case Management Conference.

If counsel wish to appear telephonically for a contested hearing, permission must first be granted by the Court. Counsel may apply *ex parte* to the Judicial Secretary for such permission.

Sierra County Courts use CourtCall for telephonic hearings. Counsel are required to contact CourtCall to make arrangements to appear telephonically. The telephone number of CourtCall is 1-888-88COURT. *(Eff. 01/01/09)*

1.2 SANCTIONS FOR VIOLATION OF LOCAL RULES

If a party or an attorney fails, refuses, or neglects to comply with these rules, the California Rules of Court, or any other rules or statutory requirements, the Court may, after notice and an opportunity to be heard, impose any and all sanctions authorized by law. *(Eff. 01/01/09)*

1.3 GENERAL POLICY RE: COURTROOM DECORUM

(a) Courtroom Decorum rules have been adopted to foster orderly proceedings and respect for the Constitution of the United States, the Constitution of the State of California, the laws of this State, and the Superior Court.

(b) The rules of Courtroom Decorum set forth herein shall apply in all Superior Court proceedings unless a judicial officer orders otherwise in a particular circumstance. A judicial officer, upon appropriate application in a particular case, may waive the application of any particular rule or may impose additional rules applicable to such case.

(c) Each attorney who appears in court should:

(1) Pursuant to Business and Professions Code §6068(b) "maintain the respect due to the courts of justice and judicial officers."

(2) Be polite and considerate toward opposing counsel, opposing parties, witnesses, and members of the court's staff.

(3) Be familiar with the rules and guidelines set forth in this section as well as other applicable statutes and rules of conduct, ethics, and professionalism.

(4) Make reasonable efforts to advise clients, witnesses, and others accompanying them of these rules, and make a reasonable attempt to see that such persons abide by these rules. *(Eff. 01/01/09)*

1.4 COURTROOM ATTIRE

(a) All attorneys, litigants, witnesses and spectators shall be required to dress and conduct themselves in a manner consistent with the traditional dignity of the Superior Court.

(b) All persons in the courtroom should dress in a manner that is not offensive or distracting to others of usual sensibilities. Counsel shall so instruct parties they represent, witnesses they call and persons accompanying them. No persons shall appear in court without a shirt, barefoot or with a bare midriff. The following shall not be worn in court: shorts, tank tops, or any clothing that displays inappropriate words or pictures.

(c) Bailiffs will remove any person from court who violates this rule. This rule does not limit the power of any judicial officer to further prescribe appropriate attire in the courtroom. *(Eff. 01/01/09)*

RULE 2. LAW AND MOTION MATTERS

2.1 APPLICABILITY

This Rule applies to all civil Law and Motion proceedings. *(Eff. 01/01/09)*

2.2 FORM OF PLEADINGS PRESENTED FOR FILING

All documents presented for filing must comply with California Rules of Court, in particular California Rules of Court §§ 311 through 315. *(Eff. 01/01/09)*

2.3 PROPOSED ORDERS

At the time a Motion is filed in a civil case, it shall be accompanied by a Proposed Order. If there is opposition to the Motion, a Proposed Order on behalf of the opposing party shall accompany the Opposition Memorandum. *(Eff. 01/01/09)*

2.4 CALENDAR MATTERS

Law And Motion. Civil Law and Motion matters are heard in Department I generally on the second and fourth Fridays of the month at 9 a.m. and should be calendared accordingly. If counsel believe that the matter to be heard will take more than 10 minutes, counsel should contact the Court to schedule a longer hearing (530- 289-3698). Such hearings are generally set on Wednesday afternoons. *(Eff. 01/01/09)*

2.5 CONTINUANCES (CIVIL LAW AND MOTION ONLY)

Requests to Continue. Requests to continue should be noticed for the case management conference calendar. If there is insufficient time to notice the request on a regular civil law and motion day, counsel should contact the Court at (530) 289-3698 to specifically set the request. Counsel may appear in person or telephonically for this request. A stipulation by the parties to continue the hearing/trial date is not sufficient. *(Eff. 01/01/09)*

2.6 APPLICATION FOR ORDER SHORTENING TIME AND EX PARTE ORDERS

(a) Good Cause. All applications for *ex parte* orders, including orders shortening time, shall be supported by an affidavit or declaration showing good cause for the order, and, where applicable, shall comply with California Rules of Court § 379.

(b) Application For *Ex Parte* Orders. An application for an order shall not be made *ex parte* unless it appears by affidavit or declaration:

(1) That, within a reasonable time before the application, the party or counsel informed the opposing party or opposing party's counsel when and where the application

would be made; or,

(2) That the party in good faith attempted to inform the opposing party or the opposing party's counsel but was unable to do so, specifying the efforts made to inform them; or,

(3) That, for reasons specified, the party should not be required to inform the opposing party or the opposing party's counsel. *(Eff. 01/01/09)*

2.7 DISCOVERY

General Policy. The policy of the law is one of liberality in allowing discovery. Doubt will be resolved in favor of permitting discovery. It is also the policy of this Court that discovery be conducted in the most expeditious and least expensive manner. To that end, the Court will entertain motions for protective orders seeking relief from oppressive discovery and may grant monetary and other sanctions against evasive, uncooperative and dilatory counsel who make or oppose motions without substantial justification. Similarly, the Court will expect counsel to attempt to resolve any differences prior to filing any motions and, if a motion is filed, prior to the hearing. *(Eff. 01/01/09)*

2.8 ATTORNEY FEES IN CIVIL ACTIONS OR PROCEEDINGS

(a) Promissory Notes And Contracts Providing For Fees. In actions on promissory notes and contracts providing for payment of attorney fees, whenever a prevailing party is entitled to recovery of reasonable fees, then the following schedule will be considered by the Court in awarding such fees:

(1) **Default Action**: Exclusive of costs and interest.

- Twenty-five percent (25%) of the first two thousand dollars ($2,000) awarded as damages with a minimum fee of three hundred dollars ($300);
- Twenty percent (20%) of the next four thousand dollars ($4,000);
- Fifteen percent (15% of the next four thousand dollars ($4,000);
- Ten percent (10%) of the next ten thousand dollars ($10,000);
- Five percent (5%) of the next thirty thousand dollars ($30,000); and
- Two percent (2%) of amounts in excess of the first fifty thousand dollars ($50,000), on the next one hundred thousand dollars ($100,000); and
- The Court, in its discretion, will fix fees for recoveries in excess of one hundred fifty thousand dollars ($150,000).

(2) **Contested Action:** The same amount as computed under subpart 2.8a(1) above, increased by reasonable compensation (computed on an hourly or per-day basis) for any additional research, general preparation, trial, or other services, as may be allowed by the Court.

(b) Attorney Fees When Defendant Is The Prevailing Party. When the defendant is the prevailing party, the fees will be reasonable compensation (computed on an hourly or per-day basis) for research, general preparation, trial, or other services rendered, as may be allowed by the Court.

(c) Clerk's Calculation Of Reasonable Attorney Fees. When a prevailing party is entitled to the recovery of reasonable attorney fees in an otherwise appropriate clerk's judgment, the clerk will include attorney fees computed pursuant to the fee schedule included in this Rule.

(d) Determination Of Attorney Fees In Excess Of Schedule. When a party claims attorney fees in excess of those allowed by this Rule, then an application for attorney fees must be made to the Court; the application must be supported by declarations setting forth the factual basis for the claimed fees. The fees will be fixed thereupon by the Court. *(Eff. 01/01/09)*

RULE 3. CASE MANAGEMENT

3.1 CASE MANAGEMENT CONFERENCE

Pursuant to the California Trial Court Delay Reduction Act (Government Code § 68600, *et seq.*), the Court adopts the following rules.

The goal of the Court is to dispose of the cases subject to the Trial Court Delay Reduction Act within the standards for disposition adopted by the Judicial Council.

In order to achieve timely resolution of general civil actions, the Court will actively manage and supervise the pace of litigation from the date of the filing of the action to its final disposition.

Upon the initial filing of a civil action or proceeding, other than juvenile, probate, family law domestic violence, or civil harassment, the Clerk shall set the matter for a first case management conference on the case management calendar closest to, but not less than 135 days from the date of filing. The clerk shall issue a notice of case management conference with the summons. The plaintiff shall serve a copy of the notice of case management conference along with the summons and complaint. *(Eff. 01/01/09)*

3.2 EXEMPTION FROM TRIAL DELAY REDUCTION

A request to exempt a case from the Delay Reduction Rules shall be by written motion, supported by declaration showing good cause. A stipulation does not establish good cause. *(Eff. 01/01/09)*

3.3 PERIODS OF CASE PROGRESSION

In order to dispose of cases within the legislative standards, the Court adopts the following time periods for progression of al cases:

(a) Service of the complaint within 60 days of filing.

(b) Service of responsive pleading within 30 days after service of the complaint.

(c) Discovery to commence at the earliest practicable date.

(d) First case management conference to be held approximately 135 days after filing of a complaint.

(e) All discovery, other than depositions of expert witnesses, to be completed by 240 days after filing of the complaint.

(f) Stipulated extensions of time as provided in Government Code 68616 shall be in writing and filed with the Clerk. Any other extensions shall only be after a written

motion, supported by a declaration of good cause. *(Eff. 01/01/09)*

3.4 CASE MANAGEMENT STATEMENT

All parties taking part in a case management conference must submit a completed Case Management Statement before the case management conference pursuant to California Rules of Court 212(g). Judicial Council form CM-110. *(Eff. 01/01/09)*

3.5 PARTICIPATION IN CONFERENCE

Case Management Conferences are heard on the second and fourth Fridays of the month at 8:30 a.m. Counsel for each party, and each party not represented by counsel, shall attend the Case Management Conference. Appearance at the Case Management Conference may be made in person or telephonically via Court Call (1-800-88COURT) *(Eff. 01/01/09)*

3.6 SANCTIONS

The Court may impose any and all sanctions allowed by law upon any party or counsel who fails to participate in the Case Management Conference or who otherwise impedes the Trial Delay Reduction Rules. *(Eff. 01/01/09)*

ALTERNATIVE DISPUTE RESOLUTION (ADR)

3.7 MEDIATION/ARBITRATION

(a) The Court enthusiastically supports ADR, and this Court will make every effort to see that any case has the opportunity to go to mediation, arbitration or a settlement conference.

(b) Counsel for the parties will be given the opportunity to select a private mediator of their choice.

(c) The Clerk's office maintains an ADR resource file with the names, curriculum vitae and charges of local mediators and arbitrators as well as other ADR material.

(d) The Court recognizes that not all litigants or their counsel reside in Sierra County, and it may be more expeditious and economical to retain a private mediator or arbitrator from another area more convenient to the parties or their counsel.

(e) Subsequent to the date scheduled for the mediation/arbitration, there will be a follow-up Case Management Conference to confirm that the mediation/arbitration went forward.

(f) If the mediation/arbitration results in the resolution of the dispute, counsel will not be required to appear at the follow-up Case Management Conference but are to notify the Court of the resolution of the dispute. *(Eff. 01/01/09)*

3.8 SETTLEMENT CONFERENCES

(a) The Court will schedule a mandatory settlement conference for all cases.

(b) All parties, as well as their agents with authority to settle, will attend the mandatory settlement conference.

(c) Failure of a party to attend, or failure of an agent with authority to attend a settlement conference, may result in sanctions imposed by the Court.

(d) No telephone appearance will be allowed without prior approval by the Court, and will only be allowed under extraordinary circumstances.

(e) The parties shall submit a settlement brief not to exceed 5 pages no later than 5 p.m. on Friday the week before the settlement conference. A copy of the settlement brief shall be served upon the opposing counsel. *(Eff. 01/01/09)*

RULE 4. CIVIL TRIALS

4.1 TRIAL SETTINGS

The trial date shall be determined by the Court, with due consideration for the convenience of the parties. *(Eff. 01/01/09)*

RULE 5. CRIMINAL RULES

5.1 PRETRIAL MOTIONS

(a) All statutory and Rules of Court procedure control, and the Court hereby incorporates by reference the requirements of California Rules of Court, Rule 4.111, pertaining to the making and timing of pretrial motions and opposition thereto, in Superior Court.

(b) In the event that the moving papers are not timely filed for the assigned hearing date without good cause demonstrated, the motion may be deemed waived by the moving party.

(c) If any authority other than California cases, statutes, constitutional provisions or State or local rules is cited in any motion or memorandum of points and authorities, a copy shall be attached to the papers in which the authorities are cited and tabbed as exhibits. If a California case is cited before the time it is published in the Advance Sheets of the Official Reports, a copy of that case shall also be attached and tabbed. *(Eff. 01/01/09)*

5.2 CRIMINAL DISCOVERY

Discovery in criminal actions is reciprocal in nature and is governed by Penal Code §§ 1054 *et seq*. There shall be a standing order in each criminal action requiring all parties and their attorneys to comply with Penal Code §§ 1054 *et seq.* The order is deemed to have been made and communicated to all counsel at the time of arraignment.

Before a party may seek Court enforcement of any of the disclosures required by law, the party shall make an informal request of opposing counsel for the desired materials and information in the manner required by Penal Code § 1054.5(b). Failure to make such request shall be grounds for denial of a discovery motion. Informal requests should be presented to opposing counsel in writing.

Motions for discovery shall be focused upon specific items which remain in dispute after presentation of informal requests. "Boilerplate" discovery motions are disfavored. Counsel shall meet and confer in a good faith effort to resolve or narrow the disputed issues before the hearing of any discovery motion. *(Eff. 01/01/09)*

5.3 CONTINUANCE OF CASES SET FOR TRIAL

Motions to continue the trial of a criminal case are disfavored and shall be denied unless the moving party, pursuant to Penal Code § 1050, establishes that the interests of justice require a continuance. *(Eff. 01/01/09)*

RULE 6. FAMILY LAW

6.1 GENERAL INFORMATION

These Rules apply to all matters related to the Family Law Act, the Uniform Parentage Act, the Domestic Violence Prevention Act, and the Uniform Child Custody Jurisdiction Act. *(Eff. 01/01/09)*

6.2 MEDIATION

Parents who are not in agreement regarding custody and visitation in the matter before the Court will be required to attend mediation in an effort to resolve the dispute. Generally, this will happen before any Court orders are made; the Court may make temporary orders where necessary, pending further order of the Court to be made at a scheduled hearing. The purpose of mediation is to develop a custody and time-sharing agreement which is in the child(ren)'s best interest.

(a) Who May Attend Mediation. Generally, the only persons in attendance at a mediation session are the two parents and the mediator. However, the mediator has discretion to allow other person(s) to participate in the mediation process.

When visitation issues arise between persons other than the parents (such as grandparents or step-parents), the persons attending mediation shall be determined by the mediator.

(b) Conduct of Mediation. Mediation proceedings shall beheld in private and are confidential. All verbal communications from the parties to the mediator shall be deemed to be confidential information, not to be discussed unless such information impacts issues of safety to the parties or the children.

(c) *Ex Parte* Communications. The mediator will not initiate *ex parte* communication with the Judge regarding a particular case except where there are questions regarding procedure in that case. If the mediator finds it necessary to discuss substantive issues with the Judge, the mediator shall so inform each of the parties of the communication. *(Eff. 01/01/09)*

6.3 CONTESTED CASES

Following mediation, if there are still unresolved issues regarding custody and visitation, the Court may schedule a hearing. The Court may order a custody evaluation before hearing the case. Following a hearing, the Court may make temporary orders pending the completion of a custody evaluation. . The parties will be ordered to pay for the cost of the custody evaluation.

The Court may close the courtroom to allow only parties and necessary persons in certain custody and visitation proceedings where it would not be in the best interest of the children to have their issues heard in public. *(Eff. 01/01/09)*

6.4 CUSTODY EVALUATION

If a custody evaluation is ordered by the Court, the Clerk will inform Family Court Services for assignment of a child custody evaluator. The parties or their attorneys will be informed of the assignment of the evaluator by written notice.

(a) Challenge of Evaluator. If a person wishes to change the assignment of the child custody evaluator, he/she should do so by contacting the head of the Family Court Services Department who will make a determination regarding the request. If such a request for a change of evaluator is made, the request must be made within 10 calendar days of receiving the notice of assignment of evaluator from the Family Court Services Department.

(b) Evaluation Process. The child custody evaluator will contact the parties directly to request information to begin the process. The parties will respond promptly; any delay in response may create delays in completing the evaluation and thus delay resolution of the custody dispute.

(c) *Ex Parte* Communications. The child custody evaluator will not conduct *ex parte* communication with the Judge regarding a particular case except where there are questions regarding procedure in that case. If any substantive issues are discussed with the Judge, the evaluator shall so inform each of the parties of the communication.

(d) Evaluation Report. A Court date will be set to receive the report of the child custody evaluator. The report will be sent to the Court, the parties, and their attorneys prior to that date. The parties may stipulate to accept the recommendations of the child custody evaluator, or the Court may set the matter for a contested hearing.

(e) Payment for Custody Evaluation. Both parties will be referred to the County Treasurer's office to set up payment arrangements for the custody evaluation. The court will periodically review the costs incurred in performing the custody evaluation and will set the custody evaluation fee accordingly. If a party should fail to set up payment arrangements, or should fail to make periodic payments for the custody evaluation, then the custody evaluator may unilaterally cancel the custody evaluation. In such event, the custody hearing may go forward without the custody evaluation, and the court may take into consideration a party's non-compliance with the payment arrangements.
(Eff. 01/01/09)

6.5 CHILD AND SPOUSAL SUPPORT / INCOME AND EXPENSE DECLARATION

Within 30 days of the hearing or trial, a current Income and Expense Declaration must be filed by each party where support is at issue. If current facts are temporary, both the actual current facts and estimated prospective facts may be shows if properly identified. If attorney's fees and/or costs are requested, the paragraph pertaining to attorney's fees

must be completed.

Wage earners must attach legible copies of their paycheck stubs for the most recent two months. In the event no paycheck stubs are available, other appropriate documentation must be attached. *(Eff. 01/01/09)*

6.6 TAX RETURN

The parties may be asked to provide legible copies of their last three state and federal income tax returns, including all attachments. Self-employed parties shall bring their most recent profit and loss statements, balance sheets, quarterly sales tax reports, the last filed tax return, or similar documentation evidencing income from all sources. *(Eff. 01/01/09)*

6.7 SUPPORT MODIFICATIONS

Every motion to modify support shall set forth the date of the prior order and the amount of the prior order.

At a hearing on modification of spousal support, the supported spouse shall be prepared to give evidence of his or her compliance with Family Code by demonstrating progress toward becoming self-sufficient. *(Eff. 01/01/09)*

6.8 FAMILY LAW FACILITATOR / DUTIES OF FACILITATOR

The Family Law Facilitator shall provide those services set forth in Family Code § 10004. *(Eff. 01/01/09)*

6.9 LAW AND MOTION

Unless otherwise assigned by the Clerk, Law and Motion hearings, where parties are represented by counsel, are held on the second and fourth Friday of the month at 10 a.m. or Wednesday at 1:30 p.m.

The papers of the moving party shall be filed and served at least 21 days prior to the time of the hearing. Proof of service shall be filed prior to the date of the hearing. *(Eff. 01/01/09)*

6.10 ORDER SHORTENING TIME

An order shortening time for service of the notice of a hearing will not be granted if the request for that order is not accompanied by a supporting declaration under penalty of perjury which states the need for that order. *(Eff. 01/01/09)*

6.11 FAMILY LAW COMMISSIONER

The Family Law Commissioner shall hear all Title IV-D support cases, support enforcement, and other family law matters as assigned. These cases will be heard on the second and fourth Friday at 1:30 p.m. *(Eff. 01/01/09)*

6.12 RESPONSIVE PLEADINGS

Unless an order shortening time has been issued, responsive papers shall be served and filed at least 10 days prior to the date of the hearing. *(Eff. 01/01/09)*

6.13 HEARINGS

The attorneys and parties shall be present in Court when their case is called for hearing unless they have previously checked in with the Court clerk and requested the matter be passed for settlement discussion outside the Courtroom.

Failure of the moving attorney or moving self-represented party to be present at the hearing or to inform the Courtroom Clerk of his or her presence shall result in the matter being removed from the calendar. If the responding party has appeared, but the moving party has not, attorney's fees and costs may be awarded to the appearing party. In the event the responding party fails to appear, the Court may continue the matter and award attorney's fees or enter an order on the pleadings and/or the testimony of the moving party.

If the attorney or client is unable to be present at the time of the hearing, the Court and opposing party shall be notified immediately by telephone of the reasons for and extent of the delay. *(Eff. 01/01/09)*

6.14 EX PARTE ORDERS

(a) The moving attorney or moving self-represented party must give notice of any *ex parte* applications to the opposing attorney or self-represented party in accordance with California Rules of Court § 379; "notice shall be given no later than 10:00 A.M. on the Court day before the *ex parte* appearance, absent a showing of exceptional circumstances." A Declaration re: Notice of Ex Parte Application for Orders shall be filed with the Court prior to, or at the time of, the hearing.

(b) An *ex parte* order for exclusive use of a vehicle will not be granted unless the Declaration demonstrates that the opposing party has suitable transportation available, or requires no such transportation, or other good cause for such an order.

(c) An *ex parte* order removing a party from a residence will not be issued without supporting declarations as required by law. *(Eff. 01/01/09)*

6.15 ORDERS AFTER HEARING

Counsel should come to a hearing with a written Order After Hearing (OAH), prepared to present it to the Court at the conclusion of the hearing. If the Court makes decisions that require the further drafting of the OAH, the Court shall designate one counsel to prepare the written OAH. This draft OAH should be submitted to opposing counsel for approval as to form and forwarded to the Court. Faxed OAH's are acceptable. All OAH's must be submitted to the Court within 14 days following the hearing; failure to do so may result in the imposition of sanctions. If opposing counsel does not respond to the request for approval as to form within five days, the proposed OAH may be submitted directly the Court with an attached declaration indicating counsel's attempts at notifying opposing counsel. *(Eff. 01/01/09)*

6.16 DEFAULT OR UNCONTESTED JUDGMENTS

(a) Judgment by Default / Notice and Acknowledgment of Receipt. Unless the Court orders otherwise, a default will not be entered based on a Notice of Acknowledgment of Receipt signed by a person other than the party to whom it is directed.

(b) Child Support, Spousal Support or Attorney's Fees Awards. No award of child support, spousal support or attorney's fees will be granted unless there is either an attached written agreement between the parties settling those issues or there is sufficient information on which the Court may base an order, including a fully completed and executed Income and Expense Declaration (with information on both parties where available.

(c) Community and/or Separate Property. No division of community property (assets or debts) or confirmation of separate property will be ordered unless there is either an attached written agreement between the parties settling those issues, or there is a completed Property Declaration attached to and served with the Request to Enter Default.

(d) Visitation. Where the judgment is taken by default, if there is no attached written agreement of parties concerning custody and visitation, and either supervised visitation or a denial of visitation is requested, an attached factual Declaration under penalty of perjury shall be submitted with the judgment and shall set forth the following:

(1) Where the party is seeking to deny visitation between the child(ren) and the defaulting party: The specific reasons visitation should be denied; the last time there was visitation between the child(ren) and the defaulting party; and whether the whereabouts of the defaulting party is known, and, if so, his or her address.

(2) Where the party is seeking supervised visitation between the child(ren) and the defaulting party: The reasons such visitation should occur; the person or agency to do the supervision; and how the supervision is to be paid for.

(3) Other information: The declaration shall inform the Court when the parties separated, who has been the primary caretaker of the child(ren) during the last 6 months and the extent of contact between the child(ren) and the non-caretaker parent during that time.

The declaration shall be mailed to the defaulting party with the Request to Enter Default, and proof of mailing shall be filed with the Court. *(Eff. 01/01/09)*

6.17 SUBMISSION OF AGREEMENTS

If the parties have reached an agreement resolving all issues in the case, either party may present the signed written agreement to the Court *(Eff. 01/01/09)*

6.18 TRIAL

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

(b) Settlement Conference Statement / Time Requirements. At least 10 days before the settlement conference, or 15 days if service is by mail, each party or their attorney shall prepare, file and serve on the other party or the opposing attorney, a Settlement Conference Statement with contents as indicated below.

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

Income and Expense Declaration. A current signed and dated Income and Expense Declaration shall be prepared on the Judicial Council form. Copies of current pay stubs or other income verification shall be attached.

Community Property (assets and liabilities). A current signed and dated Schedule of Assets and Debts shall be prepared on Judicial Council forms. The Settlement Conference Statement shall indicate the claimed values of the assets and the proposal for division. The Statement should also include a proposed division of the community property debts.

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

Support. Each party shall set forth specific proposals regarding child and/or spousal support.

Statement of Facts and Legal Arguments. On any contested legal issue, the Statement should include a recitation of the relevant facts and a brief discussion of the relevant law. *(Eff. 01/01/09)*

6.19 CONDUCT OF TRIAL

The trial will be conducted in accordance with rules and procedures for all other civil trials. *(Eff. 01/01/09)*

RULE 7. JUVENILE LAW

DEPENDENCY PROCEEDINGS

7.1 ADOPTION OF COMPETENCY STANDARD

This rule, Rule 7 of the Local Rules of Sierra County Superior Court, is adopted to comply with Rule 1438(a) of the California Rules of Court. *(Eff. 01/01/09)*

7.2 GENERAL COMPETENCY REQUIREMENT

(a) All attorneys appearing in juvenile dependency proceedings must meet the minimum standards of competence set forth in these rules. These rules are applicable to attorneys representing public agencies, attorneys employed by public agencies and attorneys appointed by the Court to represent any party in a juvenile dependency proceeding.

(b) Every party in a dependency proceeding who is represented by counsel is entitled to competent counsel. [CRC 1438(b)] "Competent counsel" means a state bar member in good standing who is trained in the juvenile dependency law, and who demonstrates adequate forensic skills, knowledge and comprehension of the substantive law of juvenile dependency, the purposes and goals of dependency proceedings, and the procedures for filing extraordinary writ petitions. [CRC 1438(b)(1)]

(c) Attorneys are expected to meet regularly with clients, including children; contact social workers and other professionals associated with the client's case; work with other counsel and the Court to resolve disputed issues without hearing; and adhere to mandated timelines. The child's attorney is not, however, required to assume the responsibilities of a social worker or to perform services for the child unrelated to legal representation. [CRC 1438(b)(4)]

(d) All attorneys retained, assigned or appointed are required to adhere to the timelines and the procedures stated elsewhere in these rules or as provided by Statute of California Court Rules of Court for settlements, discovery, protocols and other issues related to contested matters. *(Eff. 01/01/09)*

7.3 MINIMUM STANDARDS OF EDUCATION AND TRAINING; WORKLOADS

(a) Each attorney appointed in a dependency matter before the Juvenile Court shall complete the following minimum educational and training requirements:

(1) Eight hours of education and training in juvenile dependency law, covering such areas as child abuse and neglect; child development; domestic violence; or,

(2) Previous experience in dependency proceedings as determined by the presiding Juvenile Judge in which the attorney has demonstrated competence. A Certificate of Competency may be obtained from the Court Clerk. (Appendix A)

(b) A Certificate of Competency shall be completed by the attorney of record for the dependency matter and submitted to the Court within 20 days of his or her first appearance in a dependency matter.

(c) Failure to submit a Certificate of Competency will cause the Court to notify the attorney that his or her right to practice in dependency proceedings is revoked. The attorney shall have 30 days from mailing of the notice to submit a Certificate of Competency. If the attorney, after such notice, fails to submit a Certificate of Competency, the Court shall issue an order prohibiting the attorney from practicing in dependency proceedings.

(d) The attorney for a child must have a caseload that allows the attorney to perform the duties required by Welfare and Institutions Code § 317(e) and the California Rules of Court. *(Eff. 01/01/09)*

7.4 APPOINTMENTS

(a) The Court will only appoint counsel who have been certified by the Court to represent parents or children in the Juvenile Dependency Court.

(b) Billing shall be forwarded to the Court with appropriate documentation for approval. *(Eff. 01/01/09)*

7.5 STANDARDS OF REPRESENTATION

Attorneys appearing in juvenile dependency proceedings shall meet the following minimum standards of representation:

(a) The attorney shall thoroughly and completely investigate the accuracy of the allegations of the petition or other moving papers and the Court reports filed in support thereof. This shall include conducting a comprehensive interview with the client to ascertain his or her knowledge of, and/or involvement in, the matters alleged or reported. The attorney shall contact social workers and other professionals associated with the case to ascertain that allegations and/or reports are supported by accurate facts and reliable information.

(b) The attorney is not required to meet, either directly or though an agent (*e.g.* an investigator), with a client who is incarcerated or committed out of Sierra County. If the attorney believes, however, that such contact is essential to representing the interests of the client, application may be made to the Court. The attorney shall advise the client of the possible course of action and the risks and benefits of each. This shall include advising the client of the risk and benefits of resolving disputed matters without the necessity of a hearing and of the necessity for adhering to Court-mandated timelines. *(Eff. 01/01/09)*

7.6 PROCEDURES FOR REVIEWING AND RESOLVING COMPLAINTS

(a) Any party to a Juvenile Court proceeding may lodge a written complaint with the Court concerning the performance of his or her appointed attorney in a Juvenile Court proceeding. In the case of a complaint concerning the performance of an attorney appointed to represent a minor, the complaint may be lodged on the child's behalf by the social worker, a caretaker relative or a foster parent.

(b) Upon receipt of a written complaint, the Court shall notify the attorney in question of the complaint, shall provide the attorney with a copy of the complaint, and shall give the attorney 15 days from the date of the notice to respond to the complaint in writing.

(c) After response has been filed by the attorney, or the time for the submission of a response has passed, the Court shall review the complaint and the response, if any, to determine whether the attorney acted contrary to rules or policies or has acted incompetently. The Court may ask the complainant or the attorney for additional information prior to making a determination on the complaint.

(d) If, after reviewing the complaint, the response, and any additional information, the Court finds that the attorney acted contrary to the rules or policies of the Court or incompetently, the Court shall take appropriate action.

(e) The Court 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 Court's determination will be final. *(Eff. 01/01/09)*

7.7 PROCEDURES FOR INFORMING THE COURT OF THE INTERESTS OF A DEPENDENT CHILD

(a) At any time during the pendency of a juvenile dependency proceeding, any interested person may notify the Court that a 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.

(b) Notice to the Court may be given by the filing of Judicial Council form JV-180 or by filing of a declaration. The person giving notice shall set forth the nature of the interest or right which needs to be protected or pursued; the name and address, if known, of the administrative agency or judicial forum in which the right or interest may be affected; and the nature of the proceedings being contemplated or conducted there.

(c) If the Court determines that further action on behalf of the child is required, the Court shall:

(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 W & I § 632 compelling the responsible agency to report to the Court with respect to whether it has carried out its statutory duties with respect to the child;

(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, interest and rights of the child. *(Eff. 01/01/09)*

7.8 DISCOVERY

(a) The discovery provisions of CRC 1420 are hereby adopted and incorporated.

(b) Pre-hearing discovery shall be conducted informally. Except as protected by privilege, all relevant material shall be disclosed in a timely fashion to all parties involved in the litigation.

(c) Formal Discovery. Only after all informal means have been exhausted may a party petition the Court for discovery. Any noticed motion shall state the relevancy and materiality of the information sought and the reasons informal discovery was not adequate to secure such information. The motion shall be served on all parties at least 5 judicial days before the hearing date. The date for the hearing shall be obtained from the clerk.

(d) Civil Discovery. In order to coordinate the logistics of discovery in dependency cases, there shall be no depositions, interrogatories, subpoenas of juvenile records or any other similar types of civil discovery without approval of a Judge of the Juvenile Court upon noticed motion.

(e) Case Records and Reports (CRC 1420). In contested proceedings, the social worker's narratives and other relevant case records shall be made available to all counsel at least 10 calendar days before the hearing and any updated records 2 calendar days before the hearing. In all other cases, such documents shall be made available at least 2 calendar days prior to the hearing.

(f) Upon timely request, parents, guardians and *de facto* parents shall disclose to all other parties such non-privileged material and information within the parent's, guardian's, or *de facto* parent's control that is relevant. *(Eff. 01/01/09)*

7.9 PRESENTATION OF EVIDENCE

Social study reports prepared by Children's Services shall be made available to all counsel before the hearing in accordance with the following time limitations unless

otherwise ordered by the Court:

(a) Jurisdictional and/or dispositional reports are due at least 48 hours before the hearing.

(b) Review of dependency status and status review reports are due at least 10 calendar days before the hearing.

(c) All other reports shall be due a reasonable number of days before the hearing but in no event less than 48 hours before the hearing.

(d) All proposed modifications to the petition shall be exchanged 48 hours prior to the jurisdiction hearing.

(e) If any discovery, reports or proposed modifications have not been made available to all counsel, then any affected party or the Court may request a continuance of the hearing to the extent permitted by law.

(f) The names of any experts to be called by any party and copies of their reports (if not part of a social study report prepared by Children's Services) shall be provided to all counsel at least 10 days before the hearing unless a shorted time is ordered by the Court. *(Eff. 01/01/09)*

7.10 SETTLEMENT CONFERENCES

(a) A settlement conference shall be calendared and held prior to every contested hearing unless deemed unnecessary by the judicial officer setting the contested hearing.

(b) The attorneys and all parties shall be present at the settlement conference unless excused by the Court. All excused parties shall be readily available either in person or by telephone at the direction of their attorneys. A representative of Children's Services with authority to settle cases shall be present at the settlement conference.

(c) Whenever possible, the Department of Child Protective Services shall prepare and provide to all parties a proposed Stipulation to Jurisdiction and Disposition to assist in resolving the case. *(Eff. 01/01/09)*

7.11 TIMELINES

Attorneys for parties are required to adhere to the statutory timelines for all hearings. Time waivers will be accepted and continuances granted only on a showing of good cause.

(a) Detention Hearings. Detention Hearings shall be heard no later than the end of the next Court day after a petition has been filed (W & I § 315; CRC 1440)

(b) Jurisdiction Hearing. If the child is not detained, the hearing on the petition shall be begun within 30 calendar days from the date the petition was filed. If the child is detained, the hearing on the petition shall be begun within 15 Court days from the date of the detention order. (W & I § 334; CRC 1447)

(c) Disposition Hearing. If the child is detained, the hearing on disposition must be begun within 10 days from the date the petition was sustained. If the child is not detained, the disposition hearing shall be begun no later than 30 calendar days after jurisdiction is found. (W & I § 358; CRC 1451)

(d) Six-Month Review. The Court is required to review the status of every dependent child within six months of the declaration of dependency and at least every 6 months thereafter. (W & I §§ 364, 366, 366.21; CRC 1460)

(e) Twelve-Month Review. The Court is required to review the status of every child who has been removed from the custody of a parent or guardian within 12 months of the declaration of dependency. (W & I § 366.21; CRC 1461)

(f) Eighteen-Month Review. If the child is not returned at the 12-month review, the Court shall conduct a review no later than 18 months from the date of the original detention. (W & I §§ 366.21, 366.22; CRC 1462)

(g) Notice Of Intent To File Writ Petition. A Notice of Intent to file a petition for extraordinary writ shall be filed within 7 days of the date of the order setting a hearing under W & I § 366.26, with an extension of 5 days if the party received Notice of the Order only by mail. (CRC 39.1B)

(h) Petition For Writ. A petition seeking writ review of orders setting a hearing under W&I Code shall be served and filed within 10 days after the filing of the record in the reviewing Court. (CRC 39.1B)

(i) Response To Writ Petition. Any response to a writ petition shall be served and filed within 10 days after the filing of the writ petition or within 10 days of receiving a request for a response from the reviewing Court. (CRC 39.1B)

(j) Selection Hearing. Selection hearing for permanent plan shall begin within 120 days of the review at which reunification services are terminated and a hearing under W & I § 366.26 ordered. (W & I §§ 366.31, 399.22; CRC 1461, 1462)

(k) Notice Of Appeal. A Notice of Appeal shall be filed within 60 days after the rendition of the judgment. (CRC 39) *(Eff. 01/01/09)*

INFRACTION PROCEEDINGS

When juveniles are issued citations for infractions, they will be ordered to appear in juvenile court. *(Eff. 01/01/09)*

7.12 OFFENSES INCLUDED

Infractions include those offenses defined in Penal Code §§ 19.6 and 19.8. *(Eff. 01/01/09)*

7.13 APPEARANCE

The Juvenile Court will require the appearance of the juvenile and at least one parent. For good cause shown, the parent's appearance and/or the juvenile's appearance may be excused. *(Eff. 01/01/09)*

RULE 8. RESERVED

RULE 9. RESERVED

RULE 10: MISCELLANEOUS

10.1 COMMUNICATION

Until the court has an operational case management system capable of automatically coordinating domestic violence orders, the court shall, whenever possible, communicate and exchange information with each other prior to issuing protective orders and child custody and visitation orders to determine if any such orders have already been issued as to the same parties or children in any other department. *(Eff. 01/01/09)*

10.2 GUARDIANSHIP INVESTIGATIONS

Upon the filing of a Petition for guardianship, the Court shall order the appropriate level of guardianship investigation. Petitioner shall be required to pay for the actual cost of the guardianship investigation. *(Eff. 01/01/09)*

10.3 APPELLATE DIVISION

All appeals to the Sierra County Superior Court Appellate Division will be processed pursuant to Rule 10 of the Lassen County Superior Court local rules. *(Eff. 01/01/09)*

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Appendix A

SUPERIOR COURT OF SIERRA COUNTY

CERTIFICATION OF ATTORNEY COMPETENCY
(Juvenile Dependency Proceeding)

I, _____,
Attorney's Name Office Address Telephone Number

am an attorney licensed to practice in the State of California. My State Bar Number is _____.

I hereby certify that I meet the minimum standards for practice before a Juvenile Court set forth in California Rules of Court, Rule 1438, and SCR 7.3, and that I have completed the minimum requirements for training, education and/or experience as set forth below.

Training and Education:

Course Title	Date Completed	Hours	Provider

Summary of Juvenile Dependency Experience:

Dated: _____ _____
Signature

APPROVED

Dated: _____ _____
Superior Court Judge