

FRESNO COUNTY SUPERIOR COURT

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**LOCAL RULES FOR THE
SUPERIOR COURT OF CALIFORNIA
COUNTY OF FRESNO**



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FRESNO COUNTY SUPERIOR COURT

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FRESNO COUNTY SUPERIOR COURT

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2.1.15 Signatures on Orders

It is the policy of the court not to sign orders or judgments unless some portion of the text of the order or judgment appears on the page to which the judicial officer's signature is affixed, so that the connection between the signature page and the remainder of the order or judgment is apparent. (Rule 2.1.15 renumbered effective January 1, 2006; adopted as Rule 3.15 effective July 1, 2000)

2.1.16 Designation of Counsel

When a law firm is the attorney of record in a civil action, the attorney who signed the initial pleading shall be designated to receive notices in the case. If, after the filing of the initial pleading, the attorney who is to receive notices changes, then a Designation of Counsel must be filed with the court. The designation must include the name and state bar number of the designated attorney. The designation may be made on a form available from the Clerk's Office and on the court's website. (Rule 2.1.16 renumbered effective January 1, 2006; adopted as Rule 3.16 effective May 14, 2001)

2.1.17 Resolution of Discovery Disputes

A. Except for motions to compel initial responses to interrogatories, requests for production and requests for admissions, no motion under sections 2016.010 through 2036.050, inclusive, of the California Code of Civil Procedure shall be heard in a civil unlimited case unless the moving party has first requested an informal Pretrial Discovery Conference with the Court and such request for a Conference has either been denied and permission to file the motion is expressly granted via court order or the discovery dispute has not been resolved as a consequence of such a conference and permission to file the motion is expressly granted after the conference.

1. Any request for a Pretrial Discovery Conference must be filed with the Clerk's Office on the approved form (provided by the clerk), must include a brief summary of the dispute, and must be served on opposing counsel on or before the date it is filed with the court. Any opposition to a request for a Pretrial Discovery Conference must also be filed on an approved form (provided by the clerk), must include a brief summary of why the requested discovery should be denied, must be filed within five (5) court days of service of the request for a Pretrial Discovery Conference, extended five (5) days for service by mail, and must be served on opposing counsel.

2. Excepting a privilege log, if required pursuant to subsection B, below, no other pleadings, including but not limited to exhibits, declarations, or attachments, will be accepted.

3. If the party opponent has *any* opposition to the dispute as stated in the request described in paragraph no. 1 above, a written opposition on the approved form shall be timely filed or it will be considered by the Court as a refusal to participate as defined in "C" below.

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4. The parties will be notified by minute order whether the request has been granted or denied and, if granted, the date and time of the Pretrial Discovery Conference.

5. Filing a request for a Pretrial Discovery Conference tolls the time for filing a motion to compel discovery on the disputed issues for the number of days between the filing of the request and issuance by the Court of a subsequent order pertaining to the discovery dispute. The Court's order will specify the number of days the time for filing a motion is tolled.

B. Where privilege is a basis for refusal to produce documents, privilege logs must be provided. The privilege log must include an identification of all sending and receiving entities, as well as details of the information sufficient to apprise the opposing party of the basis for the privilege.

C. Refusal of any counsel to participate in a Pretrial Discovery Conference shall be grounds, in the discretion of the Court, for entry of an order adverse to the party represented by counsel so refusing, or adverse to counsel. Failure to file a written opposition to the merits underlying a request for a Conference is considered a refusal to participate. Where there has been no written opposition to the merits of the request filed the Court may, in its discretion, enter an order adverse to the non-responding party. (Effective July 1, 2015; adopted as Rule 2.1.17 effective January 1, 2013)

(Rule 2.1 renumbered effective January 1, 2006; adopted as Rule 3 effective July 1, 1992)

RULE 2.2 CIVIL LAW AND MOTION

2.2.1 Setting Law and Motion Hearing

Prior to the filing of any law and motion matter, a date and time for hearing shall be reserved with the law and motion clerk. Parties may also obtain a date and time for hearing of the law and motion matter for the earliest available date at the filing counter in the civil clerk's office upon presentation of moving papers and payment of appropriate fees. When calling to reserve a hearing date for a discovery motion, the person setting the motion shall provide information regarding compliance with rule 2.1.17. The person setting the motion shall inform the Clerk of one of the following:

A. The motion is to compel initial responses and is, therefore, exempt from rule 2.1.17;

B. Rule 2.1.17 has been complied with and permission to file the motion has been granted by the Court; or

C. Rule 2.1.17 does not apply to the motion being set. Anyone claiming C must provide the name of the attorney or self-represented party making the claim and a brief explanation to support the claim. (Effective July 1, 2016; Rule 2.2.1 renumbered effective January 1, 2006; adopted as Rule 4.1 effective January 1, 1997)

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(Rule 2.6 renumbered effective January 1, 2006; adopted as Rule 9 effective July 1, 1992)

RULE 2.7 EX PARTE APPLICATIONS

2.7.1 Format and Filing

A. All applications for ex parte orders failing to comply with Rules 3.1200 through 3.1207 of the California Rules of Court will be rejected. Parties making ex parte applications should obtain a date and time for the hearing of the application from the law and motion clerk. Parties making ex parte applications may also obtain a date and time for hearing of the application at the filing counter in the civil clerk's office upon presentation of moving papers and payment of appropriate fees.

B. The court requests that the party seeking an ex parte order submit the application and all supporting papers and fees to the Clerk for filing not later than 2:00 p.m. on the day preceding the hearing, if the hearing is set in the morning, and not later than 9:00 a.m. on the date of the hearing, if the hearing is set in the afternoon. *(Effective July 1, 2016; Rule 2.7 renumbered effective January 1, 2006; adopted as Rule 10 effective July 1, 2000)*

2.7.2 Cases in Which Hearings Not Required

An ex parte application will be considered without a hearing in the following cases:

1. Application to file a memorandum of points and authorities in excess of the applicable page limit;
2. Stipulation by the parties for an order;
3. Application for appointment of a guardian ad litem in a civil case;
4. Application for an order extending time to serve pleading;
5. Application to serve by publication;
6. Extension of time by the court pursuant to the Superior Court of Fresno County, Local Rules, rule 2.1.6;
7. Motion to continue trial pursuant to the Superior Court of Fresno County, Local Rules, rule 2.1.10;
8. Application to substitute Doe under CCP 474. *(Effective July 1, 2008, New)*

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RULE 2.8 MISCELLANEOUS CIVIL RULES

2.8.1 Civil Jury Fees

A. Trial by jury shall be deemed waived unless jury fees are deposited no later than twenty-five (25) days prior to the trial in any case not entitled to priority setting, or deposited five (5) days prior to trial in any unlawful detainer case or other case entitled to priority setting.

B. Should any party demanding jury trial fail to deposit required fees, the Clerk will notify all other parties who have not previously waived trial by jury. Any such party may preserve its right to trial by jury by depositing the required fees within five (5) court days of mailing of the Clerk's notice.

C. Failure by any party to deposit jury fees as required herein shall constitute waiver of trial by jury. (Rule 2.8.1 renumbered effective January 1, 2006; adopted as Rule 11.1 effective January 1, 1997)

2.8.2 Use of Interpreters

Interpreters will not be provided for civil or small claims matters, unless otherwise ordered by the court. Upon request, the Clerk will provide the names of authorized interpreters with whom a party may make arrangements for interpreting services, or may refer the party to the court's interpreter coordinator. Any party requiring the services of an interpreter is responsible for arranging and paying for the services of such interpreter unless otherwise ordered by the court. (Rule 2.8.1 renumbered effective January 1, 2006; adopted as Rule 11.2 effective January 1, 1997)

2.8.3 Attorney's Fees

A. Attorney's fees in default cases, when allowable in designated cases, shall be fixed in accordance with Appendix A1, except as otherwise ordered by the court.

B. When an attorney is appointed to represent a party in designated cases, the attorneys' fees are governed by the Fresno County Courts Appointed Counsel/Expert General Claim Processing Practices (FCCAC/EGCPP), a copy of which is available from the Clerk. (Rule 2.8.3 renumbered effective January 1, 2006; adopted as Rule 11.3 effective January 1, 2005)

2.8.4 Compromise of Claims of Minors or Incompetent Persons

A. Petitions to compromise the claims of minors or incompetent persons shall be made on the appropriate Judicial Council forms, in accordance with Rule 7.950, et seq., of the California Rules of Court. Such petitions must be filed with the court at least ten (10) court days prior to the hearing date. If the original petition is denied without prejudice and the petitioner wishes to renew the request, the petitioner must file an amended petition, with appropriate supporting papers and proposed orders, and obtain a new hearing date for consideration of the amended petition.

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B. If a petition to withdraw from deposit is made:

1. The certificate of deposit must have been completed and filed prior to filing of the petition for withdrawal.

2. In the event the petition to withdraw funds is based upon the denial of a public agency providing public assistance to provide funds because of the existence of the account, a copy of the written notice from the agency concerned, so stating, shall be attached to the petition.

C. If an order for withdrawal of funds is made, within fifteen (15) days from the date of the order, a declaration of expenditures made with the funds shall be filed with the Clerk.

D. Attorney's fees, if awarded, shall be awarded in conformity with Rule 7.955 of the California Rules of Court. In computing fees, parents claiming reimbursement for medical and other expenses shall pay their proportionate share of the attorneys' fees, except in cases of hardship. (Effective July 1, 2007; Rule 2.8.4 renumbered effective January 1, 2006; adopted as Rule 11.4 effective July 1, 2002)

2.8.5 Court Reporter Fees

A. In any civil case in which a trial or hearing is expected to last more than one (1) hour, but not more than four (4) hours, and official reporting services (by court reporter or electronic recording) are required, the parties shall deposit with the Clerk their pro rata shares of the fee for one-half (1/2) day of official reporting services.

B. In any civil case in which a trial or hearing is expected to last more than four (4) hours and official reporting services are required, the parties shall deposit with the Clerk their pro rata shares of the fee for one (1) full day of official reporting services.

C. The fee shall be deposited not later than the conclusion of each day's court session. The fee for any subsequent day of the trial or hearing shall be deposited with the Clerk not later than the conclusion of each day's court session.

D. Attorneys must be prepared to produce receipts for fees on demand of the court or the trial or hearing may not proceed at the discretion of the Court. (Effective January 1, 2008; Rule 2.8.5 renumbered effective January 1, 2006; adopted as Rule 11.5 effective July 1, 2000)

2.8.6 Firearms Forfeiture Default

On a petition for order of default regarding a firearms forfeiture pursuant to Welfare and Institutions Code § 8102, subdivision (g), the agency seeking the default shall file their petition for default ten (10) court days preceding the date set for the hearing. (Effective January 1, 2008; Rule 2.8.6 (was 2.8.7) renumbered effective January 1, 2016)

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2.8.7 Petitions for Approval of Transfers of Structured Settlements

A. All parties to a petition for approval transferring structured settlement payments must appear at the hearing on such petitions, including the payee and the payee's counsel (if any). The petitioner filing a petition for approval of transfer of any structured settlement payments pursuant to Insurance Code § 10134 et seq. shall include with their petition the following information and documents.

1. The jurisdiction and case number of any other petition by the petitioner seeking approval to purchase any structured settlement payments from the payee;

2. A copy of the entire court file for any prior petition by the petitioner seeking approval for purchase of any structured settlement payments from the payee;

3. A declaration from the payee's counsel wherein he or she provides the total number of and lists all other petitions (along with their case numbers and court) wherein he or she has represented a payee who attempted to sell payments to the same petitioner;

4. A declaration from the payee's attorney listing any professional, financial, or personal relationship with the petitioner's employees or petitioner's counsel, past or present, as well as how counsel first came into contact with the payee if other than by a referral from a bar association as described in the statute;

5. A declaration from the petitioner describing any contacts by its personnel with the payee's counsel, including copies of each written communication;

6. A declaration from any of petitioner's personnel having contact with the payee describing all communications, to include any and all documentation of such communications whether on paper or stored electronically;

7. A declaration from petitioner as to any communications it conducted or facilitated with the annuity issuer, owner, or beneficiary, and a copy of all such communications whether on paper or stored electronically;

8. A declaration from petitioner which includes all documents it plans to or has used with regard to the attempted purchase of any structured settlement payments from the payee, including UCC filings. If such documents exist whether on paper or stored electronically, they are to be attached. (Effective July 1, 2010; Rule 2.8.7 (was 2.8.8) renumbered effective January 1, 2016)

(Rule 2.8 renumbered effective January 1, 2006; adopted as Rule 11 effective July 1, 1992)

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RULE 2.9 UNLAWFUL DETAINER CASES

2.9.1 Case Disposition Time

The court shall endeavor to dispose of all unlawful detainer cases as follows: 90% within thirty (30) days after filing; and 100% within forty-five (45) days after filing. (Rule 2.9.1 renumbered effective January 1, 2006; adopted as Rule 12.1 effective July 1, 2000)

2.9.2 Notice of Dismissal Hearing

Approximately two (2) weeks after the filing of the case Clerk will issue a Notice of Dismissal Hearing to plaintiff, designating a date for a Dismissal Hearing that is within 45 days after the filing of the complaint. (Effective July 1, 2010; Rule 2.9.2 renumbered effective January 1, 2006; adopted as Rule 12.2 effective May 14, 2001)

2.9.3 Service and Filing of Proof of Service

Within fifteen (15) days from the date the unlawful detainer complaint was filed, plaintiff shall serve all named defendants and file proof of service with the court or shall file an application for a posting order, unless a responsive pleading has been filed. (Rule 2.9.3 renumbered effective January 1, 2006; adopted as Rule 12.3 effective May 14, 2001)

2.9.4 Request to Set Case for Trial

Within twenty-five (25) days after the date the unlawful detainer complaint was filed, plaintiff shall file a Request to Set Case for Trial, unless there has been a final disposition of the case or a notice of settlement or stay has been filed. The Request to Set Case for Trial shall be submitted on a form which is available from the Clerk's Office or on the court's website. By filing a Request to Set Case for Trial a party represents that the case is at issue and will be ready to proceed to trial on the date assigned. (Effective July 1, 2010; Rule 2.9.4 renumbered effective January 1, 2006; adopted as Rule 12.4 effective May 14, 2001)

2.9.5 Dismissal Hearing

A. Plaintiff shall attend the Dismissal Hearing, either in person or by telephonic appearance. At the hearing, the status of the case will be discussed, including whether the case should be set for trial or dismissed. Appropriate orders will be made.

B. Failure of the plaintiff to appear may result in dismissal of the case.

C. A dismissal hearing will be taken off calendar if a trial date has been set, a Request to Set Case for Trial has been filed, or there has been a final disposition of the case. A dismissal hearing will be continued if a notice of settlement or stay has been filed with the court prior to the date of the dismissal hearing. If any of these conditions exists, it is the responsibility of the parties to notify the TCDR Clerk in writing and ask that the Conference be taken off calendar or continued. (Effective July 1, 2010; Rule 2.9.5 renumbered effective January 1, 2006; adopted as Rule 12.5 effective May 14, 2001)

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2.9.6 Assignment of Case for Trial

If the Request to Set Case for Trial complies with these rules in all respects, the Clerk shall assign the case for trial within twenty (20) days after the date the Request to Set Case for Trial was filed, and mail notice of the trial date to the parties at least ten (10) days before the trial date. (Effective July 1, 2010; Rule 2.9.6 renumbered effective January 1, 2006; adopted as Rule 12.6 effective May 14, 2001)

2.9.7 Hearing to Prove Damages

A. After a Clerk's judgment for restitution of the premises has been entered, a plaintiff seeking to recover money damages shall set the case for a hearing to prove damages within six (6) months after the judgment is entered.

B. A personal appearance will not be required if a declaration is submitted pursuant to § 585(b) and (d) of the Code of Civil Procedure. (Rule 2.9.7 renumbered effective January 1, 2006; adopted as Rule 12.7 effective July 1, 2000)

2.9.8 Undertaking for Immediate Possession of Premises

Unless otherwise ordered by the court, the minimum amount of undertaking required for an order for immediate possession of premises, pursuant to § 1166a of the Code of Civil Procedure, shall be ten (10) times the amount of monthly rental, but not less than \$500.00. (Rule 2.9.8 renumbered effective January 1, 2006; adopted as Rule 12.8 effective July 1, 2000)

2.9.9 Judgment

When a judgment for restitution or possession of the premises under Code of Civil Procedure § 1169 or 1174 is prepared and submitted by plaintiff, it shall describe with reasonable certainty the real property that is the subject of the judgment, giving its street address (including the zip code), if any, or other common designation, if any. (Rule 2.9.9 renumbered effective January 1, 2006; adopted as Rule 12.9 effective January 1, 2003)

2.9.10 Notice of Restricted Access

Each plaintiff who files an action for Unlawful Detainer, for which a Notice of Restricted Access must be mailed to the defendants pursuant to Code of Civil Procedure § 1161.2(c), must provide to the court at the time of filing the action, (1) a separate stamped, legal-size envelope addressed to each defendant named in the action at the address provided in the complaint, and (2) a stamped, legal-size envelope addressed to "All Occupants" at the subject premises. (Rule 2.9.10 renumbered effective January 1, 2006; adopted as Rule 12.10 effective January 1, 2005)

(Rule 2.9 renumbered effective January 1, 2006; adopted as Rule 12 effective July 1, 1992)

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RULE 2.10 SMALL CLAIMS CASES

2.10.1 Case Disposition Time

The court shall endeavor to dispose of all small claims cases as follows: 90% within seventy (70) days after filing; and 100% within ninety (90) days after filing. (Rule 2.10.1 renumbered effective January 1, 2006; adopted as Rule 13.1 effective July 1, 2000)

2.10.2 Unserved Defendants

A. If proof of service on the defendant in a small claims case has not been filed by the date set for trial, the case will not be heard on that date. The court or the Clerk may reset the case for trial.

B. If more than one defendant is named in the plaintiff's claim, and proof of service as to some, but not all, of the defendants has been filed prior to the date set for trial, the court may continue the trial of the case as provided in § 116.570 of the Code of Civil Procedure, or trial may proceed only as to those defendants who have been served. The court or the Clerk may reset the case for trial as to any remaining defendants. (Rule 2.10.2 renumbered effective January 1, 206; adopted as Rule 13.2 effective July 1, 2000)

2.10.3 Untimely Small Claims Appeals

No notice of appeal from a small claims judgment shall be accepted for filing after the statutory period for filing such an appeal has expired, unless a writ of mandate ordering the Clerk to file the notice of appeal has been issued. (Rule 2.10.3 renumbered effective January 1, 2006; adopted as Rule 13.3 effective July 1, 2001)

(Rule 2.10 renumbered effective January 1, 2006; adopted as Rule 13 effective July 1, 1992)

(Chapter 2 amended effective January 1, 2006; adopted as II effective July 1, 1992)

RULE 2.11 CASES INVOLVING THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

2.11.1 Assignment of CEQA Cases

A. **Judge for All Purposes.** Unless otherwise specified in these rules or ordered by the Presiding or Supervising Judge, all CEQA cases will be assigned to a single judge for all purposes, including trial.

B. **Notice of Assignment.** A Notice of Assignment indicating the name and department number of the assigned judge, as well as the assigned judge's departmental schedule for noticed motions and ex parte applications, will be prepared by the court.

C. Service of Notices.

1. Service of Notice by Clerk

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The clerk will serve the Notice of Assignment either by mail on counsel of record for petitioner and on any self-represented petitioner, or personally on petitioner or petitioner's representative at the time the petition is filed.

2. Service of Notice by Petitioner

The petitioner must serve the Notice of Assignment and the most recent case management conference notice on each named respondent or defendant either when that respondent or defendant is served with the summons and complaint, or as soon as petitioner receives the notice, whichever is later, and file a proof of service thereof.

D. **Designation of Assigned Judge in Subsequent Documents.** After a CEQA case is assigned, all subsequent documents must state on the face page, under the case number, the following:

ASSIGNED FOR ALL PURPOSES TO:
JUDGE [insert name]
DEPARTMENT [insert number]

E. **Unavailability of Assigned Judge.** In the event of the temporary unavailability of the judge assigned to a CEQA case for all purposes, another judge may be assigned to hear matters in that case. Until and unless the court issues an order or notice revoking the existing single assignment or assigning a new judge for all purposes, any hearing that may take place before another judge does not affect the status of the case as originally assigned for all purposes. (Effective July 1, 2011, New)

2.11.2 **Preparation of the Administrative Record**

A. **Preparation by the Public Agency.** Within twenty (20) days after receipt of a statutory request that the public agency prepare the record of proceedings, the public agency responsible for such preparation must personally serve on petitioner a preliminary cost notification of the estimated cost of preparation, stating the agency's normal costs per page, other reasonable costs, if any, the agency anticipates, and the likely range of pages. This preliminary cost notification must also state, to the extent then known, the location(s) of the documents anticipated to be incorporated into the administrative record, must designate the contact person(s) responsible for identifying the agency personnel or other person(s) having custody of those documents, and must provide a listing of dates and times when those documents will be made available to petitioners or any party for inspection during normal business hours as the record is being prepared. This preliminary cost notification must be supplemented by the agency from time to time as additional documents are located or determined appropriate to be included in the record.

B. **Notification that Petitioner Elects to Prepare the Record.** Upon receipt of this preliminary cost notification, petitioners may elect to prepare the record of

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proceedings themselves provided they notify the agency within five (5) days of such receipt. If petitioners so elect, then within forty (40) days of service of the statutory request that the public agency prepare the record of proceedings, petitioner must prepare and serve on all parties a detailed document index listing the documents proposed by petitioners to constitute the record of proceedings. Within seven (7) calendar days of receipt of the detailed document index, the agency, or other parties if any, must serve the petitioners and all parties, with a document notifying them of any document or item that such parties contend should be added to, or deleted from, the record of proceedings. The agency must promptly notify petitioners of any required photocopying procedures or other conditions with which petitioners must comply in their preparation of the record. Service of the foregoing shall conform to the Code of Civil Procedure, Part 2, Title 14, Chapter 5, § 1010 et seq.

C. **Notice by Agency of Proposed Record.** If petitioners do not elect to prepare the record of proceedings themselves, then within forty (40) days after service of the statutory request to prepare the record of proceedings, the agency must prepare and serve on the parties a detailed document index listing the documents proposed by the agency to constitute the record and provide a supplemental estimated cost of preparation. Within seven (7) calendar days of receipt of the detailed document index, petitioners, or other parties if any, must serve the agency and all parties with a document notifying the agency of any document or item that such parties contend should be added to, or deleted from, the record. Service of the foregoing shall conform to the Code of Civil Procedure, Part 2, Title 14, Chapter 5, § 1010 et seq. (Effective July 1, 2011, New)

2.11.3 **Format of the Administrative Record**

A. **Binding and Length of Volumes of the Administrative Record.** The administrative record must be provided in one or more volumes of not more than 300 pages that are separately bound. The pages of the administrative record must be numbered consecutively and bound on the left margin. The cover of each volume of the records must be the same size as its pages and contain the same material as the cover of a brief, but must be labeled "Administrative Record".

B. **Index.** At the beginning of the first volume of the administrative record, there must be an index of each paper or record in the order presented in the record referring to each paper or record by title or description and the volume and page at which it first appears.

C. **Organization.** The administrative record must be organized in the following order:

1. The Notice of Determination;
2. All resolutions or ordinances adopted by the lead agency approving the project or required by law;

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3. The Draft or revised Draft Environmental Impact Report and initial study;
4. The comments received on and the responses to those comments prepared for the Draft Environmental Impact Report or Negative Declaration, including any modification of the environmental documents and project made after the comment period;
5. The remainder of the Final Environmental Impact Report, including all appendices and other materials;
6. The staff reports prepared for the approving bodies of the lead agency;
7. Transcripts or minutes of all hearings; and
8. The remainder of the administrative record.

D. **Electronic Copy.** The administrative record must also be submitted in a *searchable*, .pdf file format. Indexing and organization should mirror the paper format. The party lodging the administrative record should simultaneously lodge two copies of the electronic administrative record – one for the court and one for research. (Effective July 1, 2011, New)

2.11.4 Disputes Regarding the Contents of the Administrative Record

Once the administrative record has been filed, any disputes about its accuracy or scope should be resolved by appropriate noticed motion. For example, if the agency has prepared the administrative record, petitioners may contend that it omits important documents or that it contains inappropriate documents; if the petitioners have prepared the record, the agency may have similar contentions. A motion to supplement the certified administrative record with additional documents or to exclude certain documents from the record may be noticed by any party and should normally be filed concurrently with the filing of petitioner's opening memorandum of points and authorities in support of the writ. Opposition and reply memoranda on the motion should normally be filed with the opposition and reply memoranda, respectively, regarding the writ. The motion should normally be calendared for hearing concurrently with the hearing on the writ. (Effective July 1, 2011, New)

2.11.5 Briefing Schedule and Length of Memoranda

A. Parties requesting or applying for a hearing in a case brought under the California Environmental Quality Act (Pub. Resources Code § 21000 et seq.) shall reserve with the law and motion clerk a date and time for hearing on the request or application.

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B. Unless otherwise ordered by the court, the following briefing schedule must be followed:

1. Petitioner must file with the Civil Court Clerk's Office and concurrently a chambers copy and a research copy in the designated CEQA department an opening memorandum of points and authorities in support of the petitioner within thirty (30) days from the date the administrative record is served.

2. Respondent and Real Party in Interest must file with the Civil Court Clerk's Office and concurrently a chambers copy and a research copy in the designated CEQA department opposition points and authorities, if any, within thirty (30) days following service of petitioner's memorandum of points and authorities.

3. Petitioner has twenty (20) days from service of the opposition's points and authorities to file with the Civil Court Clerk's Office and concurrently a chambers copy and a research copy in the designated CEQA department a reply memorandum of points and authorities.

4. Service of the briefs shall conform to the Code of Civil Procedure, Part 2, Title 14, Chapter 5, § 1010 et seq.

5. California Rule of Court 3.1113 applies to the page limit in CEQA actions. Should the parties desire to submit longer memoranda, they must first file an application with the court stating good cause for exceeding that limit. If the pages exceed that in Rule 3.1113 without the court's prior approval, any pages in excess of the statutory limit will not be considered. (Effective July 1, 2011, New)

2.11.6 Settlement Meeting

The initial notice must provide that, if the parties agree, the first settlement meeting will be continued so as to take place no later than thirty-five (35) days after the administrative record is served. (Effective July 1, 2011, New)

2.11.7 Statement of Issues

The statement of issues must identify those portions of the administrative record that are directly related to the contentions and issues remaining in controversy. (Effective July 1, 2011, New)

2.11.8 Trial Notebook

Petitioner must prepare a trial notebook that must be filed with the designated CEQA department fourteen (14) days after lodging the Administrative Record. The trial notebook must consist of the petition, all answers, the briefs, any motions set to be heard at trial, the statement of issues, and any other documents agreed upon by the parties.

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The trial notebook must contain a table of contents, tabbed sections consistent with those outlined above and an index of the documents in the notebook referencing page numbers. The notebook's pages should be sequentially numbered in the lower right-hand corner of each page and be bound in a "D-ring" binder no more than three (3) inches thick. Should documents dictate, further notebooks with the same requirements above should be used.

A court copy and a research copy of the above must be provided simultaneously.
(Effective July 1, 2011, New)

(Rule 2.11, New effective July 1, 2011)

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accomplished by working through the Domestic Violence Case Coordinator.

D. **Modification of Criminal Protective Orders**

Criminal protective orders take precedence over other contact orders. When a criminal protective order exists and either or both parties request a child custody order that is inconsistent with the criminal protective order, it is the obligation of the moving parties to seek a modification of the criminal protective order by placing the matter on the criminal domestic violence calendar. Notice must be provided to all parties, attorneys and probation or parole officers. No party shall seek a child custody or visitation order in family, probate or juvenile court that is inconsistent with an existing criminal protective order unless a judicial officers presiding over the criminal domestic violence matter has first granted the request to modify the criminal protective order. (Effective January 1, 2010, New)

4.1.11 **Juror Panel List**

In the event that any list of prospective jurors, whether it be an alphabetical list or a list in the order in which the juror will be called, is provided to the parties or counsel to help facilitate the jury selection process, the lists may not be reproduced. All lists provided shall be returned to the Court upon completion of jury selection, cancellation of the jury panel or release of the jury panel prior to the conclusion of jury selection. (Effective July 1, 2013, New)

4.1.12 **Delivery of Court Reporter Transcripts to the Court**

In all case types, any court reporter utilized to report court proceedings shall file all appellate and court ordered transcripts electronically via YesLaw. This rule applies to Court employees, per diem and pro tempore court reporters. (Effective January 1, 2016, New)

4.1.13 **Electronic Filing**

A. **Mandatory Electronic Filing in Unlimited Civil Cases**

Pursuant to Code of Civil Procedure § 1010.6(g), documents filed by represented parties in all unlimited civil actions must be filed electronically unless the Court excuses parties from doing so. Although not required, self-represented parties are encouraged to participate in electronic filing and service.

B. **Permissive Electronic Filing**

Parties may file documents electronically in all types of cases other than criminal or juvenile. No electronic filing is permitted for criminal or juvenile cases or confidential case types including confidential name change, unlawful detainer (if within the first sixty (60) days of the file date), developmentally disabled and dangerous, forfeiture of confiscated weapon, involuntary medication, mental health, Murphy LPS conservatorship, petition to consent for medical treatment, petition for Electroconvulsive

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Therapy (ECT), Riese hearing, relief of firearm prohibition, TB petition, petition for consent LPS conservatorship, writ of habeas corpus, adoption, appointment of confidential intermediary, petition to declare minor free, petition to establish parental relationship, set aside declaration of paternity, surrogacy, termination of parental rights, and unseal birth records.

C. Rules Applicable to All Case Types

The electronic filing of documents must be effected using the Court's electronic service providers. Electronic service provider information is available on the Court's website at www.fresno.courts.ca.gov/. If a party with a fee waiver files documents electronically, that party is exempt from the fees and costs associated with the electronic filing.

Confidential documents shall be designated as such by the filer during the electronic filing process via the confidential security option.

For purposes of electronic filing of documents, pursuant to California Rules of Court, Rule 2.250(b)(10), the "close of business" is 5:00 p.m. Pursuant to California Rules of Court, Rule 2.259(c), a document that is received electronically by the Court after the close of business is deemed to have been filed on the next court day. This provision concerns only the method and effective date of filing; any document that is electronically filed must satisfy all other legal filing deadlines and requirements. This rule does not affect the timing requirements for any documents that must be filed by a set time on the due date.

This rule is subject to the provisions set forth in Code of Civil Procedure § 1010.6 and California Rules of Court, Rules 2.250 thru 2.259.

The Court requests that electronic filing of documents be effected using a fully searchable .pdf file and include electronic bookmarks to each heading, subheading and component (including the table of contents, table of authorities, petition, verification, points and authorities, declaration, and proof of service if included within the petition), and to the first page of each exhibit or attachment, if any; that each bookmark to an exhibit or attachment include the letter or number of the exhibit or attachment and a description of the exhibit or attachment. The Court also requests that if exhibits or attachments are submitted in multi-part electronic files, each separate file have its own table or index of the contents of the file. The Court anticipates these requests will become mandatory at a future date.

D. Limitations on Filings

Notwithstanding any other provision of law or this rule, the following documents may not be filed electronically.

1. Affidavit re: Real Property of Small Value;

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2. Bonds;
3. Documents for cases under seal;
4. Labor Commissioner deposit of cash or check;
5. Subpoenaed documents;
6. Undertakings; and
7. Wills/Codicils; or
8. Any exhibits that cannot be accurately transmitted via electronic filing due to size or type. (Effective July 1, 2016; adopted as Rule 4.1.13 effective January 1, 2016)

(Rule 4.1 renumbered effective January 1, 2006; adopted as Rule 20 effective July 1, 1992)

RULE 4.2 APPEALS TO THE APPELLATE DIVISION

4.2.1 Three Judge Panel

All infraction, misdemeanor, and limited civil case appeals are decided by a majority of a three (3) judge panel of the Appellate Division. (Rule 4.2.1 renumbered effective January 1, 2006; adopted as Rule 21.1 effective July 1, 200)

4.2.2 Filing of Appeal, Briefing and Hearing Dates

Appeal papers shall be filed with the Clerk. Briefing and hearing dates will be set by the court. Each party shall ensure that complete documentation is submitted in a timely manner. (Rule 4.2.2 renumbered effective January 1, 2006; adopted as Rule 21.2 effective July 1, 2000)

4.2.3 Record on Appeal

A. Pursuant to California Rules of Court, rules 8.830(a)(1)(B), 8.833, 8.860(a)(1)(B), 8.863, 8.910(a)(1)(B) and 8.914 the court elects to use the original trial court file instead of the clerk's transcript as the record of the written documents from the trial court proceedings.

B. Pursuant to California Rules of Court, rules 8.835(c), 8.868(c) and 8.917(c) on stipulation of the parties or on order of the trial court under rule 8.837(d)(6)(A), 8.869(d)(6)(A) or 8.916(d)(6)(A) the original of an official electronic recording of the trial court proceedings, or a copy made by the court, may be transmitted as the record of these oral proceedings without being transcribed. (Effective January 1, 2011)

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4.2.4 Briefing Procedure

A. An original and three (3) copies of each brief shall be filed with the Clerk. The original, which will be maintained in the court file, shall have a standard two-hole punch on the top when submitted for filing. Each of the three (3) copies shall have a standard three-hole punch on the left side when submitted for filing. Notwithstanding the California Rules of Court, briefs shall not be bound.

B. All briefs shall include appropriate points and authorities, clear identification of the issue(s) being raised and valid proof of service. Because appeals are concerned with issues of law, mere factual arguments will generally be insufficient. If applicable, a reporter's transcript and/or a settled statement on appeal shall be submitted.

C. A party may file a request for an extension of time to comply with the briefing schedule with the Presiding Judge of the Appellate Division. Such request shall include a separate declaration providing good cause for the extension of time, a proposed order and a properly completed checklist for proposed orders form. The checklist for proposed orders form is available from the Clerk's Office.

D. Failure of the appellant to file a timely opening brief or to otherwise comply with applicable rules may result in dismissal of the appeal. (Effective January 1, 2009; Rule 4.2.3 renumbered effective January 1, 2006; adopted as Rule 21.3 effective January 1, 1997)

(Rule 4.2 renumbered effective January 1, 2006; adopted as Rule 21 effective July 1, 1992)

(Chapter 4 amended effective January 1, 2006; adopted as IV effective July 1, 1992)

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RULE 5.5 MEDIATION AND CHILD CUSTODY RECOMMENDING COUNSELING (CCRC)

5.5.1 Purpose of Mediation and CCRC Sessions (CCRCS)

The purpose of Mediation and a CCRC session is to reduce acrimony which may exist between the parties and to develop a custody/visitation plan which ensures the minor child(ren) frequent and consistent contact with both parents, when in the child(ren)'s best interests. (Effective July 1, 2013; Rule 5.5.1 renumbered effective January 1, 2006; adopted as Rule 34.1 effective July 1, 1999)

5.5.2 Types of Mediation and CCRC Sessions

The following services are offered by Family Court Services (FCS). Confidential mediation (Tier I below) shall be made available in all cases in which child custody is at issue; the remaining services shall be scheduled as directed by the family law judicial officer in the exercise of his/her discretion according to the availability of resources and the needs of each case.

A. **At-Court CCRC Session.** An at-court session is scheduled by a judicial officer when a judicial officer determines that exigent circumstances exist such that an immediate CCRC Session must be scheduled. Children who are five years of age or older must be brought to court for at-court sessions. All at-court sessions shall be child custody recommending counseling sessions. The sessions are not confidential and the counselor shall submit a report and recommendation to the Court and parties. When possible, the recommending counselor will provide a report and recommendation on the day of the at-court session; however, the counselor shall be provided adequate time to interview the parties and child(ren), make collateral contacts, and prepare the report and recommendation. There is no charge for child custody recommending counseling for at-court sessions, as these sessions are mandatory. Once a case has had an at-court session, future sessions may include any of the services set forth below.

B. Confidential Mediation

1. Two types of confidential mediation may be offered:

a. **Courtroom Mediation:** When resources allow, an initial confidential mediation session may take place at a request for a Restraining Order hearing. The goal of mediation is to assist parents in reaching an agreement that would meet the needs of the child(ren). If an agreement is not reached during courtroom mediation, then the Court may make a custody order. The parents may, if they wish, come to a more complete agreement during any future mediation session.

b. **Schedule Mediation (Tier 1):** Unless custody/visitation has been resolved at the readiness hearing, parents will be given a date for confidential mediation at the readiness hearing.

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2. Children shall not participate in confidential mediation unless otherwise directed by FCS or the Court.

3. There is no charge for confidential mediation.

4. Mediation is confidential except:

a. The mediator shall report, but not comment on, the parties' agreement or inability to reach an agreement to the parties and the Court.

b. The mediator shall report suspected child abuse, elder abuse, and/or if someone is a danger to themselves or others.

C. **Further Services Beyond Mandatory Confidential Mediation (Tiers II and III)**. If confidential mediation has not resulted in full agreement, the judicial officer has discretion to refer the parties for further sessions with FCS as provided in this section.

1. Two types of further services may be offered.

a. Tier II. The purpose of Tier II sessions is to provide the Court with additional information regarding specific areas deemed significant by the Judicial Officer. A Tier II summary report shall be provided to the Court and parties which may include, but not be limited to, a description of collateral contacts with law enforcement or Child Protective Services, interviews with the child(ren), etc. The Tier II summary report will not include any recommendations from the mediator.

b. Tier III. Tier III sessions are CCRC sessions. These sessions shall result in a report and recommendation from the counselor. The counselor's recommendation shall be made available to the parties, at the FCS office, two (2) court days before the court hearing. If the recommendation is not available before the hearing, it shall be available in court at the time of the hearing. Children who are five years of age or older shall participate in Tier III sessions.

2. Tier II and Tier III sessions are not confidential. Any mediator who provided confidential mediation to the parents shall not be permitted to serve as a Tier II, Tier III, or At-Court counselor unless deemed operationally necessary by the FCS Manager.

3. When permitted by law or rule, fees may be charged for Tier II and Tier III. If fees are to be charged, then parents shall be informed of the fees and given an opportunity to be heard before the judicial officer refers the parents for Tier II or Tier III services. The amount ordered, if any, shall be included in the minute order. The Court has jurisdiction to allocate the fees between the parties.

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D. Family Code § 3111 – Custody Evaluation: Custody evaluations will only be ordered by the Court in the event all other services have been insufficient to develop a long term custody order.

1. Evaluators. The custody evaluator shall be mutually agreed upon by the parties or selected by the judicial officer if the parties are unable to reach an agreement. The custody evaluation may be completed by a FCS staff member or by a private psychologist who has been approved by the Court.

2. Fees. A fee will be charged for a custody evaluation. A substantial deposit may be required before the evaluation can commence and full payment may be required before the custody evaluation report is submitted to the Court for consideration.

3. Time Period. The custody evaluation shall be completed within the time period set forth by the Court. In the event a child custody evaluation is not completed within the time set forth by the Court, the referral may be terminated and the current orders regarding custody and visitation shall remain in full force and effect until further order of the Court.

4. Participation. If the Court receives a custody evaluation where only one party participates and the other party does not complete the evaluation, the completed portion of the evaluation may be considered by the Court. (Effective July 1, 2016; Rule 5.5.2 renumbered effective January 1, 2006; adopted as Rule 34.2 effective July 1, 1999)

5.5.3 Family Court Services Orientation

A. Pursuant to California Rule of Court 5.210e(2), Family Court Services provides orientation information regarding the Tier 1 – Confidential Mediation process. Unless excused by the Court, both parties are required to complete the online orientation program prior to their scheduled Tier 1 – Confidential Mediation appointment.

1. To complete the online orientation, the participant must have access to the Internet. The online orientation will not be accessible on a mobile phone.

2. There will be a kiosk in the Family Court Services lobby that will be available, on a first come, first serve basis, from 8:00 a.m. to 3:00 p.m., Monday through Friday.

B. The online orientation prepares parties for their Tier 1 – Confidential Mediation by giving an overview of the process. This includes educational information regarding children’s developmental needs and co-parenting skills.

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C. The online orientation is offered in both English and Spanish in the form of an audio and visual slide show.

D. General Information and Admonitions:

1. Children do not participate in the online orientation. The online orientation is designed for parents, not for children.

2. Notice of successful completion of the online orientation is sent automatically to Family Court Services.

3. Failing to successfully complete the online orientation may result in adverse consequences from the Court.

4. If the Court orders the parties to participate in Tier 1 – Confidential Mediation on more than one occasion, the Court may again order the parties to complete the Family Court Services online orientation in the following circumstances:

a. If the parties have failed to complete the online orientation as previously ordered by the Court, or

b. If it has been more than 6 months since the parties last completed the online orientation. (Effective July 1, 2016; adopted as Rule 5.5.3 effective January 1, 2016)

5.5.4 Attendance at FCS Appointments

A. Telephonic Participation: The request for telephonic participation shall be made a minimum of three (3) calendar days in advance of the mediation or CCRC appointment. A party may participate in their mediation or CCRC appointment via telephone when any one of the following occurs:

1. The party resides beyond a 250-mile radius from the B.F. Sisk Fresno Superior Court building;

2. Traveling to the FCS facility will cause an extreme hardship;

3. Telephonic participation is directly ordered by the Court; or

4. When there is good cause, at the discretion of FCS.

B. Rescheduling FCS Appointments: All mediation and CCRC appointments will be scheduled by the Court; thus, FCS is unable to reschedule without a modified order from the Court.

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C. Cancellation of FCS Appointments: Both parties will need to contact FCS to cancel a mediation or CCRC appointment. Once FCS has received confirmation of the cancellation request from both parties, the appointment with FCS will be cancelled. Note: This will NOT cancel any upcoming court hearings. (Effective January 1, 2015; Rule 5.5.3 (now 5.5.4) renumbered effective January 1, 2006; adopted as Rule 34.3 effective July 1, 1998)

5.5.5 Availability of FCS Mediators/CCRC Counselors for Testimony

A. Mediator Testimony. Pursuant to Family Code section 3177, mediation proceedings under Family Code section 3160 et seq., such as those provided in Confidential Tier I Mediation here at the Superior Court of California, County of Fresno, must be held in private and are confidential and all communications, verbal and written, from the parties to the mediator are deemed to be "official information" within the meaning of Evidence Code section 1040. Due to the confidential nature of the Tier I mediation process the mediator must assert that all information that was obtained, verbal and written, as part of the mediation process is privileged information and therefore the mediator cannot testify about this information. The official information privilege belongs to the Court, not the parties, therefore the mediator cannot testify about this information. If called to testify regarding a confidential mediation session, the mediator will assert the official information privilege on behalf of the Court.

B. CCRC Counselor Testimony:

1. On-Call: Unless otherwise directed by the Court, the CCRC counselor will be on call rather than personally present in the courtroom.

2. Service/Fees: To subpoena a CCRC counselor to appear, the following must be personally served to FCS, as the authorized agent, at least ten (10) calendar days prior to the hearing:

a. The original and one copy of the subpoena to appear;

b. A check in the amount of \$275.00 made payable to the Fresno County Superior Court. This check will serve as a deposit for the counselor's testifying services pursuant to Government Code § 68097.2(a)

c. If expenses exceed the \$275.00 deposit, FCS will bill the depositing party for the additional funds.

3. Continuance. In the event the matter is continued, the previously subpoenaed CCRC counselor may be ordered back to the continued hearing date. The party who subpoenaed the CCRC counselor shall forward a letter to FCS confirming the continued hearing date within five (5) calendar days of the date of the hearing was continued, and shall set forth the parties' names, the Fresno County Superior Court case number, the name of the CCRC counselor and the continued hearing date. (Effective January 1, 2015, Rule 5.5.4 (now 5.5.5) renumbered effective January 1, 2006; adopted as Rule 34.4 effective July 1, 1999)

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5.5.6 Contact with Mediator/CCRC Counselor

A. Ex Parte Communication. Neither party may contact the Mediator or CCRC counselor prior to or following their appointment.

B. Documents Provided to FCS. FCS is not obligated to retain any documents provided to FCS by the parties or other collateral sources. Although the mediator/CCRC has the discretion to temporarily retain supplemental documents all supporting documents will be destroyed, in a confidential manner, by FCS staff, at the conclusion of the mediation/CCRC services and FCS will not provide copies of supplemental documents to the Court or to the other party on the case.

C. Mediator/CCRC Counselor Assignment.

1. The assignment of mediators and CCRC counselors is an administrative function of FCS. Mediators and CCRC counselors are assigned on a predetermined rotational basis, except by specific order of the Court.

2. It is the intention of FCS to maintain the same mediator with each case to provide continuity of care for the parties. However, the FCS staff member that served as a Tier 1 mediator for the case will **not** be assigned as a CCRC counselor for the same case.

D. Request for New Mediator/CCRC Counselor.

1. A change of Mediator/CCRC counselor may be granted by FCS when a conflict of interest exists. A conflict of interest exists if it is determined that one or more of the following has occurred:

a. The Mediator/CCRC counselor has personal knowledge of the matter or parties outside of the mediation context;

b. The Mediator/CCRC counselor has a financial interest in the potential outcome of the matter;

c. The Mediator/CCRC counselor is related to the parties within the third degree;

d. There is substantial doubt as to the impartiality of the Mediator/CCRC counselor.

2. The "Request for New Mediator/CCRC Counselor" form must be submitted to FCS and a copy provided to the opposing party, no later than five (5) calendar days from the date the Court orders the mediation/CCRC session. The investigation of the request will not begin until FCS can confirm that the opposing party has received a copy of the request. (Effective July 1, 2016; Rule 5.5.5 (now 5.5.6) renumbered effective January 1, 2006; adopted as Rule 34.5 effective July 1, 1999)

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5.5.7 Children at Court

Children who are five (5) and older shall be brought to court only when an at-court recommending counselor session is scheduled. In all other circumstances, children are not to be brought to the hearing unless specifically ordered by the Court. (Effective January 1, 2013; Rule 5.5.6 (now 5.5.7) renumbered effective January 1, 2006; adopted as Rule 34.6 effective July 1, 1998)

5.5.8 Confidential Mediation

Nothing in these rules prohibits the Court from offering confidential mediation if resources allow. (Effective January 1, 2013; Rule 5.5.7 (now 5.5.8) renumbered effective January 1, 2006; adopted as Rule 34.7 effective January 1, 2002)

5.5.9 Removal of Children in Violation of a Court Order

If the minor child(ren) is/are removed by either party under circumstances which violate the custody or visitation order, and that violation establishes probable cause to believe that a crime has been committed, the court may award physical custody ex parte to the parent deprived of a custody or visitation right prior to mediation. (Rule 5.5.9 renumbered effective January 1, 2006; adopted as Rule 34.10 effective July 1, 1992)

5.5.10 Child Custody Evaluations

The Fresno County Superior Court has the discretion to appoint a Child Custody Evaluator to conduct a child custody evaluation in all child custody/visitation matters.

A. **Peremptory Challenge of Child Custody Evaluator**. The court may allow one peremptory challenge to the Child Custody Evaluator as follows:

1. If the appointment is made in a hearing before the court, the challenge **MUST** be made at the time of hearing.

B. **Withdrawal of Child Custody Evaluator**. The Child Custody Evaluator may request to be allowed to withdrawn from an evaluation at any stage of the process for the following reasons:

1. Conflict;
2. Nonpayment of fees;
3. Lack of cooperation by a party;
4. Any other significant reason which prevents the Child Custody Evaluator from completing the evaluation.

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If the Child Custody Evaluator wishes to be removed from the case, the Child Custody Evaluation shall forward a letter to Family Court Services specifically stating the reasons for the request. Family Court Services shall review the letter and forward copies of the request to the parties and to the court. The parties shall have twenty (20) days to file a motion challenging the request. If no motion is filed, the court may grant or deny the request for withdrawal and Family Court Services shall notify the Child Custody Evaluator and the parties of the court's decision. **FAXED LETTERS WILL NOT BE ACCEPTED.**

C. Complaints about Child Custody Evaluator. Complaints about a Child Custody Evaluator's performance shall be in written form. The complaint shall detail all reasons for the complaint and shall set forth specific examples of the acts or omissions by the Child Custody Evaluator. The complaint shall be sent to Family Court Services. Family Court Services shall review the letter and forward copies of the complaint to each party and to the court. **FAXED LETTERS WILL NOT BE ACCEPTED.**

D. **Ex Parte Communications.** Neither party may contact the Child Custody Evaluator, directly or through the party's attorney, except regarding procedural matters such as setting appointments. Neither party shall forward any documents to the Child Custody Evaluator except by order of the court or at the specific request of the Child Custody Evaluator. During the evaluation process, any documents provided to the Child Custody Evaluator shall also be provided to the opposing party at the same time.

The Child Custody Evaluator shall have sole discretion to conduct ex parte communications with any party, witness, attorney, mediator, counselor, therapist, physician, teacher, law enforcement officer or any other person that the Child Custody Evaluator determines is necessary to complete the evaluation process. No third party shall contact the Child Custody Evaluator unless requested to do so by the Child Custody Evaluator or by order of the court for procedural matters only.

After the evaluation has been completed and the report has been written, the Child Custody Evaluator may communicate with the parties or their attorneys as the Child Custody Evaluator determines. (Effective January 1, 2013; Rule 5.5.11 (now 5.5.10) renumbered effective January 1, 2006; adopted as Rule 34.12 effective July 1, 2001)

(Rule 5.5 renumbered effective January 1, 2006; adopted as Rule 34 effective July 1, 1992.

RULE 5.6 FAMILY CENTERED CASE MANAGEMENT

5.6.1 Purpose and Intent

This rule and the process developed to implement this rule are intended to further the purpose of and to comply with Family Code section 2450 et seq. and California Rules of Court, rule 5.83. (Effective July 1, 2013, New)

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5.6.2 Scope

Section 5.6.3 of this rule applies to all dissolution, legal separation, nullity, and parentage cases filed on or after January 1, 2013. Section 5.6.4 applies to all family law cases. This rule supersedes prior rule 5.7. (Effective July 1, 2013, New)

5.6.3 Process and Scheduling

Upon the filing of a first paper in the case types set out in rule 5.6.2 the case shall be set for an initial Status Conference hearing. The initial Status Conference hearing shall be set approximately one hundred and twenty (120) days from the date of filing the first paper in the department of the Presiding Judge of the Family Law Division. The Petitioner shall be provided two (2) copies of the "Notice of Calendar Setting" for the initial Status Conference hearing. The Notice of Calendar Setting may also include subsequent Status Hearing dates. One copy of the Notice of Calendar Setting shall be served on the Respondent with the pleadings. Petitioner must include the Notice of Calendar Setting on the Proof of Service of the Summons and Petition. The Petitioner shall receive an information sheet containing the information required by California Rules of Court, rule 5.83.

At the initial Status Conference hearing the case shall be set for a follow-up Status Conference hearing(s) as requested by the parties, determined by the judicial officer, or required by law or rule. Follow-up Status Conference hearings shall be set in the department of the Presiding Judge of the Family Law Division unless otherwise determined by the judicial officer.

Following the Status Conference hearings the case may be set for Family Centered Case Resolution in the direct calendar department to which the case has been assigned. The setting and duration of Family Centered Case Resolution will be determined on a case-by-case basis according to the needs of the individual case. (Effective January 1, 2014; adopted as Rule 5.6.3 effective July 1, 2013)

5.6.4 Requesting a Conference

Any party may request to have a case set for a Status Conference hearing or Family Centered Case Resolution Conference. The request shall be made by filing a "Request for Status or Family Centered Case Resolution Conference", form TFL-15. Status Conference hearings will be set in the direct calendar department to which the case has been assigned or in the department of the Presiding Judge of the Family Law Division at the discretion of the Court. (Effective July 1, 2013, New)

5.6.5 Continuances of Status Hearings and/or Case Resolution Conferences

Continuances of Status Conference or Case Resolution Conferences may be requested by both parties or attorney by contacting the clerk of the department in which the Status Conference or Case Resolution Conference is set. Approval of the Court is necessary for the matter to be continued. Case Status Conferences may only be taken

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off calendar upon the entry of judgment, dismissal of the case, or as otherwise provided by law or rule. (Effective January 1, 2014, New)

5.6.6 Requirements for Case Status Conference and Case Resolution Conferences

A. **Status Conferences.** Unless the Status Conference has been continued with the Court's permission, attendance at the Status Conference is mandatory. However, if the parties/attorneys so agree, one party or attorney may appear to report the status of the case to the Court and obtain a follow-up Status Conference date(s). Settlement Conference Statements are not required for a Status Conference unless otherwise directed by the judicial officer.

B. **Case Resolution Conferences.** Unless otherwise directed by a judicial officer, a Settlement Conference Statement does not need to be filed prior to a Case Resolution Conference.

C. **Case Management Orders.** At or prior to a Status Conference or a Case Resolution Conference, the judicial officer may make case management orders including, but not limited to, the following to occur or be filed prior to the next Status Conference or Case Resolution Conference: Requiring that Preliminary and/or Final Declarations of Disclosure be exchanged with appropriate proofs of service to be filed within a certain time limit; requiring a four-way or informal meeting to occur to discuss settlement; requiring Statements of Disputed and/or Stipulated Facts to be filed; requiring a Settlement Conference Statement, etc. (Effective January 1, 2014, New)

RULE 5.7 SETTLEMENT CONFERENCES

At any time for any type of hearing or conference, the court may order that Settlement Conference Statements be prepared and exchanged. If spousal support, child support, or attorney's fees (including sanctions) have been requested by either party, then a Settlement Conference Statement must be accompanied by a complete Income and Expense Declaration with appropriate supporting documentation. Unless otherwise directed by the judicial officer, Settlement Conference Statements are to be filed and served at least ten (10) calendar days prior to the conference or hearing for which they were ordered.

If Settlement Conference Statements are not filed or contain so little information as to be ineffective in assisting the court with settlement efforts, the court may take the matter off calendar or may continue the settlement conference. If one party has complied with these rules and the other has not, the complying party may request attorney's fees and/or sanctions against the noncomplying party. Such request must be made in a manner that is accepted under the law.

Settlement Conference Statements must include, at a minimum, the following information:

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A. Dissolution of Marriage or Legal Separation:

1. The statistical information of the marriage including a detailed explanation of any disputed facts regarding the statistical information;

2. If spousal support is at issue, then each party must include a declaration addressing each of the factors set forth in Family Code section 4320;

3. If child support is at issue, each party must indicate whether the Department of Child Support Services is involved, and each party must include a child support calculation supported by a declaration addressing what information was utilized for each fact set forth in that calculation;

4. If property division is at issue, then a proposed division of property must be included addressing each asset and debt with particularity. For example, "each to pay one-half of debt" is not sufficient particularity; "Each to pay one-half of the Visa accounting ending in XXXX with a date-of-separation balance of \$XXXX" is sufficient particularity;

[Note: a specific format is not required for the proposed property division, but the proposal must be clear, complete, and understandable. A computerized program such as Propertizer or a spread sheet may be used, or a Judicial Council Form, such as the Property Declaration (FL-160) may be completed and attached to reflect the proposed property division.]

5. If attorney's fees are requested, then a declaration addressing Family Code section 4320 must be included even if spousal support is not requested, and the declaration must set forth with clarity the party's position regarding attorney's fees;

6. If there is a disputed separate property claim, then the party making the claim must include a declaration setting forth the party's specific tracing of his/her separate property and describe with particularity the documents which support the tracing, and the party opposing the claim must address the tracing.

B. Uniform Parentage Actions:

1. Whether there are any other actions pertaining to this child and whether or not those actions have resulted in judgment;

2. If the mother of the child was married to someone else within three hundred (300) days of the child's birth, the full name of that person;

3. If anyone other than the parties to this case has held the child out to be his/her own, the full name of that person;

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4. If anyone other than the parties in this case signed a Voluntary Declaration of Paternity regarding this child, the full name of that person;
5. If anyone other than the parties adopted the child, the full name of that person;
6. The specific facts in dispute;
7. Whether there are any guardianship, termination of parental rights, Child Protective Services, Dependency Court, or other actions involving this child.

C. **Law and Motion/Family Court section 217 evidentiary hearings:**

The Settlement Conference Statement must include the date the Request for Order was filed, identify the party who filed the Request for Order, and must indicate which issues remain in dispute. Additional information must be included as directed by the Court according to the issues in dispute. (Effective January 1, 2014, New)

RULE 5.8 MATTERS SET FOR TRIAL OR EVIDENTIARY HEARING

Consistent with Family Code section 2330.3 and Standard of Judicial Administration 5.30(b), it is the policy of the Fresno County Superior Court that a family law case will be assigned to one judicial officer for all purposes to the extent possible. Trials and evidentiary hearings will be set in the department of origin unless the time estimate exceeds that available in that department. Trials or evidentiary hearings with a time limit in excess of that available in the department of origin shall be given a trial/hearing setting date in the presiding department of the Family Law Division. If the time estimate for the matter is within the allowable limit of the presiding department of the Family Law Division, then the matter shall be given a date in that department. If the time estimate for the trial/hearing exceeds all available time within the Family Law Division, then the matter shall, when ready, be assigned a date through Master Calendar. The Master Calendar date will be obtained through the presiding department of the Family Law Division.

At the time a case is set for an evidentiary hearing or trial, the parties shall provide a time estimate of the anticipated length of the evidentiary hearing or trial. The Court will rely on the accuracy of the time estimate in setting cases and managing its calendar. All parties must regard the time estimate as certain. If the case is not completed within the time estimate, the Court may make any orders permitted by law including but not limited to deeming the case submitted on the evidence received, ordering the case off calendar, declaring a mistrial, curtailing further presentation of evidence, or completing the trial or hearing.

Prior to setting any matter for trial/evidentiary hearing, any family law judicial officer hearing the case may make appropriate pre-trial orders, including but not limited to requiring an office four-way meeting, allowing time for Alternative Dispute Resolution,

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setting one or more Case Status Conferences/Case Resolution Conferences/Settlement Conferences.

Unless otherwise ordered by the court, the following must be filed and exchanged at least ten (10) calendar days prior to any trial/evidentiary hearing:

1. A joint statement of stipulated facts; a joint statement of disputed facts;
2. All exhibits which may be submitted at the trial/hearing (the exhibits themselves need not be filed, but each party must file a detailed list of each exhibit which that party has exchanged);
3. A current Income and Expense Declaration with appropriate supporting documents unless there is no issue of child support, spousal support, or attorney's fees/sanctions;
4. A witness list which must include the names, addresses, and telephone numbers of each witness along with a detailed but concise offer of proof of that witness's anticipated testimony and the number of minutes that witness is expected to testify on direct examination; and
5. A trial brief which must include a statement of issues, and if the matter is to be heard as a result of a Request for Order, then the trial brief must indicate the date the Request for Order was filed, which party filed the Request, and the issues being to be heard.

Unless otherwise ordered by the court at the trial/hearing setting conference, all motions in limine must be in writing and filed and served at least ten (10) calendar days prior to the hearing/trial.

Matters will be set for trial/evidentiary hearing only when settlement opportunities have been exhausted. Matters will be released to Master Calendar only upon exhaustion of all remedies within family law. If a matter is released to Master Calendar and the parties then wish to discuss settlement with the Master Calendar trial judge, the matter will be returned to the Family Law Division for further settlement negotiations. (Effective July 1, 2014; adopted as Rule 5.8 effective January 1, 2014)

RULE 5.9 ADOPTIONS

5.9.1 Stepparent/Domestic Partner Adoptions under Family Code Sections 8500 et seq., 8600 et seq., and 9000 et seq.

A. A stepparent desiring to adopt a child of the stepparent's spouse may for that purpose file a petition in the county in which the petitioner resides. A domestic partner, as defined in Family Code § 297, desiring to adopt a child of his or her domestic partner may for that purpose file a petition in the county in which the petitioner resides. If the other parent does not consent there may be an additional action needed.

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B. The petitioner or their attorney is responsible for filing the Adoption Request, Adoption Order and Adoption Agreement for each child with the Family Law Examiner's Office. Once the Adoption Request for each child has been filed, the Court Examiner must immediately send a conformed copy to Family Court Services.

C. Family Court Services will notify the petitioner or their attorney by mail to set up an appointment in order to conduct an investigation.

D. The following documents must be forwarded to Family Court Services no later than fifteen (15) calendar days from the receipt of notification by Family Court Services:

1. Birth Certificate of the Child (Certified Copy);
2. Birth Certificate of Natural Parent retaining custody of the child;
3. Birth Certificate of the adopting party;
4. Marriage Certificate of Natural Parents (Certified Copy) (if applicable);
5. Marriage Certificate of Natural Parent and Stepparent (Certified Copy) (if applicable);
6. Declaration of Domestic Partnership (Filed Copy) (if applicable);
7. Final Judgment of Dissolution of Natural Parents (Filed Copy) (if applicable);
8. Final Judgment of Dissolution of Domestic Partnership of Natural Parents (Filed Copy) (if applicable);
9. Final Judgment of Dissolution of Marriage of the Adopting Parent (Filed Copy) (if applicable);
10. Final Judgment of Dissolution of Domestic Partnership of Adopting Parent (Filed Copy) (if applicable);
11. Death Certificate of Natural Parent (Certified Copy) (if applicable);
and
12. Social History Data Sheet

E. In the event that Family Court Services is not provided with the requested documents, no appointment will be scheduled and the court will be notified that Family Court Services cannot proceed with the Stepparent/Domestic Partner adoption.

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F. Once the investigation has been completed, a copy of the report, whether favorable or unfavorable, shall be given by Family Court Services to the petitioner's attorney in the proceeding, if the petitioner has an attorney of record, or the petitioner. The original report is submitted to the Family Law Examiner's Office for filing.

G. The court may not set a hearing until after the original report or findings have been filed. Once the court has received the report or findings and all notices have been completed by the petitioner or their attorney, the adoption can be calendared. The petitioner or their attorney must call the Family Law Examiner's Office to schedule the hearing.

H. **In the event there is a pending Family Law or Probate proceeding regarding the same children, the parties shall submit a declaration so stating and the proceeding shall be consolidated with the Adoption proceeding.** (Effective January 1, 2013; Rule 5.8.1 (now 5.9.1) renumbered effective January 1, 2006; adopted as Rule 37.1 effective July 1, 1992)

5.9.2 Independent Adoptions under Family Code Sections 8500 et seq., 8600 et seq., and 8800 et seq.

A. The petitioner(s) or their attorney is responsible for filing Adoption Request, Adoption Expenses, Adoption Order and Adoption Agreement for each child with the Family Law Examiner's Office. If either parent does not consent there may be an additional action needed.

B. The State Department of Social Services is responsible for conducting an investigation and preparing a report and recommendation to the court. Once the investigation has been completed, a copy of the report, whether favorable or unfavorable, shall be given by the State Department of Social Services to the petitioner's attorney in the proceedings, if the petitioner(s) has an attorney of record, or the petitioner(s). The original report is submitted to the Family Law Examiner's Office for filing.

C. The court may not set a hearing until after the original report and recommendation have been filed. Once the court has received the report and the petitioner(s) or their attorney has completed all notices, the adoption can be calendared. Petitioner(s) or their attorney must call the Family Law Examiner's Office to schedule the hearing.

D. If the petitioner(s) desire to withdraw the petition or dismiss the proceeding or the State Department of Social Services recommends that the petition be denied, the Family Law Examiner's Office upon receipt of the report from the State Department of Social Services, shall immediately refer it to the court for review. The Court Examiner shall immediately notify the department in Sacramento of the action. Upon receipt of the report or dismissal, the court shall set a date for hearing of the petition and shall give reasonable notice of hearing to the State Department of Social Services, the petitioner's attorney in the proceeding, if the petitioner(s) has an attorney of record, or

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the petitioner(s) and if necessary, the birth parents, by certified mail, return receipt requested, to the address of each as shown in the proceedings.

E. In the event there is a pending Family Law or Probate proceeding regarding the same children, the parties shall submit a declaration so stating and the proceeding shall be consolidated with the Adoption Proceeding. (Effective January 1, 2013; Rule 5.8.2 (now 5.9.2) renumbered effective January 1, 2006; adopted as Rule 37.2 effective July 1, 1992)

5.9.3 Agency Adoptions under Family Code Sections 8500 et seq., 8600 et seq. and 8700 et seq.

A. The petitioner(s), agency representative or their attorney is responsible for filing the Adoption Request, Adoption Expenses, Joinder, Adoption Order and Adoption Agreement for each child with the Family Law Clerk's Office. Petitioner(s) must cooperate with the licensed adoption agency. If either parent does not consent there may be an additional action needed.

B. When the report or findings are submitted to the court by a licensed adoption agency, a copy of the report or findings, whether favorable or unfavorable, shall be given to the petitioner's attorney in the proceeding, if the petitioner(s) have an attorney of record, or the petitioner(s) by the licensed adoption agency. The original report or findings are submitted to the Family Law Examiner's Office for filing.

C. Once the court has received the report and the petitioner(s), agency representative or their attorney has completed all notices, the adoption can be calendared. The petitioner(s), agency representative or their attorney must call the Family Law Examiner's Office to schedule the hearing.

D. In the event there is a pending Family Law or Probate proceeding regarding the same children, the parties shall submit a declaration so stating and the proceeding shall be consolidated with the Adoption proceeding. (Effective January 1, 2013; Rule 5.8.3 (now 5.9.3) renumbered effective January 1, 2006; adopted as Rule 37.3 effective July 1, 1999)

5.9.4 Intercounty Adoptions Finalized under Family Code Sections 8500 et seq., 8600 et seq. and 8900 et seq.

A. Each resident of the State of California, County of Fresno who adopts a child through intercounty adoption that is finalized in a foreign country may readopt the child in this county.

B. The petitioner(s), agency representative or their attorney is responsible for filing the Adoption Request, Adoption Expenses, Joinder, Adoption Order and Adoption Agreement for each child with the Family Law Examiner's Office. The petitioner(s) must cooperate with the agency. If either parent does not consent there may be an additional action needed.

C. When the report or findings are submitted to the court by a licensed adoption agency, a copy of the report or findings, whether favorable or unfavorable,

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shall be given to the petitioner's attorney in the proceeding, if the petitioner(s) have an attorney of record, or the petitioner(s) by the licensed adoption agency. The original report or findings are submitted to the Family Law Examiner's Office for filing.

D. The court may not set a hearing until after the original report or findings have been filed. Once the court has received the report or findings and all notices have been completed by the petitioner(s) or their attorney, the adoption can be calendared. Petitioner(s), agency representative or their attorney must call the Family Law Examiner's Office to schedule the hearing.

E. If the petitioner(s) desires to withdraw the petition or dismiss the proceeding or the State Department of Social Services or licensed adoption agency recommends that the petition be denied, the Family Law Examiner's Office upon receipt of the report of the State Department of Social Services or licensed adoption agency shall immediately refer it to the court for review. The Court Examiner shall immediately notify the department in Sacramento of the action. Upon receipt of the report or dismissal, the court shall set a date for hearing of the petition and shall give reasonable notice of hearing to the State Department of Social Services, licensed adoption agency, the petitioner's attorney in the proceeding, if the petitioner(s) has an attorney of record, or the petitioner(s) and if necessary, the birth parents, by certified mail, return receipt requested, to the address of each as shown in the proceedings.

F. In the event there is a pending Family Law or Probate proceeding regarding the same children, the parties shall submit a declaration so stating and the proceeding shall be consolidated with the Adoption proceeding. (Effective January 1, 2013; adopted as Rule 5.8.4 (now 5.9.4) renumbered effective January 1, 2014; adopted as Rule 5.8.4 effective July 1, 2007)

5.9.5 Adoptions of Adults under Family Code Sections 8500 et seq., 8600 et seq. and 9300 et seq.

A. An adult or married minor may be adopted by another adult, including a stepparent.

B. The petitioner(s) or their attorney is responsible for filing with the Family Law Examiner's Office for each adoption the Petition for Approval of Adoption Agreement and if applicable, the consent of the spouse.

C. A married person, who is not lawfully separated from the person's spouse, may not adopt an adult without the consent of the spouse, provided the spouse is capable of giving that consent.

D. A married person who is not lawfully separated from the person's spouse, may not be adopted without the consent of the spouse, provided the spouse is capable of giving that consent.

E. When the Petition for Approval of Adoption Agreement is filed, the Court Examiner shall set the matter for hearing. The court may require notice of the time and

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place of the hearing to be served on any interested person and any interested person may appear and object to the proposed adoption. (Effective January 1, 2013; Rule 5.8.5 (now 5.9.5) renumbered effective January 1, 2014; adopted as Rule 5.8.5 effective July 1, 2007)

(Rule 5.8 (now 5.9) renumbered effective January 1, 2006; adopted as Rule 37 effective July 1, 1992)

RULE 5.10 PARENTAL RIGHTS

5.10.1 Filing of the Petition to Terminate Parental Rights of the Father under Family Code Section 7600 et seq.

A. The petitioner(s), agency representative or their attorney is responsible for filing for each parent with the Family Law Clerk's Office the petition to terminate parental rights of the father and if applicable: a notice of proceeding to be issued by the Court Examiner or an Order Dispensing with Notice. Once the Petition for each parent has been filed, the Court Examiner must immediately send a conformed copy to Family Court Services with the exception of the filing from a licensed adoption agency.

B. Family Court Services will notify the petitioner(s) or their attorney by mail to set up an appointment in order to conduct an investigation.

C. The following documents must be forwarded to Family Court Services no later than fifteen (15) calendar days from the receipt of notification by Family Court Services:

1. Birth Certificate of the Child (Certified Copy);
2. Birth Certificate of Natural Parent retaining custody of the child;
3. Birth Certificate of the adopting party;
4. Marriage Certificate of Natural Parents (Certified Copy) (if applicable);
5. Marriage Certificate of Natural Parent and Stepparent (Certified Copy) (if applicable);
6. Declaration of Domestic Partnership (Filed Copy) (if applicable);
7. Final Judgment of Dissolution of Natural Parents (Filed Copy) (if applicable);
8. Final Judgment of Dissolution of Domestic Partnership of Natural Parents (Filed Copy) (if applicable);
9. Final Judgment of Dissolution of Marriage of the Adopting Parent (Filed Copy) (if applicable);

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10. Final Judgment of Dissolution of Domestic Partnership of Adopting Parent (Filed Copy) (if applicable);

11. Death Certificate of Natural Parent (Certified Copy) (if applicable);
and

12. Social History Data Sheet

D. In the event that Family Court Services is not provided with the requested documents, no appointment will be scheduled and the court will be notified that Family Court Services cannot proceed with the Investigation Report.

E. Once the investigation has been completed, a copy of the report, whether favorable or unfavorable, shall be given to the petitioner's attorney in the proceeding. If the petitioner(s) has an attorney of record, or the petitioner(s) by Family Court Services. The original report is submitted to the Family Law Clerk's Office for filing.

F. In the event there is a pending Family Law or Probate proceeding regarding the same children, the parties shall submit a declaration so stating and the proceeding shall be consolidated with the Termination proceeding. (Effective July 1, 2007; Rule 5.9.1 (now 5.10.1) renumbered effective January 1, 2014; adopted as Rule 5.9.1 effective January 1, 2006)

5.10.2 Filing of the Petition for Declaration of Freedom from Parental Custody and Control under Family Code Section 7800 et seq.

A. A proceeding may be brought under this part for that purpose of having a minor child declared free from the custody and control of either or both parents.

B. The petitioner(s), agency representative or their attorney is responsible for filing for each parent with the Family Law Clerk's Office the petition for Declaration of Freedom from Parental Custody and Control and a Citation to be issued by the Court Examiner. Once the Petition for each parent has been filed, the Court Examiner must immediately send a conformed copy to Family Court Services with the exception of the filing from a licensed adoption agency.

C. Family Court Services will notify the petitioner(s) or their attorney by mail to set up an appointment in order to conduct an investigation.

D. The following documents must be forwarded to Family Court Services no later than fifteen (15) calendar days from the receipt of notification by Family Court Services:

1. Birth Certificate of the Child (Certified Copy);
2. Birth Certificate of Natural Parent retaining custody of the child;
3. Birth Certificate of the adopting party;

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4. Marriage Certificate of Natural Parents (Certified Copy) (if applicable);
5. Marriage Certificate of Natural Parent and Stepparent (Certified Copy) (if applicable);
6. Declaration of Domestic Partnership (Filed Copy) (if applicable);
7. Final Judgment of Dissolution of Natural Parents (Filed Copy) (if applicable);
8. Final Judgment of Dissolution of Domestic Partnership of Natural Parents (Filed Copy) (if applicable);
9. Final Judgment of Dissolution of Marriage of the Adopting Parent (Filed Copy) (if applicable);
10. Final Judgment of Dissolution of Domestic Partnership of Adopting Parent (Filed Copy) (if applicable);
11. Death Certificate of Natural Parent (Certified Copy) (if applicable);
12. Social History Data Sheet

E. In the event that Family Court Services is not provided with the requested documents, no appointment will be scheduled and the court will be notified that Family Court Services cannot proceed with the Investigation Report.

F. Once the investigation has been completed, a copy of the report, whether favorable or unfavorable, shall be given by Family Court Services to the petitioner's attorney in the proceeding, if the petitioner(s) has an attorney of record, or the petitioner(s). The original report is submitted to the Family Law Clerk's Office for filing.

G. In the event there is a pending Family Law or Probate proceeding regarding the same children, the parties shall submit a declaration so stating and the proceeding shall be consolidated with the Petition for Declaration of Freedom from Parental Custody and Control proceeding. (Effective July 1, 2007; Rule 5.9.2 (now 5.10.2 renumbered effective January 1, 2014; adopted as Rule 5.9.2 effective January 1, 2007)

(Rule 5.9 (now 5.10) Adopted effective January 1, 2006)

RULE 5.11 ARBITRATION

The Court may require the parties to submit to arbitration, when applicable.

The provisions set forth in the California Rules of Court shall be followed except:

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1. When no request for compliance is filed within ten (10) calendar days after any case is ordered to arbitration, the provisions thereof are deemed waived and the administrator shall select an arbitrator at random from the panel of arbitrators. The arbitrator may appoint a specific arbitrator upon stipulation of all parties at any time prior to the selection of an arbitrator.

2. With the consent of the arbitrator, the parties may stipulate to one (1) continuance, not to exceed thirty (30) calendar days. Any further requests for continuance shall be made by motion before the Judicial Officer. (Rule 5.10 (now 5.11) renumbered effective January 1, 2014; adopted as Rule 38 effective July 1, 1992)

RULE 5.12 THE FAMILY LAW FACILITATOR

A. Pursuant to Family Code § 10000 et seq., the Fresno County Superior Court shall maintain an office of the family law facilitator. Services provided by the family law facilitator shall include, but are not limited to those set out in Family Code §10004.

B. Provided they have adequate staffing, time, funding, and available resources, the Family Law Facilitator may provide and perform any additional duties as directed by the Presiding Judge of the Family Law Department pursuant to Family Code § 10005. (Rule 5.11 (now 5.12) renumbered effective January 1, 2014; adopted as Rule 39 effective July 1, 1998)

(Chapter 5 amended effective January 1, 2006; adopted as Rule V effective July 1, 1992)

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CHAPTER 6. JUVENILE RULES

RULE 6.1 GENERAL PROVISIONS

6.1.1 Authority

These Juvenile Rules apply to matters heard in Juvenile Court, with the exception of juvenile traffic hearings and juvenile traffic hearing appeals. (Rule 6.1.1 renumbered effective January 1, 2006; adopted as Rule 50.1 effective January 1, 1999)

6.1.2 Administrative Presiding Judges of the Juvenile Court

There shall be an Administrative Presiding Judge of the Juvenile Delinquency Court and an Administrative Presiding Judge of the Juvenile Dependency Court. The Presiding Judges of the Juvenile Courts shall be selected by the Presiding Judge of the Court.

The respective Administrative Presiding Judges of the Juvenile Courts shall have the powers granted to and obligations imposed by law on the "Presiding Judge of the Juvenile Court", as such is used in California statute, case law and regulations.

To the extent possible the Administrative Presiding Judges of the Juvenile Courts shall remain in those respective positions for at least three years. (Effective July 1, 2012; Rule 6.1.2 renumbered effective January 1, 2006; adopted as Rule 50.2 effective January 1, 1999)

6.1.3 Juvenile Court Committees

The Administrative Presiding Judges of the Juvenile Courts may authorize and establish such informal committees related to Juvenile Court work and activities as they deem appropriate. Membership on such committees shall be as determined by the Administrative Presiding Judges of the Juvenile Courts.

The Administrative Presiding Judge of the Juvenile Delinquency Court shall be the Chair of the Fresno County Interagency Council for Children and Families, assist in the selection of members to the Juvenile Justice Commission and select the Court's appointment of a board member to the EOC Board of Directors.

The Administrative Presiding Judge of the Juvenile Dependency Court shall be the superior court judge to whom CASA is accountable as required by Welfare & Institutions Code § 201, et seq. (Effective July 1, 2012; Rule 6.1.3 renumbered effective January 1, 2006; adopted as Rule 50.3 effective January 1, 1999)

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6.1.4 Assignment of Juvenile Court Cases

It is the policy of the Juvenile Court to have all matters heard by a judicial officer assigned to the Juvenile Court to the extent possible. (Effective July 1, 2012; Rule 6.1.4 renumbered effective January 1, 2006; adopted as Rule 50.4 effective January 1, 1999)

6.1.5 Abbreviations

Abbreviations used in these Juvenile Law Rules are defined in Appendix D-1. (Effective July 1, 2012; Rule 6.1.8 (now 6.1.5) renumbered effective July 1, 2012; adopted as Rule 6.1.8 effective January 1, 2007)

(Rule 6.1 renumbered effective January 1, 2006; adopted as Rule 50 effective July 1, 1992)

RULE 6.2 CONFIDENTIALITY

6.2.1 Release of Information Relating to Juveniles

A. **Application of Rule.** Juvenile Court records are confidential. In accordance with Welfare & Institutions Code §§ 827 and 828, California Rules of Court, rule 5.552, and case law, disclosure and use of juvenile records shall be governed by this rule.

1. Definitions.

a. "Juvenile records and information" as used in this rule means any of the following:

1) Any document or record filed in any Juvenile Court proceeding,

2) Any document, record or information concerning a minor made available to the probation officer, DSS, GAL or CASA in preparing a report to the Juvenile Court; and

3) Any probation department, DSS, CASA, or state or local law enforcement document, record or information relating to a juvenile contact, or to a hold or arrest of a juvenile, even if Juvenile Court proceedings have not been instituted.

b. "Otherwise confidential" refers to records, which are also confidential under one or more other statutes (including, but not limited to, Civil Code § 56, et seq.; Welfare & Institutions Code §§ 5328, Penal Code §§ 11143, 11167, 13300; Government Code § 6254; Health & Safety Code §§ 10850, 11977, 120980). Note: Such records may not be shared with other agencies or individuals without the consent of the record holder or a court order.

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2. Nothing in this rule is intended to limit the exchange of information and documents as provided by Penal Code § 11166 et seq.

3. Persons or agencies receiving records or information pursuant to this rule shall not disclose such records or information to another person or agency unless such disclosure is authorized by the Juvenile Court or this rule.

B. Release of Documents.

1. Juvenile records and information cannot be obtained by civil or criminal subpoena. Unless otherwise authorized by law, juvenile records and information may be disclosed only by an order of the Juvenile Court as provided for by Welfare & Institutions Code § 827 and California Rules of Court, rule 5.552, except as subdivisions (d) and (e) of rule 5.552 are modified herein. For good cause shown, and compelling reasons, if a petition pursuant to § 827 seeks juvenile records and information for a court proceeding pending before a regularly sitting judge of the Superior Court of Fresno County, that judge shall be deemed to be a judge of the Juvenile Court, for purposes of applying this rule. Any order made by such a judge shall be filed with the Juvenile Court.

2. Once a petition to declare a person a dependent child or ward of the Juvenile Court has been filed, juvenile records and information, unless otherwise confidential, may be released without a court order to authorized Juvenile Court personnel, including judicial officers and the Clerk, and to those persons or agencies designated by Welfare & Institutions Code §§ 827 and 828.

3. If access to juvenile records and information is necessary and relevant in connection with, or in the course of, a civil or criminal investigation, a proceeding brought to declare a person a dependent child or ward of the Juvenile Court, or a proceeding involving custody, visitation, adoption, guardianship, conservatorship, emancipation, or domestic violence, the agencies listed below or their duly authorized representatives may share with any of the other listed agencies and their authorized representatives such records and information, not otherwise confidential, as the holder of the records and information deems to be appropriate and in the best interest of the minor. An agency or its authorized representative may petition the Juvenile Court for disclosure of any records or information not so disclosed.

- a. City Attorney offices;
- b. Coroner offices;
- c. Child Protective Services;
- d. County Counsel offices;

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- e. Probation departments (including their Victim/Witness Assistance programs);
- f. District Attorney offices;
- g. Family Court Services;
- h. Persons or agencies specified in Penal Code § 11167.5(b);
- i. Federal, state or local law enforcement agencies;
- j. Superior Court judicial officers and their immediate court personnel;

4. The Court recognizes that certain agencies need to inspect juvenile court records to accomplish the legitimate goals of the juvenile justice system. Such goals include the need to adequately evaluate an individual minor's background in order to develop a treatment plan, or the need to audit any part of the juvenile justice system to evaluate its operation. To that end, the agencies listed in rule 6.7.1(B)(3) above may disclose juvenile records, not otherwise confidential, to the following agencies upon providing the agency holding the juvenile records a declaration under penalty of perjury setting forth the need:

- a. County Mental Health departments;
- b. Department of Motor Vehicles;
- c. Federal, state, county and city auditors;
- d. Public guardian offices; and
- e. Other agencies as authorized in writing by the Presiding Judge of the Juvenile Court, for good cause shown.

5. Law enforcement agencies may disclose to a minor's parent(s) or legal guardian(s), and DSS or County Probation may disclose to a foster parent caring for a minor, such juvenile records of the minor, not otherwise confidential, as the agency deems appropriate and in the best interest of the minor.

6. Mental health records and information of a juvenile may be disclosed to the extent authorized by Welfare & Institutions Code § 5328 (e.g., written parental consent) or 18961 ("multi-disciplinary personnel teams").

7. Law enforcement agencies may disclose information, which is not otherwise confidential, from police reports written by officers of the agency

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concerning traffic accidents (excluding any driving record report) or incidents of criminal acts alleged to have involved one or more juveniles, to a person or entity (or its authorized representative) who was damaged by the accident or who was a victim of the crime. The information is to be released only for purposes of assisting the person or entity in obtaining reimbursement for injuries or damages caused by the conduct of the minor(s). The person to whom the information is released shall agree in writing that the person will not disclose any of the information released to him or her to anyone other than the person's attorney, insurance adjuster, or one legally representing the person's or entity's interest in recovering damages resulting from the incident. The person to whom the information is released shall also agree in writing that the information will be used for no purpose other than as stated above. Any document released pursuant to this paragraph shall be clearly marked "CONFIDENTIAL." It shall state that it is being provided pursuant to this rule, and that any distribution or use other than as allowed herein is a violation of this rule and that the violator may be subject to sanctions. Notwithstanding this rule, if the information identifying any juveniles is deleted, traffic accident reports may also be released to any state or local engineering department for use in the normal scope of the department's duties.

8. Nothing in this rule shall be used to limit disclosure of information as authorized by Welfare & Institutions Code §§ 627, 828, and 829. Additionally, the Fresno County Probation Department is authorized to inspect and utilize those records specified in Welfare & Institutions Code § 504 relating to serious habitual offenders.

9. The documents referenced below may be released to those agencies or individuals as specified herein.

a. DSS is authorized to disclose to the parties and their actual or prospective counsel at a dependency court detention hearing such documents as DSS deems to be appropriate as part of its prima facie statement including, but not limited to, the identity of all persons who reported any allegation of child abuse or neglect (see Penal Code § 11167(d)). If DSS chooses to delete the identification of the reporting party or parties, and a party to the dependency proceeding wants the identification disclosed, then that party may request that the Court order such disclosure. The Court shall not issue such an order except for good cause shown and only after an in camera review with DSS and/or its attorney of record having an opportunity to be heard.

b. In cases where a minor who has been taken into custody by DSS is abducted, then DSS may provide to the prosecuting authority the following documents and information:

- 1) Copies of any law enforcement reports which brought the matter to the attention of DSS;

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2) Copies of the juvenile dependency petition concerning that minor;

3) Copies of all minute orders or other court orders which show the Juvenile Court's jurisdiction over the minor, any knowledge of this jurisdiction by the suspected child abductor(s), and/or any appearance before the Court by the suspected child abductor(s);

4) Copies of any warrants or body attachments for the child or suspected child abductor(s);

5) Any addresses, telephone numbers, or other identifying information which could assist the District Attorney's office in locating the child or suspected child abductor(s).

c. Whenever a law enforcement agency has prepared a report referencing one or more juveniles involved in an incident related to school activity or attendance that occurred at any time within the scope of Education Code § 48900, the agency may release that report to a school official or other person authorized to act on behalf of the school, provided that the requesting person declares under penalty of perjury that the information in the report will be used exclusively for purposes of possible suspension, expulsion, or other disciplinary action against one or more minors referenced in the report and/or for seeking restitution under Education Code § 48904.

d. Whenever a juvenile has been assessed a fine or otherwise has been ordered by the Juvenile Court or Juvenile Court Traffic hearing officer to pay monies to the County, the Court is authorized to enter into the Case Management System Odyssey the name, address, telephone number, social security number, case number, amount ordered to be paid, and such other information as is reasonably necessary for the Court and/or the Revenue Collections Unit (RCU) of the Auditor-Controller/Treasurer-Tax Collector's Office for the collection of said monies. The Court shall take reasonable steps to limit access to this information in Odyssey to court and RCU personnel.

10. The Court recognizes that state prosecutors need to inspect and disclose certain juvenile court records as necessary to plead and prove prior qualifying juvenile adjudications within the meaning of Penal Code § 667 (commonly known as "Three Strikes"). To that end, a District Attorney of any county of the State of California, or the Attorney General of the State of California, and their agents and employees, are entitled to access any and all juvenile court records not previously ordered sealed pursuant to Welfare &

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Institutions Code § 781, related to a prior qualifying juvenile adjudication within the meaning of Penal Code § 667(d)(3). The District Attorney, Attorney General and their agents and employees are permitted to disclose, without further order of this court, so much of such records as is necessary to plead and prove an accusatory pleading pursuant to Penal Code § 667.

The enactment of Penal Code § 667 constitutes good cause to retain records of juvenile adjudications qualifying under that statute. No such juvenile records shall be routinely destroyed as provided in Welfare & Institutions Code §§ 781(d) and 826(a). Nothing in this rule is intended to limit the right of the person who is the subject of a juvenile court record to petition the Court for the destruction of such records.

C. **Petition Procedure.** Anyone seeking to inspect, copy or obtain juvenile records or juvenile case file information or testimony relating thereto, not otherwise specifically provided for by this rule, shall comply with the following requirements:

1. Juvenile records or information possessed by the Department of Social Services (DSS) or pertaining to a dependent of the Court:

a. Before filing the petition, petitioner shall contact Fresno County Counsel and provide the name and date of birth of the minor, and the nature of the records or information sought.

b. Fresno County Counsel will obtain from DSS information identifying parties and attorneys, and their addresses for notice. In those cases where there is, or has been, a juvenile court case, the attorneys appointed to represent the parties in that case shall be identified to petitioner.

c. Fresno County Counsel shall provide this information to petitioner, as well as a preliminary indication as to whether there will be opposition by DSS to the petition for disclosure.

d. Petitioner shall serve all parties and attorneys with a copy of the completed Request for Disclosure of Juvenile Case File (Judicial Council form JV-570). Forms are available in the Juvenile Dependency Clerk's Office and on the Judicial Council website at www.courts.ca.gov.

e. Before filing the petition, petitioner shall make good faith efforts to meet and confer with all parties for the purpose of obtaining a signed stipulation regarding release of the records or information, including any limitations on scope or content of the release. See sample stipulation in Appendix D3.

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f. If all parties sign a stipulation, petitioner shall file the petition and signed stipulation with the Juvenile Dependency Court, and serve them upon all parties. The Court shall review and consider the petition and stipulation and shall grant or deny the petition, or order the matter to be set for hearing.

g. If a stipulation is not signed by all parties, petitioner shall file the petition with the Juvenile Court, along with a declaration setting forth petitioner's efforts to meet and confer with all parties and the reason or reasons that a stipulation could not be obtained, and serve them upon all parties. The Court shall review and consider the petition and declaration and shall grant or deny the petition, or order the matter to be set for hearing.

2. Juvenile records or information possessed by the Probation Department or local law enforcement agencies:

a. Petitioner shall complete an Application to Inspect and/or Copy Juvenile Case File (Fresno Superior Court form #PJV-20) and submit to the Court. Form is available in the Juvenile Delinquency Clerk's Office or at www.fresno.courts.ca.gov.

b. If the application is denied, the petitioner may elect to file a Request for Disclosure of the Juvenile Case File (Judicial Council form #JV-570). Forms are available in the Juvenile Delinquency Clerk's Office and on the Judicial Council website at www.court.ca.gov.

c. If filing the JV-570, the following is required:

1) Petitioner shall serve the affected juvenile, or the juvenile's attorney, if known; and

2) The local law enforcement agency with a copy of the completed Request for Disclosure of Juvenile Case File (Judicial Council form #JV-570).

d. Before filing the petition, petitioner shall make good faith efforts to meet and confer with all parties for the purpose of obtaining a signed stipulation regarding release of the records or information, including any limitations on scope of content of the release. See sample stipulation in Appendix D3.

e. If all parties sign a stipulation, petitioner shall file the petition and signed stipulation with the Juvenile Delinquency Court, and serve them upon all parties. The Court shall review and consider the petition

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and stipulation and shall grant or deny the petition, or order the matter to be set for hearing.

f. If a stipulation is not signed by all parties, petitioner shall file the petition with the Juvenile Delinquency Court, along with a declaration setting forth petitioner's efforts to meet and confer with all parties and the reason or reasons that a stipulation could not be obtained, and serve them upon all parties. The Court shall review and consider the petition and declaration and shall grant or deny the petition, or order the matter to be set for hearing.

3. Upon an order that a hearing be held, the Clerk shall set the hearing within ten (10) court days and cause notice to be served upon all parties, as provided for in California Rules of Court, rule 5.552.

4. Responsive pleadings shall be filed and served no later than two (2) court days prior to the hearing. (Effective July 1, 2016; Rule 6.7.1 (now 6.2.1) renumbered effective January 1, 2006; adopted as Rule 56.1 effective July 1, 1999)

6.2.2 Release of Records to Parties and Their Attorneys

Any party or their attorney in any Welfare & Institutions Code § 300 matter shall be given access to all unsealed dependency records relating to the minor which are held by the Clerk. (Effective July 1, 2012; Rule 6.7.2 (now 6.2.2) renumbered effective January 1, 2006; adopted as Rule 56.2 effective January 1, 1999)

6.2.3 Public and Media Access

A. **Access to Specific Proceedings.** Pursuant to Welfare & Institutions Code §§ 346 and 676, dependency and delinquency proceedings are closed to the public unless the judicial officer in the courtroom grants access to the proceedings, in accordance with either Welfare & Institutions Code § 346 or 676.

1. **Conditions of Media Access to Specific Proceedings.** Where the public/media is admitted into a juvenile court proceeding, the following must be observed.

a. A member of the public or media representative must provide appropriate identifying information upon request to the court bailiff or clerk.

b. A member of the public or media representative shall conduct himself or herself in a manner consistent with the decorum and dignity of the courtroom. (See Code of Civil. Proc. 128, subd. (a).)

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c. Any requests to photograph, record, or broadcast a juvenile court proceeding shall be in accordance with California Rules of Court, rule 1.1.50.

B. **Request For Admission for Educational Purposes.** Any member of the public with a “direct and legitimate interest in the work of the Court” pursuant to Welfare & Institutions Code § 346 or 676 may be admitted to observe a juvenile court proceeding at the discretion of the Court. Such requests shall be made in a timely manner to ensure that the Court has time to consider the request and make the appropriate arrangements.

C. **Requests for Interviewing, Photographing, Videotaping, or Voice Recording of Dependent/Delinquent Children.** A person or media representative must obtain a Court order from a Judge of the Juvenile Court prior to contacting a child if the person or media representative seeks to interview, photograph, videotape or voice record a child, who the person knows, or has reason to know, is under juvenile court jurisdiction and has been removed from the physical custody of the parent or legal guardian.

Requests pertaining to delinquent children may be sent to the judge assigned to the case:

Delinquency Clerk’s Office
Juvenile Justice Campus
3333 E. American Ave., Bldg. 701, Ste. A
Fresno, CA 93725

Requests pertaining to dependent children may be sent to:

Dependency Clerk’s Office
1100 Van Ness Ave., Room 200
Fresno, CA 93724

1. **Access to Dependent or Delinquent Children Without Court Permission.** This rule does not prevent dependent or delinquent children from initiating contact with any person or media representative without Court permission. Additionally, this rule does not limit contact between any person or media representative and families, attorneys, detention facilities, or court-ordered placements without Court permission.

2. **Right to Refuse.** Conversely, nothing in this rule is intended to suggest that children, their families, attorneys, or personnel of detention facilities or placements have any obligation to agree to an interview or to provide information to media representatives.

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6.3.3 Declarations of Conflict and Appointment of New Counsel

A. Whenever any counsel for any party in a dependency proceeding determines that a conflict of interest exists which interferes with that attorney's ability to represent that client, the attorney shall immediately file such a declaration with the Court. All discovery in the possession of the attorney should be submitted to the Court at the time the declaration is filed.

B. The Court shall appoint new counsel upon receipt of the declaration, and the Clerk of the Court shall forward discovery to that attorney.

C. The Clerk shall provide notice of appointment of new counsel to all other parties. (Effective July 1, 2012; Rule 6.1.7 (now 6.3.3) renumbered effective January 1, 2006; adopted as Rule 50.7 effective July 1, 1999)

6.3.4 Attendance at Hearing

Unless excused by the Court, each party and attorney shall attend each scheduled Juvenile Court hearing. (Effective July 1, 2012; Rule 6.2.1 (now 6.3.4) renumbered effective January 1, 2006; adopted as Rule 51.1 effective January 1, 1999)

6.3.5 Presence of Minor in Court

All minors are entitled to attend court hearings. Every minor ten (10) years old or older shall be told of his or her right to attend court hearings and all minors ten (10) years old or older shall be given notice by DSS.

All minors ten (10) years old or older shall attend court hearings unless excused for one of the listed reasons:

- A. The minor's attorney waives the minor's appearance;
- B. The minor chooses not to attend;
- C. The minor is excused by the Court; or
- D. The minor is disabled, physically ill, or hospitalized.

No minor shall be brought to court solely for the minor to confer with his or her attorney or for a visit with a parent, relative or friend. The reason for a minor's failure to appear shall be placed on the record. (Effective July 1, 2012, Rule 6.2.5 (now 6.3.5) renumbered effective January 1, 2006; adopted as Rule 51.5 effective January 1, 1999)

6.3.6 Duties of Counsel

A. **General Duties.** All counsel representing parties in the Juvenile Dependency Court shall have the following duties and responsibilities:

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1. The attorney shall make inquiries necessary to determine at the outset of the proceedings whether a conflict exists in the representation of a party.

2. At a party's first appearance, the attorney shall verify with the client, to the extent the information is known, the names, addresses, telephone numbers, and relationships of all persons entitled to receive notice of the proceedings, including the birth dates of each party and child. The attorney shall also inquire as to the name, address, telephone number, and relationship of all known relatives and/or non-relative family members for possible placement of any detained child.

3. At a mother and/or father's first appearance, the attorney shall make inquiry of the client as to the applicability of ICWA, and so inform the Court.

4. At a mother and/or father's first appearance, the attorney shall make inquiry of the client as to paternity issues in order to resolve the status of paternity. The "Statement Regarding Parentage" form (Judicial Council form JV-505) shall be completed by any person claiming paternity status or non-paternity, which shall also be filed with the Court.

5. The attorney shall have a complete familiarity with the facts of the case by reviewing the court file, especially when appointed to represent a party in the middle of an ongoing case, and by bringing discovery motions, interviewing witnesses, procuring experts, and otherwise conducting an independent investigation.

6. The attorney should make all reasonable efforts to ensure that the client understands the Court processes, proceedings, and the potential and actual consequences of the proceedings. Special efforts should be taken to ensure that a client understands these matters if the client demonstrates any evidence of being developmentally delayed, or exhibits signs that he/she is suffering from any cognitive or emotional problems which would affect the client's ability to comprehend any aspect of the dependency proceedings.

7. The attorney shall maintain a current business address and working telephone number and promptly notify clients of any change of address or telephone number. The attorney should provide the client with his or her business card.

8. The attorney shall show courtesy and respect to judicial officers, all social workers, CASA, courtroom personnel, witnesses and all counsel.

9. The attorney should be aware of children present in the courtroom, so that discussions of sensitive case issues, whether pertaining to a particular

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child or other children, are not overheard by the children or made in an insensitive manner.

10. Settlement should be considered as soon as enough information is known about the case to make settlement discussions meaningful. In every case, the attorney should consider whether the client's interests could best be served and whether the case could be more appropriately resolved through settlement discussions.

B. Duties of Counsel Representing Children in Dependency Court. In addition to the foregoing duties, attorneys representing children shall have the following additional duties and responsibilities:

1. The attorney shall be thoroughly familiar with the requirements of Welfare and Institutions Code § 317(e) for the representation of children, rule 5.660 of the California Rules of Court regarding standards of representation, and rule 5.660 of the California Rules of Court regarding caseload size.

2. The attorney or his/her staff shall separately interview each child four years of age or older unless it is determined that the child has sufficient language skills to communicate at an earlier age. The attorney shall ascertain the child's wishes, needs, and background. Interviews should be done in an atmosphere where the child feels comfortable and privacy is ensured.

3. At the initial interview, where possible, the attorney shall inform the child, in language the child can comprehend, the nature of dependency proceedings, the role of the lawyer, the child's rights including the right to confidentiality, and the nature of the subject matter of any petition and the contents of any related report.

4. The attorney should be actively involved in, and vigorously advocate at, every stage of the proceedings involving a child client and take any necessary legal steps that would promote and advance a child's right to receive all appropriate reunification and permanent placement services and all other services and resources to meet the child's educational, dental, medical, and mental health needs. (Effective July 1, 2016; Rule 6.2.2 (now 6.3.6) renumbered effective January 1, 2006; adopted as Rule 51.2 effective January 1, 1999).

6.3.7 Access to Minors Petitioned Pursuant to Welfare & Institutions Code § 300

Except for DSS personnel:

A. No party or attorney in a dependency proceeding shall interview the minor about the events relating to the allegations in the petition(s) on file without permission of the minor's attorney or court order.

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B. No party or attorney, including minor's attorney, in a dependency proceeding shall cause the minor to undergo a physical, medical or mental health examination or evaluation without court approval. (Effective July 1, 2012; Rule 6.2.3 (now 6.3.7) renumbered effective January 1, 2006; adopted as Rule 51.3 effective January 1, 1996)

6.3.8 Interviewing Minors Who are Alleged Victims of Child Abuse or Neglect

All attorneys representing parties in a dependency case in which child abuse or neglect has been alleged and other participants in the case, including a child advocate, shall minimize the number of interviews given by the child relating to the events surrounding the alleged abuse or neglect. Those participants requiring information about the alleged incident shall first review any interviews taken or reports made by the investigating officer(s). (Effective July 1, 2012; Rule 6.2.4 (now 6.3.8) renumbered effective January 1, 2006; adopted as Rule 51.4 effective January 1, 1996)

6.3.9 Guardian Ad Litem for Minors

For purposes of the federal Child Abuse Prevention and Treatment Act and Welfare & Institutions Code § 326.5, the minor's attorney shall be deemed to be the minor's guardian ad litem (GAL) unless the Court orders otherwise. (Effective July 1, 2012; Rule 6.2.6 (now 6.3.9) renumbered effective January 1, 2006; adopted as Rule 51.6 effective January 1, 1999)

6.3.10 Guardian Ad Litem for Parents

The Court shall appoint any person that the Court deems qualified as a GAL to represent any incompetent parent or guardian whose child is before the Juvenile Court pursuant to a petition under Welfare & Institutions Code § 300. The determination of incompetency may be made by the Court at any time in the proceeding based upon evidence received from any interested party. (Effective July 1, 2012; Rule 6.2.7 (now 6.3.10) renumbered effective January 1, 2006; adopted as Rule 51.7 effective January 1, 1996)

6.3.11 Notice to Guardian Ad Litem, Access to Records, Right to Appear

In all proceedings, the GAL shall be given the same notice as any party, have the same access to all records relating to the case as would any party, and have the right to appear at all hearings. (Effective July 1, 2012; Rule 6.2.8 (now 6.3.11) renumbered effective January 1, 2006; adopted as Rule 51.8 effective January 1, 1996)

6.3.12 Care Providers

A minor's care provider shall be allowed to be present at the hearing and address the Court. (Effective July 1, 2012; Rule 6.2.9 (6.3.12) renumbered effective January 1, 2006; adopted as Rule 51.9 effective January 1, 1996)

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6.3.13 De Facto Parents

Upon a sufficient showing the Court may recognize the minor's present or previous custodians as de facto parents and grant standing to participate as parties in dispositional hearings and any hearings thereafter at which the status of the dependent child is at issue. The person seeking de facto parent status shall have the rights outlined in California Rules of Court, Rule 5.534(e). (Effective July 1, 2012; Rule 6.2.10 (now 6.3.13) renumbered effective January 1, 2006; adopted as Rule 51.10 effective January 1, 1996)

6.3.14 Relatives

Upon a sufficient showing, the Court may permit relatives of the child to be present at the hearing and address the Court. The Court shall hear from all parties before granting such permission. (Effective July 1, 2012; Rule 6.2.11 (now 6.3.14) renumbered effective January 1, 2006; adopted as Rule 51.11 effective January 1, 1996)

6.3.15 Court-Appointed Counsel Duties

All court-appointed counsel shall comply with their professional duties as required by statute, regulation, and state and local rules of court. (Effective July 1, 2012; Rule 6.2.12 (now 6.3.15) renumbered effective January 1, 2006; adopted as Rule 51.12 effective January 1, 1996)

6.3.16 Juvenile Dependency Collections Program for Cost of Legal Services

Once the case reaches disposition, the Court will determine if a party is responsible for the repayment of costs incurred for court appointed counsel for their children and/or self. The Court shall make a finding based on information provided by DSS in court or the Court will order the responsible parties to appear before a financial evaluation officer within thirty (30) days to determine the ability for the responsible party to pay cost for legal services. If it is determined that the responsible party is able to pay, monthly billing statements will be sent to the responsible party. If the installment payment becomes ninety (90) days in arrears, the account balance will be forwarded to an outside collections agency. Payments can be made in the Clerk's Office or mailed to the following address:

Fresno Superior Court
1100 Van Ness Ave., Rm. 200
Fresno, CA 93724

NOTE: At any time during this process, the responsible party can request to be heard in court. (Effective January 1, 2015; adopted as Rule 6.3.16 effective July 1, 2012)

6.3.17 The Child Advocate Program

A. **Referrals.** The judicial officer, or any party may refer a case to the CASA Program at any point in the dependency or delinquency proceedings. The CASA Program also may request that a referral be made by the judicial officer in a case

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brought to the attention of the CASA Program. All referrals must be signed by the judicial officer.

B. **Referral Criteria.**

1. **Appropriate Referrals.** Referrals to the CASA Program are appropriate when:

a. The Court needs specific information or would benefit from an independent investigation in order to make a decision regarding the child's welfare, except for information pertaining to allegations made in the petition.

b. There is an unnecessary delay in achieving family reunification, legal guardianship, adoption, or emancipation.

c. The child has a specific unmet need and requires advocacy to obtain educational, medical, or other services. This does not include the need for a mentor, big brother or sister, or special friend.

2. **Inappropriate Referrals.** Referrals are not appropriate when:

a. The child's behavior and/or the circumstances of the case would place the CASA volunteer at risk.

b. The child is unwilling to participate in the services or cooperate with the advocate.

c. The child is frequently AWOL.

d. The child is placed outside of Fresno County.

C. **Evaluation of a Referral.** The CASA Program will evaluate the referral to determine if it is appropriate for the CASA Program. In the event that the case is not accepted, the CASA Program will submit a report to the Court stating the basis for declining the referral.

D. **Acceptance of a Referral.** Once a case is accepted by the CASA Program and a CASA volunteer is identified, the Court will be asked to sign an order appointing the identified CASA volunteer.

E. **Status of CASA volunteers.**

1. **Appointment.** The CASA is appointed as a sworn officer of the Court, serves at the pleasure of the Court, and is bound by all the rules and

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standards set forth in Welfare & Institutions Code §§ 102 and 103, and California Rules of Court, rule 5.655.

2. Participation of CASAs, CASA Program Supervisors, and attorneys for the CASA Program.

a. A CASA has the right to be present at all hearings, sit at the counsel table during the proceedings, and participate in any reported conferences held in chambers. An advocate cannot be excluded from any reported proceedings for any reason, including the fact that he or she may be called upon to give testimony in the case.

b. A CASA volunteer for a child who has a child may participate in the dependency proceedings for both children.

c. Program supervisors may attend court hearings, participate in proceedings along with the CASA volunteer or in lieu of the CASA volunteer, and may serve as the CASA on the case.

d. Attorneys representing the CASA Program have the right to participate in any proceeding in Juvenile Court in which any aspect of the CASA Program is at issue.

3. Notice to CASA. Pursuant to Welfare & Institutions Code § 106, the CASA volunteer must be properly and timely noticed for all proceedings concerning the case on which he or she is appointed. The social worker on/assigned the case is responsible for providing notice to the CASA for regularly calendared matters. Any party requesting that a matter be added to the Court's calendar is responsible for providing notice to the CASA.

4. Reports. CASA reports shall be read and considered by the judicial officer. Minute orders shall reflect whether the CASA and/or the CASA supervisor was present at the hearing and that the CASA's report was read and considered by the Court. On behalf of any CASA submitting a report to the Court, the Child Advocates Office shall deliver sufficient copies for all parties and their counsel (including parents appearing in pro per) to the Court at least two (2) court days prior to the relevant hearing. The Court has the discretion to admit a CASA report regardless of the time it was submitted.

5. Distribution of Reports. Only parties and their counsel are entitled to receive copies of CASA reports. De facto parents are entitled to receive copies of CASA reports only if there is a court order directing distribution of the CASA report to the de facto parent(s). Relatives, foster parents, service providers and other interested parties are not entitled to receive CASA reports in the absence of a specific court order.

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F. **Reporting.** The CASA Program shall report regularly to the Presiding Judge of the Juvenile Dependency or Delinquency Courts with evidence that it is operating under the guidelines established by the National Court Appointed Special Advocate Association and the California State Guidelines for Child Advocates. (Effective July 1, 2016; Rule 6.2.14 (now 6.3.17) renumbered effective January 1, 2006; adopted as Rule 51.14 effective January 1, 1996)

6.3.18 **Child Advocates**

A. **Advocate's Functions.** Advocates serve at the pleasure of the Court having jurisdiction over the proceeding in which the advocate has been appointed. In general, an advocate's functions are as follows:

1. To support the child throughout the court proceedings;
2. To establish a relationship with the child to better understand his or her particular needs and desires;
3. To communicate the child's needs and desires to the Court in written reports and recommendations;
4. To identify and explore potential resources which will facilitate early family reunification or alternative permanency planning;
5. To provide continuous attention to the child's situation to ensure that the Court's plans for the child are being implemented;
6. To the fullest extent possible, to communicate and coordinate efforts with the case manager/social worker;
7. To the fullest extent possible, to communicate and coordinate efforts with the child's attorneys; and
8. To investigate the interests of the child in other judicial or administrative proceedings outside Juvenile Court; report to the Juvenile Court concerning same; and, with the approval of the Court, offer his or her services on behalf of the child to such other courts or tribunals.

B. **Sworn Officer of the Court.** An advocate is an officer of the Court and is bound by these rules.

Each advocate shall be sworn in by a Superior Court Judge before beginning his or her duties, and shall subscribe to the written oath set forth in Appendix D2.

C. **Specific Duties.** The Court shall, in its initial order of appointment, and thereafter in any subsequent order, specifically delineate the advocate's duties in each

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case, which may include independent investigation of the circumstances of the case, interviewing and observing the child and other appropriate individuals, reviewing appropriate records and reports, consideration of visitation rights for the child's grandparents and other relatives, and reporting back directly to the Court as indicated. If no specific duties are outlined by court order, the advocate shall discharge his or her obligation to the child and the Court in accordance with the general duties set forth in (A) above. (Effective July 1, 2012; Rule 6.2.15 (now 6.3.18) renumbered effective January 1, 2006; adopted as Rule 51.15 effective January 1, 1999)

6.3.19 Release of Information to Advocate

A. **Court Authorization.** To accomplish the appointment of an advocate, the Judge making the appointment shall sign an order granting the advocate the authority to review specific relevant documents and interview parties involved in the case, as well as other persons having significant information relating to the child, to the same extent as any other officer appointed to investigate proceedings on behalf of the Court.

B. **Access to Records.** An advocate shall have the same legal right to records relating to the child he or she is appointed to represent as any case manager/social worker with regard to records pertaining to the child held by any agency, school, organization, division or department of the State, physician, surgeon, nurse, other health care provider, psychologist, psychiatrist, mental health provider or law enforcement agency. The advocate shall present his or her identification as a court-appointed advocate to any such record holder in support of his or her request for access to specific records. No consent from the parent or guardian is necessary for the advocate to have access to any records relating to the child.

C. **Report of Child Abuse.** An advocate is a mandated child abuse reporter with respect to the case to which the advocate is appointed.

D. **Communication With Others.** DSS, Probation, the case manager, the child's attorney, the attorneys for parents, relatives, foster parents, any CASA advocate, and any therapist for the child shall engage in ongoing regular communication concerning the child's best interests, current status, and significant case developments. (Effective July 1, 2016; Rule 6.2.16 (now 6.3.19) renumbered effective January 1, 2006; adopted as Rule 51.16 effective January 1, 1996)

6.3.20 Advocate's Right to Timely Notice

In any motion concerning the child for whom the advocate has been appointed, the moving party shall provide the advocate timely notice. (Effective July 1, 2012; Rule 6.2.17 (now 6.3.20) renumbered effective January 1, 2006; adopted as Rule 51.17 effective January 1, 1996)

6.3.21 Calendar Priority for Advocates

In light of the fact that advocates are rendering a voluntary service to children and the Court, matters on which they appear should be granted priority on the Court's

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calendar, whenever possible. (Effective July 1, 2012; Rule 6.2.18 (now 6.3.21) renumbered effective January 1, 2006; adopted as Rule 51.18 effective January 1, 1999)

6.3.22 Advocate's Visitation Throughout Dependency

An advocate shall visit the child regularly until the child is secure in a permanent placement. Thereafter, the advocate shall monitor the case as appropriate until dependency is dismissed or the advocate is relieved from appointment. (Effective July 1, 2012; Rule 6.2.19 (6.3.22) renumbered effective January 1, 2006; adopted as Rule 51.19 effective January 1, 1996)

6.3.23 Family Law Advocacy

Should the Juvenile Court dismiss dependency and create a family law order pursuant to Welfare & Institutions Code § 362.4, the advocate's appointment may be continued in the family law proceeding, in which case the Juvenile Court order shall set forth the nature, extent and duration of the advocate's duties in the family law proceeding. (Effective July 1, 2012; Rule 6.2.20 (now 6.3.23) renumbered effective January 1, 2006; adopted as Rule 51.20 effective January 1, 1996)

6.3.24 Advocate's Right to Appear

An advocate shall have the right to be present and be heard at all court hearings, and shall not be subject to exclusion by virtue of the fact that the advocate may be called to testify at some point in the proceedings. An advocate shall not be deemed to be a "party" (California Rules of Court, Rule 5.530(b)(6)); however, the Court, in its discretion, shall have the authority to grant the advocate amicus curiae status, which includes the right to appear with counsel. (Effective July 1, 2012, Rule 6.2.21 (now 6.3.24) renumbered effective January 1, 2006; adopted as Rule 51.21 effective January 1, 1996)

(Rule 6.3 renumbered effective January 1, 2006; adopted as Rule 52 effective July 1, 1992)

RULE 6.4 DEPENDENCY COURT PROCEEDINGS

6.4.1 Determination of Paternity

A. The issue of the paternity of a minor may be determined in a Juvenile Court proceeding.

B. If a person claims to be the natural/biological father of a minor who is the subject of Juvenile Court proceedings, the Court may take such measures as are necessary to make a paternity finding and judgment.

C. In any paternity proceeding arising under this rule the Court shall inform the mother and the person claiming to be the father of their right to be separately represented by counsel on the issue of paternity. The Court shall advise the person claiming to be the father of his legal responsibilities should he be found to be the natural father of the minor, including the obligation to pay child support and the possibility he

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CHAPTER 7. PROBATE RULES

RULE 7.1 PLEADINGS

7.1.1 Form of Documents Presented for Filing in Probate Matters

A. When printed forms are reproduced on the front and back of a single sheet, the back sheet shall be inverted (tumbled) so that it can be read when affixed at the top in a file folder.

B. All persons filing as self-represented shall file with the court a separate verified declaration regarding his or her residence address, if the residence is not the address of record in the proceeding.

C. When a petition or other request for relief is presented to the court, the Probate Code section that allows the requested relief must appear below the title of the pleading.

D. If a beneficiary, heir, child, spouse, or registered domestic partner in any action before the Probate Court is deceased, that person's date of death shall be included in the petition.

E. When any document is filed for which a hearing is requested, an extra copy of the first page of the pleading shall be provided to the Clerk.

F. A proposed Order shall be submitted with all pleadings that request relief. If the proposed Order is not received in the Probate Filing Clerk's Office ten (10) days before the scheduled hearing, a continuance may be required.

G. All documents relating to a matter set for hearing shall have the hearing date, time and department set forth on the face of the document.

H. All documents containing attachments, schedules or exhibits shall be indexed and tabbed at the bottom. Each page shall have page numbers to facilitate review by the Probate Examiner's Office and the court. (Rule 7.1.1 renumbered effective January 1, 2006; adopted as Rule 70.1 effective July 1, 2004)

7.1.2 Filing Fees for Trust Matters

All initial proceedings for court supervision of trusts (including but not limited to related but separate trusts, or testamentary trusts funded by a probate) and Petitions to Establish Special Needs Trusts are new actions, and require assignment of a new case number and payment of a current filing fee. (Effective January 1, 2015; Rule 7.1.2 renumbered effective January 1, 2006; adopted as Rule 70.2 effective January 1, 2004)

(Rule 7.1 renumbered effective January 1, 2006; adopted as Rule 70 effective July 1, 1992)

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RULE 7.2 PROBATE APPEARANCES

7.2.1 Appearance Requirements

Court appearances are required at all hearings unless the matter has been recommended for approval (see Rule 7.3). When an appearance is required, local attorneys or unrepresented parties are expected to appear in person or by telephone, pursuant to California Rule of Court 3.670. (Effective July 1, 2008; Rule 7.2.1 renumbered effective January 1, 2006; adopted as Rule 71.1 effective January 1, 2004)

7.2.2 Telephonic Appearances

When telephone appearances are allowed, attorneys or parties may appear by "Court Call," by making prior arrangements with the private company that administers the program. Court Call may be arranged by calling (888) 882-6878, or the telephone number of any other vendor as approved by the Court. (Effective July 1, 2008; Rule 7.2.2 renumbered effective January 1, 2006; adopted as Rule 71.2 effective January 1, 2004)

(Rule 7.2 renumbered effective January 1, 2006; adopted as Rule 71 effective July 1, 1992)

RULE 7.3 PRE-APPROVED MATTERS/PROBATE EXAMINERS

A. All matters set for hearing are reviewed in advance by Probate Examiners. If the matter is submitted properly, if all procedural requirements have been satisfied, and if the matter does not require discretionary consideration by the Probate Judge, the matter will be pre-approved, and a court appearance will be unnecessary.

B. The telephone "Probate Examiner's Hot-Line" is recorded daily at 4:00 p.m., and contains a list of pre-approved, continued, and off calendar cases on the next day's calendar. The telephone number is (559) 457-1888 (option 1).

C. Pre-approved matters are called by the court at the time set for hearing. If there are no objections, and if the Probate Judge approves, the Order will be signed at that time. If someone appears at the hearing to object, or if the Probate Judge does not approve the petition, a new hearing date will be set and a copy of the minute order will be mailed to the moving party or attorney.

D. For all non-confidential matters, a copy of the Probate Examiner Notes is available upon request or can be retrieved by going to the Court's website, at www.fresno.courts.ca.gov.

E. If a matter is not pre-approved due to procedural irregularities, parties may submit to the Probate Filing Clerk additional documents to cure the irregularities or omissions, up to 24 hours before the hearing. Any additional documents received less than 24 hours before the hearing may not be considered by the court, and the matter may need to be continued. (Effective July 1, 2016; Rule 7.3 renumbered effective January 1, 2006; adopted as Rule 72 effective January 1, 2004)

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7.6.2 Pre-Approved Orders

Orders on uncontested matters may be approved by the court at the time noticed for hearing. A copy of the signed order will be immediately available to appearing counsel. Unrepresented parties may obtain a copy of the order at the Probate Filing Clerk's Office after 1:00 p.m. on the day of the hearing. (Rule 7.6.2 renumbered effective January 1, 2006; adopted as Rule 75.2 effective January 1, 2004)

7.6.3 Orders Correcting Clerical Errors

A. If, through inadvertence, the signed order is incorrect, and such inadvertence is brought to the attention of the court by written ex parte petition, the court will sign a new, correct order that relates back to the date of the original order (nunc pro tunc).

B. If the nunc pro tunc order does not restate all of the terms of the original order, it shall be substantially in the following form: "Upon consideration of the petition of (name of declarant) to correct a clerical error, the (title and date of mistaken order) is corrected by striking the following: (incorrect sentence or paragraph) and by substituting the following: (correct sentence or paragraph.)"

C. A complete sentence or paragraph shall be stricken, even if it is intended to correct only one word or a single figure. Reference shall be made to page and line numbers of the order being corrected. (Rule 7.6.3 renumbered effective January 1, 2006; adopted as Rule 75.3 effective January 1, 2004)

(Rule 7.6 renumbered effective January 1, 2006; adopted as Rule 75 effective January 1, 2004)

RULE 7.7 EX PARTE PROCEEDINGS

A. All ex parte petitions requesting that notice be dispensed with must be filed with the Court. The Court may grant or deny an ex parte request, or may set the matter for hearing and require notice to appropriate parties. If set for hearing the appropriate filing fees are due.

B. No testimony is taken in connection with ex parte applications in the Probate Department, so the application must contain facts sufficient to justify the relief requested. The facts stated in each declaration shall be set forth with particularity. Each declaration shall show affirmatively that the declarant can testify competently to the facts stated therein. The declarant may be any person who has knowledge of the facts. The application and declarations must be verified.

C. All ex parte applications and stipulations, shall be accompanied by a separate order complete it itself. It is not sufficient for such an order to state that the application has been granted, or that the sale of property as set forth in the application has been approved.

D. Requests to dispense with accountings will not be considered ex parte.

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E. Petitions for Final Distribution on Waiver of Account or Accountings on Waiver of Notice may not be submitted ex-parte, but shall be placed on the court's regular calendar. (Effective July 1, 2016; Rule 7.7 renumbered effective January 1, 2006; adopted as Rule 76 effective January 1, 2004)

RULE 7.8 BLOCKED ACCOUNTS

7.8.1 General Provisions

A. **Notice and Hearing.** A petition seeking to deposit funds or securities into a blocked account in a financial institution or trust company may be granted by the court ex parte.

B. **Title to Account.** The order as well as the title to the blocked account shall show the name of the minor, conservatee, or estate and shall state that the account is "blocked" and that no withdrawals of principal or interest shall be made without the prior written order of the court.

C. **Account Requirements.** All cash deposits into blocked accounts shall be into federally insured, interest bearing accounts.

D. **Maximum in Blocked Accounts.** In no event shall assets exceeding the maximum insured amount be held in any one federally insured depository. If it becomes necessary to transfer funds to an additional federally insured depository to comply with this rule, a request to transfer such funds may be submitted to the court on ex parte application, and the transfer shall be by an interbank or other direct transfer transaction unless otherwise approved or ordered by the court.

E. **Separate Petitions and Blocked Accounts for Each Minor.** A separate petition shall be filed for each minor whose funds are to be deposited into a blocked account. A separate blocked account shall be established for the funds of each minor.

F. **Withdrawals.** Withdrawals from a blocked account may be requested by ex parte application using the appropriate Judicial Council form. In all cases, sufficient documentation to support the requested withdrawal must be submitted with the application, including copies of bills, statements, or letters related to the request.

G. **Notice.** The court in its discretion may require a noticed hearing, even if the request to withdraw funds is submitted ex parte.

H. **Direct Payment.** If the withdrawal is granted, the order shall provide that payment will be made directly to the vendor or service provider and not to the applicant, unless the withdrawal is for reimbursement of an expense already paid by the applicant.

I. **Court Policy.** Absent a showing of good cause, it is the policy of the court to block all funds in Guardianship Estates. (Effective January 1, 2012; Rule 7.8.1 renumbered effective January 1, 2006; adopted as Rule 77.1 effective January 1, 2004)

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7.8.2 Accounting Requirements for Blocked Accounts

A. If a guardianship of the estate is established and the court orders that all assets are to be deposited into a blocked account, the guardian shall file an inventory and appraisal within ninety (90) days of appointment and thereafter file a first account one (1) year after date of appointment. The petition on the first account may include a request that the court dispense with further accountings until the guardianship is terminated.

B. If the guardian of the estate requests authority to deposit the minor's funds into a blocked brokerage account to allow greater flexibility in investments, the court will not dispense with accountings but will continue to require annual and biennial accountings even though all assets are blocked. If accountings are not dispensed with, the Court will set a status hearing for the filing of the next accounting. (Effective January 1, 2015; Rule 7.8.2 renumbered effective January 1, 2006; adopted as Rule 77.2 effective January 1, 2004)

7.8.3 Withdrawals from Minor's Blocked Account During Minority

A. With the exception of withdrawals to pay taxes on a minor's funds, requests to withdraw funds will ordinarily be denied if either or both parents are living and financially able to pay the requested expenditure. An application to withdraw funds to pay income taxes on the minor's funds shall include a breakdown of state and federal taxes due and any costs of preparation. An application to withdraw funds for purposes other than payment of taxes shall be accompanied by a financial declaration by the parent or parents describing their income and expenses and, if applicable, other circumstances justifying the use of the minor's assets. A statement regarding the minor's employment and income, if any, shall also be attached. If the request is for multiple items, each item must be listed separately, with its cost.

B. If a withdrawal is requested for the purchase of a car, a copy of the proposed purchase/sale agreement shall be attached to the application showing the type of car, year, purchase price, and whether payment will be made in full or in specified installments. A binding agreement shall not be entered into before obtaining a court order. A casualty insurance quote shall be attached to the application showing public liability coverage at current state minimum limits per person and per accident for automobile insurance or policy limits equal to the funds which will remain on deposit after the purchase, whichever is greater. The application shall contain an explanation of who will pay for the insurance. A copy of the minor's current report card; a statement as to who will pay for the automobile's maintenance; and a statement of the current availability of public and alternate transportation shall also be submitted.

C. If the request for withdrawal pertains to medical or dental care, including orthodontia, a statement from the doctor, dentist or orthodontist regarding the need for the treatment to be performed and the cost of the treatment shall be submitted, together with a declaration by the applicant explaining why the expense is not covered by insurance.

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D. Requests to pay for educational or recreational programs must describe the program and include a statement as to the necessity or appropriateness of the program for the minor. (Effective July 1, 2012; Rule 7.8.3 renumbered effective January 1, 2006; adopted as Rule 77.3 effective January 1, 2004)

(Rule 7.8 renumbered effective January 1, 2006; adopted as Rule 77 effective January 1, 2004)

RULE 7.9 PUBLICATION

A. If the decedent resided or owned property within the city limits of the following cities, publication shall be made as follows:

If the residence or property owned was in:

Publish in

Fowler
Fresno

Fowler Ensign
Fresno Bee, or
Fresno Business Journal

Kerman
Kingsburg
Mendota

Kerman News
Kingsburg Recorder
Firebaugh Mendota Journal,
or Mendota Times

Prather
Reedley
Sanger
San Joaquin
Selma

Mountain Press
Reedley Exponent
Sanger Herald
Westside Advance
Selma Enterprise

B. If the decedent lived outside the city limits of the cities listed above, or anywhere else within the County of Fresno, publication shall be in the Fresno Bee or the Fresno Business Journal. This includes but is not limited to the following areas: Auberry, Big Creek, Biola, Cantua Creek, Caruthers, Centerville, Clovis, Coalinga, Del Rey, Dunlap, Friant, Firebaugh, Five Points, Huron, Kings Canyon, Laton, Miramonte, Orange Cove, Parlier, Piedra, Pinedale, Raisin City, Riverdale, Shaver Lake, Squaw Valley, Tollhouse, or Tranquility. (Effective July 1, 2016; Rule 7.9 renumbered effective January 1, 2006; adopted as Rule 78 effective January 1, 2004)

RULE 7.10 LETTERS FOR MULTIPLE REPRESENTATIVES

When more than one person is appointed as guardian, conservator, or personal representative, the names and signatures of all appointed persons shall appear on each copy of the Letters to be issued by the Clerk. (Rule 7.10 renumbered effective January 1, 2006; adopted as Rule 79 effective January 1, 2004)

7.10.1 Duties and Liabilities

The birth date and driver's license number, if any, of a personal representative (other than public entities or trust companies) shall be provided in the receipt of acknowledgement of duties and liabilities as required by Probate Code section 8404.

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This information shall be kept confidential and shall not be made available for public inspection without a court order. (Effective January 1, 2006, New)

(Rule 7.10 renumbered effective January 1, 2006; adopted as Rule 79 effective January 1, 2004)

RULE 7.11 INVENTORY AND APPRAISAL

7.11.1 Definitions

A "Final" Inventory and Appraisal may be submitted as a complete inventory of all estate assets, or may be filed after the filing of a partial inventory.

A "Partial" Inventory describes only a portion of the known estate assets, and should be identified as "Partial #1," #2, etc.

A "Supplemental" Inventory contains assets discovered or received after a Final Inventory and Appraisal has been filed.

A "Corrected" Inventory supersedes and completely restates an original inventory (final, partial or supplemental) and should show the total inventory amount as amended. (Rule 7.11.1 renumbered effective January 1, 2006; adopted as Rule 80.1 effective January 1, 2004)

7.11.2 Inventory Description of Real Property

The Inventory and Appraisal shall describe real property by legal description, street address (if any), whether improved or unimproved, and any assessor's parcel number. The Inventory must identify the estate's interest in the property by percentage of ownership, and how title was held (i.e., joint tenancy, community property, sole and separate property, etc.) (Rule 7.11.2 renumbered effective January 1, 2006; adopted as Rule 80.2 effective January 1, 2004)

(Rule 7.11 renumbered effective January 1, 2006; adopted as Rule 80 effective January 1, 2004)

RULE 7.12 PETITIONS FOR DISTRIBUTION

7.12.1 Listing of Property to be Distributed

A petition for distribution must list and describe in detail all property to be distributed. The description shall include cash on hand. Promissory notes must be described as secured or unsecured. If secured, the security interest must be described. The legal description and APN of all real property must be included. Description in the petition of any asset by reference to the inventory is not acceptable. (Rule 7.12.1 renumbered effective January 1, 2006; adopted as Rule 81.1 effective January 1, 2004)

7.12.2 Characterization of Property to be Distributed

A petition for distribution must describe the character of the property, whether separate or community. If some portion of the estate consists of community property, the petition must show whether the interest to be distributed is the decedent's one-half (1/2) interest in the community property or the community property of both spouses. (Rule 7.12.2 renumbered effective January 1, 2006; adopted as Rule 81.2 effective January 1, 2004)

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7.12.3 Distribution of Personal Effects

The Court will not order distribution of personal property, including but not limited to furniture, vehicles, or appliances, in undivided interests without factual allegations showing good cause or the written consent of all distributees. Parties requesting distribution of personal property in undivided interests to a minor must first submit a detailed declaration documenting the need therefor and why it would be in the minor's best interest. (Effective July 1, 2016; Rule 7.12.3 renumbered effective January 1, 2006; adopted as Rule 81.3 effective January 1, 2004)

7.12.4 Distribution of Real Property

A. The court will not order distribution of real property in undivided interests absent the written consent of all distributees.

B. Parties requesting distribution of real property in undivided interests to a minor must first submit a detailed declaration documenting the need therefore and why it would be in the minor's best interest. (Effective July 1, 2016; adopted as Rule 7.12.4 effective January 1, 2008)

7.12.5 Distribution to Inter Vivos Trusts

If property in the estate is to be distributed to a pre-existing trust, the current trustee must file a declaration setting forth the name of the trust, its establishment date, taxpayer identification number, verifying that the trust is in full force and effect, and that the trustee has an executed copy of the trust in possession. (Effective January 1, 2008, Rule 7.12.4 effective January 1, 2006; adopted as Rule 81.4 effective January 1, 2004)

7.12.6 Retention of Closing Reserve

A. Petitions for final distribution that request the retention of funds from distribution (a closing reserve) in excess of \$5,000.00 shall be subject to an informal accounting to be filed with the Court within six (6) months of the date of the order for final distribution. The informal accounting shall be filed with the Court ten (10) days prior to the six-month status hearing which the Court shall set at the time the order for final distribution is made. If the informal accounting is timely filed and meets with the Court's satisfaction, the status hearing for the informal accounting may come off calendar and no appearance at the hearing will be required.

B. Where the closing reserve is in excess of \$5,000.00 an order for final distribution of an estate shall specifically set forth the use that may be made of the funds retained for closing reserve. The informal accounting of funds retained for closing reserve shall specify the date of payments and all uses of the retained funds (i.e., income taxes, final closing costs, property tax assessments). The Court in its discretion may require a noticed hearing on the accounting and/or a more formal accounting of the funds retained for closing reserve.

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C. Where the closing reserve is in excess of \$5,000.00 the application for final discharge of the personal representative must include the disposition of all funds retained for closing reserve and receipts from beneficiaries shall be filed for any distributions of the retained funds to beneficiaries.

D. No closing reserve funds shall be used for attorney fees or personal representative commissions. (Effective July 1, 2015, New)

(Rule 7.12 renumbered effective January 1, 2006; adopted as Rule 81 effective January 1, 2004)

RULE 7.13 WAIVER OF ACCOUNTING IN PROBATE ESTATES

A petition requesting distribution on a waiver of accounting shall include the current status of all inventoried items. The petition must include a list of the property on hand for distribution as it exists at the time of the petition and not merely as shown on the inventory and appraisal, unless there has been no change. (Rule 7.13 renumbered effective January 1, 2006; adopted as Rule 82 effective January 1, 2004)

RULE 7.14 DISCLAIMERS AND ASSIGNMENTS IN PROBATE ESTATES

A copy of a disclaimer must be on file prior to the hearing on a petition for distribution of an affected asset. An assignment of a beneficiary's interest in a probate estate shall be filed prior to the hearing on a petition for distribution of the beneficiary's interest. (Rule 7.14 renumbered effective January 1, 2006; adopted as Rule 83 effective January 1, 2004)

RULE 7.15 CONSERVATORSHIPS AND GUARDIANSHIPS

7.15.1 Investigation Costs

Unless investigation fees are waived, pursuant to Probate Code section 1851.5 or 1513.1, the Court will assess fees for the cost of investigations in guardianship and conservatorship cases. Investigation fees in guardianship matters will usually be waived if the fee for filing the initial petition was waived. Petitioners who do not qualify for a waiver of investigation fees, may request a monthly installment plan. Monthly billing statements will be sent to conservators, guardians or parents, and copies will be sent to their attorneys. If the installment payment becomes 90-days in arrears, accounts will be forwarded to an outside collection agency.

Payments can be made in the Clerk's Office or mailed to the following address:

Fresno County Superior Court
Attention: Probate
1130 O Street, Room 300
Fresno, CA 93721

(Effective January 1, 2014; Rule 7.15.1 renumbered effective January 1, 2006; adopted as Rule 84.1 effective January 1, 2004)

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7.15.2 Independent Powers

It is the policy of the court to grant a guardian or conservator only those independent powers necessary in each case to administer the estate. A request for all powers described in Probate Code § 2591 will not be granted by the court. Each independent power requested must be justified by, and narrowly tailored to the specific circumstances of that case. Any powers so granted must be specified in the order and in the Letters of Guardianship or Conservatorship. (Rule 7.15.2 renumbered effective January 1, 2006; adopted as Rule 84.2 effective January 1, 2004)

7.15.3 Temporary Conservatorships and Guardianships

A. **Filing Procedure.** The original and two (2) copies of the Petition for Appointment of Temporary Guardian or Conservator shall be presented to the Clerk for filing.

B. **Hearings.** All temporary requests are considered by the Court ex parte as well as set for hearing. In each instance, the Court will advise counsel or the self-represented petitioner if the request is granted ex parte and Letters may be made available. Appearance and notice are required at the hearing set for the temporary petition pursuant to Probate Code § 2250 et seq.

C. **Voluntary Mediation.** To expedite court proceedings, the Court may refer or encourage parties to participate in a voluntary mediation.

D. **Requirements.** The court will generally deny requests for ex-parte appointment of a temporary guardian unless the application establishes that a present emergency exists and that the minor is currently residing with the petitioner. If the minor is residing with a parent and the petitioner believes the child is in danger, a referral should be made to Child Protective Services. (Effective January 1, 2015; Rule 7.15.3 renumbered effective January 1, 2006; adopted as Rule 84.3 effective January 1, 2004)

7.15.4 Receipt of Public Benefits

When the only asset or income of a proposed conservatee or ward is the receipt of public assistance benefits, the court does not require appointment of a conservator or guardian of the estate. (Rule 7.15.4 renumbered effective January 1, 2006; adopted as Rule 84.4 effective January 1, 2004)

7.15.5 Guardianship of the Estate

Where appointment of a guardian of the estate is sought for more than one related minor, a separate case number shall be assigned for each minor. If the petition requests appointment as guardian of the person only, a single petition shall be filed for all sibling minors. (Effective January 1, 2015; Rule 7.15.6 (now 7.15.5) renumbered effective January 1, 2006; adopted as Rule 84.6 effective January 1, 2004)

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7.15.6 Guardianship Filing Requirements

A. When a Petition for Appointment of a Guardian is filed, the court will retain the original copy of all documents (except the Notice of Hearing), and will require the following additional copies:

1. Face page and two additional copies of the Petition.
2. Two additional copies of the Guardianship Questionnaire.
3. Two additional copies of the Declaration Under Uniform Child Custody and Jurisdiction Act (UCCJEA).

B. The Guardianship Questionnaire is a local form which is available at 1130 O Street, Fresno, CA, or on the court's website. (Effective January 1, 2012; Rule 7.15.7 (now 7.15.6) renumbered effective January 1, 2006; adopted as Rule 84.7 effective January 1, 2005)

7.15.7 Effect of Other Pending Proceedings Regarding the Child

A Petition for Appointment of a Guardian of a minor will not ordinarily be considered if any of the following circumstances exist:

A. A matter involving custody of a child is presently pending in the Family Law Court. In such case, a petitioner seeking custody or visitation rights will be instructed to seek joinder in the family law proceeding and request relief from that court. Under emergency conditions, a temporary guardianship may be granted, but only if the child is already in the custody of the proposed guardian.

B. The minor is subject to the jurisdiction of the Juvenile Court. (Effective January 1, 2012; Rule 7.15.8 (now 7.15.7) renumbered effective January 1, 2006; adopted as Rule 84.8 effective January 1, 2004)

7.15.8 Conservatorship Requirements

A. **Conservator Video.** Before the hearing on the appointment of a conservator, the proposed conservator shall view the video entitled "With Heart: Understanding Conservatorships." The video is available for viewing in the Probate Clerk's Office or on the Court's website at www.fresno.courts.ca.gov/probate/conservatorship. Individuals who plan to view the video in the Clerk's Office are encouraged to call the following number for viewing times: (559) 457-1888. The proposed conservator shall present the "Proof of Viewing" form, available in the Clerk's Office and on the Internet, to the Court at the time of the general hearing. A conservator who resides outside of Fresno County and has no access to the Internet may make arrangements to view the video at any other superior court location statewide.

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B. **Sale of Conservatee's Residence and Exclusive Listings for Sale.** Petitions for authority to sell the conservatee's residence must be set on the regular probate calendar. Request for authorization to execute an exclusive listing agreement may be submitted ex parte.

C. **Appointment of Successor Conservator.** If the Petitioner and the proposed successor conservator are not the same person, the petition must specifically allege that the petitioner met and conferred with the person being nominated for appointment as successor conservator and that the person agrees to accept appointment as successor conservator. Notice must be mailed to the proposed successor conservator. (Effective July 1, 2016; Rule 7.15.9 (now 7.15.8) renumbered effective January 1, 2006; adopted as Rule 84.9 effective January 1, 2004)

7.15.9 **Compensation of Court-Appointed Attorney**

A. **Source of Payment.** At the time of appointment, the Order Appointing Counsel shall indicate whether the attorney is to be paid by the conservator of the estate, by the person represented, or by the County of Fresno at the court rate.

B. **Payment by Conservator of Estate or Person Represented.** If the conservatee or person represented has the ability to pay compensation and expenses of counsel, as indicated on the Order Appointing Counsel, the attorney shall file a petition for compensation, including a complete statement of the services rendered and a detailed breakdown of the hours spent, the hourly rate and the total amount requested for such services. Notice of the hearing shall be given pursuant to Probate Code § 1460.

C. **Payment by County.** If the conservatee or person represented does not have the ability to pay compensation and expenses of counsel, as indicated on the Order Appointing Counsel, the attorney shall request payment by filing the form entitled "Application and Order for Payment of Attorney's Fees" which is available from the Probate Filing Clerk. The application shall be accompanied by:

1. A complete statement of the services rendered, including the date, hours spent and narrative description of the services rendered, and
2. A detailed breakdown of all expenses paid, if any, including photocopies of receipts.

The application may be submitted to the Probate Filing Clerk, Room 300 of the B.F. Sisk Courthouse, for delivery to the Clerk designated to review and process the application. Questions regarding content and requirements may be directed to the Clerk prior to submission of the application. The attorney may thereafter file a separate ex parte application to be submitted to the Probate Judge for discharge as attorney of record for the conservatee or person represented.