SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MODOC
LOCAL RULES OF COURT

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LOCAL RULES OF THE MODOC COUNTY SUPERIOR COURT

CHAPTER 1: GENERAL RULES

1.01 Citation of Rules:

These Rules are to be cited as the “Local Rules of the Modoc County Superior Court”.

(Rule 1.01 adopted effective January 1, 2011.)

1.02 Effective Date of Rules:

These Local Rules of Court for Modoc County Superior Court County were originally adopted January 1, 2011, and amended January 1, 2015.

(Rule 1.02 amended effective July 1, 2014; adopted effective January 1, 2011.)

1.03 Effect of Rules; Judicial Council Preemptions:

A. Effect of These Amendments on Prior Local Rules:
On their respective effective dates, these Rules, as amended, will supersede all Local Rules previously adopted.

B. Judicial Council Preemptions:
With certain specified exceptions, the Judicial Council has preempted all Local Rules relating to pleadings, demurrers, ex parte applications, motions, discovery, provisional remedies, and form and format of papers, Rule 3.20 of the California Rules of Court. The Judicial Council preemption does not apply to trial and post-trial proceedings (including but not limited to motions in limine). The preemption also does not apply to proceedings under Code of Civil Procedure Sections 527.6, 527.7, and 527.8, to proceedings under the Family Code, the Probate Code, the Welfare and Institutions Code, the Penal Code and other criminal provisions, or to eminent domain proceedings.

(Rule 1.03 adopted effective January 1, 2011.)

1.04 Construction and Application of Rules; Publisher of Rules:

These Rules will be construed and applied in such a manner so as to avoid conflict with the laws of the State of California or the California Rules of Court, and will be liberally construed in order to facilitate and promote the business of, and the administration of justice by, the Modoc Superior Court. These Rules do not apply to actions or proceedings in the Small Claims Division unless the text of a specific rule otherwise indicates. These Rules apply to any person appearing before the Court on his or her own behalf, without a lawyer, as well as to attorneys.

The Executive Officer of the Superior Court is the official publisher of these Rules. Copies will be maintained for public inspection in the offices of the Clerk of the Court and will be posted on the Court's website at www.modocsuperiorcourt.ca.gov.

(Rule 1.04 adopted effective January 1, 2011.)

1.05 Definitions of Words Used in these Rules:

The definitions set forth in Rule 1.6 of the California Rules of Court apply to these Rules with equal force and for all purposes, unless the context or subject matter otherwise requires. The word "person" includes and applies to corporations, firms, associations, and all other entities, as well as to natural persons. The word "affidavit" includes and applies to a declaration, and the word "declaration" includes and applies to an affidavit. The use of the masculine, feminine, or neuter gender includes the others. The word "Court" means the Superior Court of the State of California in and for the County of Modoc, and it includes any judge or temporary judge appointed or elected to the Court, and any judge duly assigned thereto. The word "judgment" includes and applies to any judgment, order, or decree from which an appeal lies. The terms "in propria persona", "in pro per", "unrepresented party", or "self-represented party" all mean a person appearing without a lawyer. The word "civil" means all matters of a general civil nature and all matters that are special proceedings under the California Code of Civil Procedure. The word "probate" means all matters brought under the California Probate Code regardless of whether or not a decedent's estate is the subject of the action, and the phrase "family law" applies to all matters brought under the California Family Code.

(Rule 1.05 adopted effective January 1, 2011.)

1.06 Amendment or Addition to, or Repeal of, Local Rules of Court:

These Rules may be amended or repealed, and new Rules may be added, by a vote of the judges of the Modoc County Superior Court.

(Rule 1.06 adopted effective January 1, 2011.)

1.07 Appeals:

All appeals filed with Modoc Superior Court Appellate Division will be processed pursuant to Appendix A.

(Rule 1.07 adopted effective July 01, 2024)

CHAPTER 2: ADMINISTRATIVE MATTERS

2.01 Judges Pro Tem:

Temporary judges will be appointed for the Court in accordance with Rule 2.810, et seq. of the California Rules of Court, and will serve as, assigned by, and under the control and supervision of, the presiding judge of the Court.

(Rule 2.01 adopted effective January 1, 2011.)

2.02 Official Court Reporters:

A. Reported Proceedings.
The following proceedings normally are not reported by an official court reporter: the civil law and motion calendar; the probate calendar; civil, probate, and family law trials; family law contested hearings; hearings carried over from the regular calendar in family law; small claims trials de novo; and hearings of any civil, probate, traffic, small claims or family law nature. The Court, in its discretion, may order that any of the previously mentioned matters be reported. All other proceedings will be reported by an official court reporter.

B. Request for Presence of Official Court Reporter; Deposit.
Any party who requests the presence of an official court reporter for a trial or other proceeding not normally reported (as set forth above) must make that request, by written notice to the Clerk of the Court, not less than ten (10) days prior to commencement of the proceeding, or at such other time as the Court may require. At the same time the requesting party, in order to reserve an official court reporter, must deliver $200 to the clerk as a deposit on the fee for the first full day of the court reporter's services (Govt. C §68086(a); CRC Rule 2.956.), regardless of the time estimated for the hearing. In the alternative, a party requesting a court reporter may be directed by the Clerk of the Court to make his or her own arrangements for the attendance of a court reporter at the proceeding at his or her expense.

C. Effect of Settlement on Deposit for Official Court Reporter.
If the proceeding for which an official court reporter has been requested is settled or continued, or for any other reason does not go forward as calendared, it is the duty of the party who requested the reporter to so notify both the Court and the office of the official court reporter not later than 24 hours prior to the scheduled proceeding. Failure to provide such notice will result in forfeiture of the deposit for the requested court reporter, and the deposit will be applied to payment for the court reporter's services. The court reporter will be entitled to receive his or her per diem rate and mileage, if any.

(Rule 2.02 adopted effective January 1, 2011.)

2.03 Case Disposition Time Standards:

It is the policy of the Court to manage all cases from filing (in civil matters) and first appearance (in criminal matters) through final disposition. This policy is to be construed in a fashion that is consistent with existing law. This policy is established to maximize efficient use of court resources, to improve the administration of justice by encouraging prompt disposition of all matters coming before the Court, and to resolve cases within the time standards established in the California Rules of Court, Standards of Judicial Administration (hereinafter, "the Standards").

(Rule 2.03 adopted effective January 1, 2011.)

2.04 Smoking during Court Proceedings:

Smoking in public buildings in Modoc County is prohibited. Smoking near public buildings is permitted in designated areas only. The designated areas are clearly marked. Smoking is permitted outside of public buildings only at distances greater than twenty feet from any entrance. No smoking will be permitted at any time in jury deliberation rooms. In jury trial cases, the jury foreperson is required, upon the request of any juror, to allocate smoking breaks, not to exceed ten minutes during each hour of deliberation, at which times jurors may adjourn to outside of the courthouse for taking a smoking break. During such periods, deliberations must be suspended and jurors must not discuss the case at hand in any way. The foreperson must arrange with the bailiff for smoking breaks, and the bailiff will remain in attendance during such periods. The judge presiding over each trial will advise the jurors of this Rule, and will admonish jurors concerning discussions of the case by them during smoking breaks. Counsel may stipulate that an initial admonishment will be sufficient, without repetition at each break.

(Rule 2.04 amended effective January 1, 2015: adopted effective January 1, 2011.)

2.05 Courtroom Decorum:

Persons appearing in the courtroom must wear appropriate attire. Shoes and shirts are required. Garments displaying inappropriate language, signs or symbols are prohibited. Hats may not be worn in the courtroom. There shall be no eating or gum chewing in the courtroom. There shall be no drinking in the courtroom except by attorneys, parties, court staff and jurors during extended proceedings as may be permitted by the Court.

(Rule 2.05 adopted effective January 1, 2011.)

2.06 Court Executive Officer; Executive Officer’s Assumption of Responsibilities of the Clerk of the Superior Court:

A. Court Executive Officer.

The Court has hired a Court Executive Officer, whose responsibilities include all those duties set forth in Rule 10.610 of the California Rules of Court and in Code of Civil Procedure §195.

B. Assumption of the Duties of the Clerk.
The powers, duties and responsibilities of the Clerk of the Court that are specified in Government Code §§ 69841, 69842, 69843, 69844, 69844.5, 69844.7, 69845, 69846, 69846.5, and 69848, and by any other statutory authority, will be exercised or performed by or at the direction of the Court Executive Officer.

(Rule 2.06 amended effective January 1, 2015; adopted effective January 1, 2011.)

2.07 Code of Ethics for Court Employees:

The Court adopts the Code of Ethics for Court Employees issued by the California Judicial Council on May 17, 1994, and as thereafter amended or modified, and directs that all Court employees be bound by this Code.

(Rule 2.07 adopted effective January 1, 2011.)

2.08 Jury Selection Boundaries:

Except as otherwise provided by Code of Civil Procedure §§190, et seq., jury selection boundaries for the Superior Court of Modoc County will be the entirety of Modoc County, California.

(Rule 2.08 adopted effective January 1, 2011.)

2.09 Excuses from Jury Service:

A. General Policy regarding Excuses from Service.
    1. No class or category of persons will be automatically excluded from jury service, except as may be provided by law.
    2. A statutory exemption from jury service will be granted only when the eligible person claims it.
    3. Inconvenience to a prospective juror or an employer is not an adequate reason to be excused from jury service, although it may be considered as a ground for deferral.
    4. Deferring jury service is preferred to excusing a prospective juror for a temporary or marginal hardship. Vacations or extended trips are examples of circumstances that warrant deferral rather than excuse from jury service.
    5. A juror who has served on a grand jury or trial jury anytime during the twelve months immediately preceding his or her call to jury service, or any

longer period that the Court deems appropriate, will be excused from service at his or her request.

B. Form of Request to Be Excused from Jury Service.
A request to be excused from jury service for hardship must be from the prospective juror and must be in writing. The request must be supported by the juror's statement of facts, specifying the hardship and explaining why the circumstances constituting the hardship cannot be avoided by deferral of service. The Court will maintain a record of all such requests that have been granted, and of all deferrals of jury service.

C. Grounds for Excuse.
Excuse on the grounds of undue hardship may be granted for any of the following reasons:
    1. The juror has no reasonably available means of public or private transportation to court.
    2. The juror must travel an excessive distance. (Excessive distance is defined as travel time that exceeds two (2) hours from the juror's home to the location of the Court.)
    3. The juror will bear an extreme financial burden. The following will be considered in determining whether or not to excuse the juror for extreme financial burden:
        a. Sources of the juror's household income;
        b. Availability/extent of income reimbursement;
        c. Expected length of service; and
        d. Whether or not jury service can reasonably be expected to compromise the juror's ability to support either the juror or his or her dependents, or so disrupt the economic stability of any individual as to be against the interests of justice.
    4. The juror will bear a risk of injury to or destruction of juror's property, or property entrusted to juror, where it is not feasible to make alternative arrangements to alleviate the risk. The following will be considered in determining whether or not to excuse the juror because of risk to property:
        a. The nature of the property;
        b. The source and duration of the risk;
        c. The probability that the risk will be realized;
        d. The reason why alternative arrangements to protect the property cannot be made; and
        e. Whether material injury to or destruction of the property will so disrupt the economic stability of any individual as to be against the interests of justice.
    5. The juror has a physical or mental disability or impairment, not affecting his or her competence to act as a juror, which would expose the juror to undue risk of mental or physical harm. Unless the prospective juror is aged 70 years or older, he or she may be required to furnish verification of

the disability or impairment, its probable duration, and the particular reasons for the inability to serve.

6. The juror's services are immediately needed for the protection of the public health and safety, and it is not feasible to make alternative arrangements to relieve the juror of these responsibilities during the period of service as a juror, without substantially reducing essential public services.
7. The juror has a personal obligation to provide actual and necessary care for another, including a sick, aged, or infirm dependent, or a child who requires the juror's personal care and attention, and comparable substitute care is neither available nor practical without imposing an undue economic hardship on the juror or person cared for. When the request to be excused is based on care provided to a sick or disabled person, the juror will be required to furnish verification that the person being cared for is in need of regular and personal care.

(Rule 2.09 adopted effective January 1, 2011.)

2.10 Interpreters:

The Court maintains a list of interpreters and translators. The Court does not provide interpreters in general civil cases, (which include, but are not limited to, special proceedings, all matters brought under the California Family Code, and all matters brought under the California Probate Code). A party appearing in a general civil proceeding has an obligation to provide his or her own interpreter. When the Court approves a fee waiver request by an indigent litigant for court-appointed interpreter's fees for witnesses [Rules 3.50-3.58 of the California Rules of Court], and in all criminal and juvenile matters for which an interpreter will be necessary, counsel (or the party if unrepresented by counsel) must notify the Clerk of the Court at least forty-eight (48) hours prior to the time set for the proceeding at which an interpreter will be required.

(Rule 2.10 amended effective January 1, 2015; adopted effective January 1, 2011.)

2.11 Form of Papers Presented for Filing and Clerk's Authority regarding Such Papers:

A. Definition.
The word "papers" as used in this Rule includes all documents, except exhibits or copies of documents, which are offered for filing in any case in the Superior Court.

B. Form of Papers.
All papers filed with the Court must be in conformity with each and every requirement of Rules 2.100-2.119 of the California Rules of Court. Counsel and unrepresented parties are urged to review those requirements on a regular basis.

C. Clerk's Authority.
The Clerk of the Court will not accept for filing, or file, any papers that do not comply with the requirements of CRC Rules 2.100-2.119, unless the Court has ordered otherwise for good cause shown.

(Rule 2.11 adopted effective January 1, 2011.)

2.12 Facsimile (FAX) Filing in Civil, Probate and Family Law.

A. Filing is Permissive Only.
The filing of documents by facsimile ("FAX") transmission is discretionary with the Court, and the privilege is limited as follows:
1. Filing by facsimile transmission is permitted for all documents in civil, probate and family law matters, by counsel and by unrepresented parties. Any document for which a filing fee is required upon filing may be FAX filed only in the manner provided for by Local Rules 2.15.B 2.
2. The Court may suspend the FAX filing privileges of any party or attorney who fails to comply with the requirements of this Rule.
3. The Court may disregard any document filed by facsimile transmission that does not comply with this Rule.
4. Because filing by facsimile transmission is permissive only, the cost of filing papers with the Court pursuant to this Rule is not recoverable under Code of Civil Procedure §1033.5.
5. The Court reserves the right to terminate any one or more of the methods allowed for FAX filing without giving prior notice.

B. FAX Filing Procedures.
Subject to Rules 2.300-2.306 of the California Rules of Court, a party may FAX file papers with the Court using any of the following procedures:
1. By Automated FAX Filing System.
    a. The Clerk of the Court via the Court's FAX number will accept documents for FAX filing.
    b. The document to be filed must include the words "BY FAX" immediately below its title.
    c. The complete and proper transmission of a document by facsimile machine is the responsibility of the filing attorney or party, not of the Court.
    d. The sender upon request may obtain confirmation that the document has been filed to the Clerk of the Court, after review and approval of the form of the document by the Clerk.
    e. The Court's direct FAX filing number is (530) 233-6500. The Court's FAX machine will be in operation 24 hours a day, barring unforeseen circumstances; however, any FAX received after 5:00 P.M. or on a court holiday will be deemed to have been filed on the next court day.

f. In ex parte matters, an additional cover sheet must be prepared and submitted by counsel or unrepresented party, which states, in a manner designed to be readily observed by the clerk and the Court: “THIS IS AN EX PARTE APPLICATION. THE MATTER IS CALENDARED FOR HEARING AT [DATE and TIME]”.
g. Parties and counsel rely on direct FAX filing at their own risk. The Court will consider applications for relief from failure to file required papers only when such failure can be shown to be attributable to the malfunction of the Court's FAX machine, not to a malfunction of the transmitting machine. The Clerk will not review FAX filed documents to determine whether the documents have been transmitted legibly or completely. An informational cover sheet that identifies the transmitting party, his or her telephone number and address, the date of the transmission, the case name, and the case number, must accompany every paper received by FAX pursuant to this part. In addition, every case caption sheet that is so transmitted must indicate: "FILED BY FAX” in the upper right-hand corner. The Clerk will file these papers in just as papers are filed generally. Upon receipt of papers filed by direct FAX, the cover sheet will be considered as presumptive proof that the subject paper was filed on the date indicated thereon, unless the transmission was commenced after 5:00 p.m., in which case the filing will be presumed to have been accomplished on the next court day, and so filed in by the Clerk. The time that the transmission was commenced will be determined by the “time received” message that is printed at the top of the document by the Court’s FAX machine.

2. By Direct Filing with the Court. Direct Filing with the Court is mandatory when a filing fee is required for the filing of any document, unless the filing party has made prior arrangements with the Court Clerk for payment of the filing fee, or has FAXED a copy of a check in the correct amount of the filing fee plus FAX fee in the manner set forth in subsection a, below, made payable to the Court.
    a. The filing fee for direct FAX filing is $1.00 per page for each page transmitted, including the informational cover page, and must be paid by check, money order or cashier's check to the Clerk of the Court within five court days from the date of transmission or by the date of hearing, whichever first occurs. The payment of this fee is the joint obligation of the filing party and his or her attorney of record, if any. Failure to pay these fees will be deemed a failure to pay fees pursuant to Code of Civil Procedure §411.20, and may result in the Court’s nullification of a prior filing, in the Court’s disregard of a document so filed, and/or in the suspension of proceedings, including a calendared matter.
3. By Filing through FAX Filing Agent. Filing through an agent pursuant to full compliance with CRC Rules 2.300-2.306, and if the document is on plain paper, not thermal paper.

C. FAX Filing for Ex Parte Applications and Requests for Telephonic Appearance. All ex parte applications in civil, probate and family law matters are subject to this Rule. However, this Rule does not apply to FAX requests for leave to participate by telephonic appearance at status or case management conferences (Local Rule 4.03) or at a law & motion hearing (Local Rule 3.06.D).

(Rule 2.12 amended effective January 1, 2015; adopted effective January 1, 2011.)

2.13 Payment or Waiver of Filing Fees:

A. Waiver by Clerk of the Court.
The Clerk is authorized to grant applications for fee waivers that meet the standards of eligibility established by Government Code §68511.3, subdivisions (a)(6)(A) or (B). Pursuant to CRC Rules 3.50-3.63, both the Clerk and the County Sheriff are hereby designated to make the financial inquiries and verifications contemplated by said statutes. A separate application for fee waiver must accompany each filing of a new case.

B. Effect of Fee Waiver on Award of Costs.
In all cases in which a prevailing party has been granted a waiver of fees and is awarded costs, the Court will order that the party bearing costs pay, directly to the Court, the aggregate of any fees that were waived.

C. Fee Waiver for Witness Interpreter.
There will be no waiver of fees for payment of a court-appointed interpreter for witnesses in civil, family law, or probate cases, unless the Court has approved the requesting party's application. (CRC Rules 3.50-3.63)

(Rule 2.13 adopted effective January 1, 2011.)

2.14 Motions to Be Relieved as Attorney of Record:

An attorney who wishes to be relieved as attorney of record must comply with Rule 3.1362 of the California Rules of Court.

(Rule 2.14 adopted effective January 1, 2011.)

2.15 Substitution of Attorneys or of Party In Pro Per:

A substitution of attorneys or substitution of a party in pro per is not complete or effective unless the address and telephone number of the new attorney or new unrepresented party, and the state bar number of the new attorney, are included on the substitution form.

(Rule 2.5 adopted effective January 1, 2011.)

2.16 Procedure upon Filing of a Peremptory Challenge or Challenge Pursuant to CCP §170.1, 170.3, 170.6; Assignment for All Purposes:

Upon the filing of any challenge to a judge sitting in the Superior Court pursuant to Code of Civil Procedure §§170.1, 170.3 or 170.6, the Clerk will deliver the challenge, together with the Court's file for that action, to the office of the presiding judge of the Court. A notice on the outside of the Court's file will note a perfected challenge.

All civil cases shall be assigned to a particular bench officer for all purposes at the time of the initial filing by stamping notice of assignment on the initiating case document and upon any conformed copies of same for service upon opposing counsel or opposing party(s) by the filing party.

(Rule 2.16 amended effective January 1, 2015; adopted effective January 1, 2011.)

CHAPTER 3: GENERAL CIVIL RULES AND LAW & MOTION RULES

3.01 Scope of Civil and Law & Motion Rules:

Subject to the limitations imposed by Rule 3.20 of the California Rules of Court, this Section Three of the Local Rules is intended as a guide to the conduct of all civil pretrial matters, and is controlling for law and motion matters pursuant to the following: Code of Civil Procedure §§527.6, 527.7, and 527.8; the Family Code, the Probate Code, and the Welfare and Institutions Code. Section Four of these Rules govern trial and post-trial proceedings, including but not limited to motions in limine.

(Rule 3.01 amended effective January 1, 2015; adopted effective January 1, 2011.)

3.02 Motions and Other Applications in General:

A. Format of Papers.
All papers filed in support of or in opposition to a motion or other application for an order must comply with Rules 3.110-3.115, and Rules 2.100-2.119, of the California Rules of Court. Failure to comply with those Rules may, in the Court's discretion, constitute a sufficient basis for the Court to deny relief or to otherwise disregard the papers filed. This paragraph is not intended to diminish the Court's authority to exercise its discretion in any other appropriate manner.

B. Time for Filing; Calendar Changes; Proofs of Service.
Unless otherwise ordered or specifically provided by law, all moving and supporting papers, all papers opposing a motion, and all reply papers must be filed and served as required by Code of Civil Procedure §1005(b), CRC Rule 3.1300. In order to determine if timely notice has been accomplished pursuant to CCP §1005(b), the Court will first count the number of calendar days authorized for the form of service that has been utilized by the moving party, and then count

the required sixteen court days to the date of hearing. In counting both segments of time, the Court will exclude the first day (e.g., the actual date of personal service or of mailing), and will include the last day (the date of the hearing or other proceeding). When a court holiday has been declared for what otherwise would be a regular law & motion day, law & motion matters must be set for hearing on the next regularly scheduled law & motion calendar, not on the next court day. Proof of service of the moving papers must be filed no later than five (5) calendar days before the time set for the hearing on the motion, CRC Rule 3.1300. Failure to timely serve and file a moving or responding paper, or to timely file a proof of service, may, in the Court's discretion, constitute a sufficient basis for denial of the motion or application, or to disregard the paper. This paragraph is not intended to diminish the Court's authority to exercise its discretion in any other appropriate manner, including but not limited to granting of a continuance or the imposition of sanctions.

C. Exhibits.
Rules 3.1110 and 3.1113 of the California Rules of Court govern the form and format of exhibits to a motion or application, including photographs used as exhibits. In any case where a party has in excess of ten (10) exhibits to enter in evidence at a hearing, the party or attorney must arrange to have all exhibits pre-marked prior to the hearing, and the exhibits must be accompanied by a cover sheet for the clerk that identifies the nature of each exhibit, and provides a place for the clerk to mark, “admitted”, “withdrawn” or “excluded” after each marked exhibit.

D. Requests for Judicial Notice.
Every request to take judicial notice must comply with Rule 3.1306 of the California Rules of Court.

E. Memoranda of Points and Authorities.
Every memorandum of points and authorities submitted in support of or opposition to a motion or application must be in accordance with Rule 3.1113 of the California Rules of Court. The Court may, in its discretion, disregard any paper that does not comply with this Rule. If any authority other than a California case, statute, constitutional provision, or state or local rule is cited, a copy must be attached to the paper in which the authority is cited, and tabbed as an exhibit in the required manner, CRC Rule 3.1113. Counsel may also attach copies of California authorities if doing so will assist the Court and opposing counsel.

F. Failure to File and Serve Opposition.
Failure to file and serve papers in opposition to a motion or any other application for a Court order (other than opposition to an ex parte application) may be deemed, in the Court’s discretion, to be 1) a waiver of objections and 2) an admission that the motion or other application is meritorious.

G. Matters Submitted without Appearance.

In general, submission of matters without appearance by counsel or unrepresented party is encouraged, and will not be prejudicial to any party. Prior notice of non-appearance is required, CRC Rule 3.1304. The required notice must be given by means reasonably calculated to ensure receipt by the Clerk of the Court and opposing parties no later than two (2) days prior to the hearing date. If an out-of-county judge has been assigned to the case, counsel must give notice of non-appearance at the earliest possible date, in no case later than two (2) court days before the hearing.

H. Supporting Declarations.
All declarations submitted in support of or in opposition to a motion, or any other application to the Court, must comply with the requirements of CRC Rule 3.1115 and Code of Civil Procedure §2015.5. Failure to comply may result in the Court's disregard of the declaration. Unless a statute authorizes a declaration on information and belief, the declaration must set forth statements of evidentiary facts to which the declarant could testify if called as a witness, and must include a declaration under penalty of perjury by the declarant to that fact. If a statute authorizes a statement on information and belief, and the declarant makes such statement, the facts upon which the declarant's information and belief are based must be included.

I. Reply Briefs.
Except with regard to motions for summary judgment, the Court discourages submission of reply briefs.

J. Tentative Rulings.
The Court may establish, in the future and without amendment of these Rules, a procedure for publishing or otherwise announcing tentative rulings.

(Rule 3.02 amended effective January 1, 2015; adopted effective January 1, 2011.)

3.03 Ex Parte Motions and Applications:

A. Applicability; Calendaring and Submission of Documents.
Rules 3.1200-3.1207 of the California Rules of Court govern ex parte matters in general civil law & motion proceedings, and ex parte matters in family law discovery and probate discovery proceedings, CRC Rule 3.1100. Unless otherwise specified, the provisions of this Local Rule 3.03 apply to all other ex parte matters. Note: For those matters that are governed by CRC Rules 3.1200-3.1207, the ex parte applicant must comply with the requirements of Part 3.03.C, below, concerning calendaring the ex parte matter with, and submission of papers to, the Superior Court.

B. Notice Requirements for Ex Parte Applications Not Governed by CRC Rules 3.1200-3.1207 of the California Rules of Court.

Failure to comply with this Rule may result in the motion or application being denied (without prejudice to its renewal), in delay of the Court's review of the application, and/or in the imposition of sanctions pursuant to Code of Civil Procedure §177.5.

1. Except as to an adverse party in default, an application for an order must not be made by ex parte hearing unless it appears, by affidavit or declaration:
    a. that within a reasonable time (see part 3.03.B(2), below) before the application is heard, the moving party informed all opposing counsel or unrepresented parties as to when and where the application would be made, and the exact nature of the relief sought thereby; or,
    b. that the moving party in good faith attempted to inform opposing counsel or unrepresented parties of the time, place, and content of the ex parte application, but was unable to do so (specifying such attempts); or,
    c. that for reasons specified, which establish good cause, the moving party should not be required to inform opposing counsel or unrepresented parties of the pending ex parte application.
2. “Reasonable” time or notice to the opposition, as required by this Rule, means that notice is given to all opposing counsel or unrepresented parties, either in person, by telephone, or by FAX, no later than 10:00 AM on the court day just prior to the date of the ex parte appearance, absent a showing of exceptional circumstances. This requirement does not preclude giving greater notice by letter or other means.
3. For ex parte applications made pursuant to any provision of the Family Code, or for petitions for temporary guardianship pursuant to Probate Code §2250, or for petitions pursuant to Code of Civil Procedure §§527.6, 527.7, or 527.8, a "Declaration re Notice" must be completed by counsel or unrepresented party, and submitted along with the ex parte application.
4. Parties appearing at the ex parte hearing must serve copies of the ex parte application or any written opposition thereto on all other parties who have appeared, at the first reasonable opportunity, which for moving papers will be presumed to be no later than 12:00 P.M. (noon) on the court day just prior to the day of the hearing, and for opposition papers will be presumed to be at least four (4) business hours prior to the hearing. Service may be accomplished by facsimile transmission.
5. Proof of actual notice or of adequate justification for proceeding without notice, and proof of service of documents as required by this Rule, must be presented to the Court, whenever possible, no later than four (4) business hours prior to the application, and in any case by no later than the time of the appearance on the application.

C. Submission and Calendaring of Ex Parte Applications and Review by the Court: This subpart applies to all ex parte applications, including those governed by CRC Rules 31200-3.1207.

1. Submission and Calendaring.
    a. Uncontested ex parte applications, or ex parte applications supported by a showing of good cause for lack of prior notice, may be submitted to the Clerk of the Court at any time, for presentation to the Court. The Court will attempt to review all such matters expeditiously.
    b. For ex parte matters that are contested or that otherwise require appearances, hearings will be conducted as availability permits in the chambers of the Court as the Court deems appropriate. Such matters must be scheduled for hearing by the Clerk of the Court as early as possible before the requested hearing but not later than 12:00 AM (noon) of the preceding court day unless good cause is shown. The applicant is responsible for contacting the Clerk of the Court to schedule the hearing, and for giving notice thereof.
    c. Copies of the application or moving papers must be submitted to the Court by no later than four (4) business hours prior to the scheduled time of the hearing, and copies of any responding papers should be submitted prior to the hearing if possible.
    d. The Court may conduct informal ex parte hearings for unrepresented parties, as it deems appropriate.
2. Ex Parte Communication with the Court.
   The Court will not consider any ex parte communications from counsel or unrepresented parties unless made in the manner prescribed by these Rules, by the California Rules of Court, or by the laws of this State. Applications to the Court for ex parte relief must never be made by letter. Counsel are hereby reminded of Rule 5-300(b) of the Rules of Professional Conduct of the State Bar of California, concerning ex parte communications with the Court.
3. Undertakings.
   The Court may require an undertaking or bond for the issuance of a temporary restraining order in civil cases (with the exception of family law or CCP §527.6 civil harassment matters).

D. Change of Status Quo.
   The applicant for an ex parte order has an absolute duty to disclose to the Court that a requested order will result in a change of the status quo.

E. Ex Parte Request for Order Shortening Time.
    1. A request for an order shortening time for service [CCP §1005] or for hearing will not be granted unless supported by a declaration demonstrating good cause why the matter cannot be heard on regular notice.
    2. If an order shortening time is requested, the supporting declaration must state whether or not the responding party is represented by counsel, the name and address of the responding party's attorney, and whether or not

that attorney has been contacted and has agreed to the date and time proposed for the hearing.

3. If the responding party's attorney has not been contacted or has not agreed to the proposed setting, the supporting declaration must clearly demonstrate why the hearing should be set on the proposed date without the consent of opposing counsel, and the reason the matter must be heard on shortened notice.
4. Provisions for the immediate delivery of the moving papers to opposing counsel's office, or to an unrepresented party, must be set forth in the proposed order.
5. In cases where an order shortening time has been granted, the moving papers must be promptly served on the office of opposing counsel or on any unrepresented opposing party, and in no case may they be delivered fewer than two (2) court days preceding the hearing, unless otherwise authorized by the Court.

F. Ex Parte Writs of Attachment or Possession.
   1. When application is made for an ex parte writ of attachment, any affidavit or declaration submitted therewith must also comply with Code of Civil Procedure §482.040 as modified by Code of Civil Procedure §§485.210(d) and 488.510(b). Failure to comply with this Rule ordinarily will result in denial of the application, in which event the applicant must proceed by noticed hearing procedures. Where the applicant relies wholly or in part on a verified complaint, a separate statement setting forth the evidentiary facts upon which the applicant relies must accompany the application.
   2. When application is made for an ex parte writ of attachment, the applicant must also submit a memorandum setting forth the reason why the application is not, instead, a request for a temporary protective order under Code of Civil Procedure §486.030. Any evidentiary facts relied on in the memorandum must be presented in the supporting declarations.
   3. Every application for issuance of a writ of possession must comply with Code of Civil Procedure §516.030. Additionally, the applicant must set forth, by declaration, facts to aid the Court in its determination of the undertaking amount, pursuant to Code of Civil Procedure §515.010.

G. Re-Application after Denial of Ex Parte Application.
   When an ex parte motion has been made, and has been refused in whole or in part, or has been granted conditionally or on terms, and a subsequent application is made for the same or a similar order, to the same or a different judge, whether upon an alleged different state of facts or otherwise, then the applicant must show, by declaration, what motion was previously made, the nature of the previous motion, when and to what judge it was made, what order or decision was made thereon, and what new facts, if any, are claimed by the new motion.

H. Ex Parte Applications re Stipulated Judgments.

Unless a stipulation that authorizes the rendering and entry of judgment, or that authorizes the termination of a stay of execution upon failure to perform specified conditions, also includes an express waiver of notice, an application to render or for entry of judgment, or to vacate or terminate a stay upon failure to perform conditions, must be made on noticed motion. [Rooney v. Vermont Investment Corp. (1973) 10 Cal.3d 351.] Whether ex parte or on notice, the applicant must submit a declaration setting forth any payments made or other compliance by defendant; the specifics of the alleged failure to perform; and the substance of the order requested.

I. Ex Parte Applications in Matters Governed by the Probate Code.
   1. In General.
      In all probate matters, formal notice must be given if it is not entirely clear that an ex parte order is proper or if issues are presented, in which the relevant facts might be in doubt, and where it thus appears that other parties should have an opportunity to be heard. Because no testimony will be taken in connection with ex parte petitions, the application must include facts that justify granting the prayer. The petition must be verified. Conclusions or statements of ultimate fact are not sufficient. A foundation that establishes a declarant's personal knowledge must be set forth in any supporting declaration or affidavit. If the petition is opposed, counsel may argue the merits at the time of the hearing.
   2. Effect of Failure to Give Notice.
      Ex parte orders issued without prior notice will be set aside ex parte upon a showing of sufficient justification, if a person who claims an interest in the estate presents such. [In re Sullenberger, 72 Cal. 549.]
   3. Time for Giving Notice.
      If a probate application is presented ex parte, and the need for an opportunity to be heard is apparent, the Court will calendar the matter for a hearing as soon as practicable, and will require the applicant, by no later than 10:00 AM of the court day just prior to the hearing date, to give notice of the nature of the application to counsel for any other known interested persons, or to unrepresented known interested persons themselves, together with notice of the proposed time and place of the hearing. At least four (4) business hours before the hearing is conducted, the applicant must submit a declaration to the Court setting forth the facts relating to the efforts to give such notice, if any, or facts supporting the conclusion (a) that it was impossible to give such notice, or (b) that giving such notice would be detrimental to the estate and the persons interested in it.

(Rule 3.03 amended effective January 1, 2015; adopted effective January 1, 2011.)

3.04 Rules Affecting Pleadings, Motions and Papers:

A. Governing Rules.

Rules 2.100 et seq. and 3.110 of the California Rules of Court govern the form, filing, and service of pleadings, motions, and other papers in civil law and motion, and discovery proceedings in family law and probate.

B. Amending the Pleadings.
Amendment of pleadings, and motions for such amendment, must be in compliance with Rule 3.1324 of the California Rules of Court and Code of Civil Procedure §473. In addition:
    1. An amendment to designate an incorrectly named party by the correct name does not require a noticed motion, and may be obtained by ex parte application and order, unless the Court determines that substantial rights of said party are adversely affected.
    2. An amended pleading is preferred over an amendment to a pleading, except when the amendment is for the sole purpose of correcting the name of a party (see paragraph 3.04.A(1), above).
    3. Except as otherwise provided in these Rules for cases subject to Delay Reduction, whenever a pleading is amended after the filing of an at-issue memorandum, the Court will have discretion to strike the at-issue memorandum and vacate any trial date set thereon, unless the parties stipulate that earlier responsive pleadings are deemed sufficiently responsive to the amended pleading.

C. New Party Named as Cross-Defendant.
Cross-complainants who name persons not already parties to the action as cross-defendants must comply with Rules 2.100-2.119 and 3.222 of the California Rules of Court.

D. Discovery Motions.
The form, format, and service of discovery motions are governed by Rules 3.1000 et seq. of the California Rules of Court, and by Code of Civil Procedure, Part 4, Title 3, Article 3 (beginning with CCP §2017).

E. Procedure after Demurrer is sustained with Leave to Amend.
If, after a demurrer to a complaint or cross-complaint is sustained with leave to amend, an amended pleading is not filed within the time specified by the Court, the Court may dismiss the action or cross action on its own motion. If the Court does not dismiss the action on its own motion after expiration of the specified time, any party to the cause may apply ex parte for a dismissal order. The moving party or notice to the other parties may submit such application to the Court without appearance. (No filing fee will be required unless a hearing on the application is conducted.)

(Rule 3.04 amended effective January 1, 2015; adopted effective January 1, 2011.)

3.05 Motions for Summary Judgment or Summary Adjudication:

All motions for summary judgment must comply with Rule 3.1350 of the California Rules of Court and with Code of Civil Procedure §437c. Motions not adhering to those provisions may be continued to a future date certain by which time compliance is expected and which is convenient to the Court, or may be denied without prejudice. Motions for summary adjudication made pursuant to CCP §437c(f) that seek adjudication of issues beyond those noted in that subsection may be disregarded entirely.

(Rule 3.05 adopted effective January 1, 2011.)

3.06 Continuances and Conduct of Hearings on Motions and other Applications for Orders:

A. Continuances of Hearings on the Law & Motion Calendar.
    1. The Court generally will grant a continuance of a hearing on the law & motion calendar if all counsel and parties in propria persona are in agreement that such hearing be continued, and are in agreement as to the date and time to which the matter will be continued.
    2. To obtain such a continuance, the attorney or unrepresented party reporting the agreement must notify the Clerk of the Court in person or by telephone, no later than 5:00 P.M., at least two (2) court days before the scheduled hearing. (For example, if the hearing is on a Monday then the telephonic notice must be given no later than 5:00 P.M. on the preceding Thursday.) The notifying party must also file, prior to the date and time of the hearing, a written notice confirming the agreement. Both the telephonic and written notice must state that all counsel and unrepresented parties are in agreement and must state the date and time to which the hearing is continued.
    3. Upon receiving the telephonic notice, the Clerk of the Court will notify the appropriate judge of the agreement to continue. If for any reason the judge will not grant the continuance, the Clerk of the Court will immediately convey that information to the reporting attorney or party. In the absence of such response, counsel and parties can assume that the continuance is approved.
    4. Violations of this Rule may result in the imposition of sanctions pursuant to Rule 2.30 of the California Rules of Court, Code of Civil Procedure §177.5, or any other appropriate authority.

B. Extended Hearing Rule.
    "Extended hearing" means a hearing that requires more than fifteen (15) minutes, total, to present and argue, unless otherwise defined by these Rules. If the attorney for any party determines that a matter set on the law & motion calendar is likely to require more than a total of 15 minutes, counsel must notify the Clerk of the Court and opposing counsel or unrepresented party, in person or by telephone, no later than the close of the third court day prior to the hearing

date, that the matter will require an extended hearing, in which case the matter may be continued by the Court to another date and time certain.

C. Evidence at Hearing.
Rule 3.1306 of the California Rules of Court will govern evidence at the hearing, including requests for judicial notice.

D. Telephonic Appearances in Non-Evidentiary Civil Law & Motion and Probate Hearings.
1. Rule 3.670 of the California Rules of Court governs telephonic appearances by counsel in non-evidentiary law & motion and in probate proceedings. The Court expects strict adherence to the requirements of both Rule 3.670 and this Local Rule. In addition to the notice requirements of Rule 3.670, and because the Court uses an outside vendor (currently "CourtCall") for telephonic appearances in these matters, any attorney or party who intends to appear telephonically must make his or her request through the outside vendor directly.
2. The outside vendor will bill all participants directly, at prevailing rates. Costs associated with telephonic appearances are not taxable costs as authorized by Code of Civil Procedure §1033.5.
3. All requests for telephonic appearance must be made to the vendor a sufficient time prior to the scheduled hearing to allow the vendor to schedule the appearance.
4. At the time of the hearing, every participant who has requested a telephonic appearance must contact the vendor at the telephone number provided on the vendor's confirmation of the request. Participants will be brought in at the direction of the Court, and will remain on the line until the participant's case appearance has been completed. In order to ensure a quality record of the proceeding, participants may not use pay, cellular, or speakerphones.
5. It is the responsibility of each participant to cancel his or her telephonic appearance request by contacting the vendor directly in the event the hearing is cancelled.

(Rule 3.06 amended effective January 1, 2015; adopted effective January 1, 2011.)

3.07 Preparation of Orders:

A. Duty to Prepare.
In general, the duty to prepare orders is governed by Rule 3.1312 of the California Rules of Court. In matters not governed by Rule 3.1312, or in cases where the Court finds that the time constraints of Rule 3.1312 are impracticable, the prevailing party on a motion must, within ten (10) calendar days of receipt of the Court's written or oral ruling, prepare a proposed order thereon and submit it to the opposing party for approval (as to matters of form only).

B. Approval; Procedure if Not Approved.
    1. The opposing party must either promptly approve or object to the proposed order, stating alternative proposed language. If the other opposing party fails to approve or object to the order within ten (10) days after service, the party who prepared the order may then send it to the Court for signature. The order must be accompanied by a letter to the Court stating the date the order was sent to the opposing party, the opposing party's reason(s) for not approving it (if known), and a request that the judge sign the order. A copy of the letter to the Court must be served on the opposing party.
    2. If the party who is required to prepare the order pursuant to Rule 3.07.A fails to do so, then the other party may prepare the order. The order may then be sent directly to the Court, without the approval of opposing counsel, along with a cover letter to the Court stating the applicability of this section. A copy of the cover letter and the proposed order must be served on all parties.
    3. The Court will hold, for a period of five days, all orders that have not received the approval of the opposing party; after five days, if no objections have been received, the order will be signed.

C. Procedure When There Is Disagreement.
    If there is a disagreement between the parties concerning the accuracy of the order, either party may ask the Court, by letter, to resolve the disagreement by reference to the portion(s) of the proposed order that are the subject of disagreement. A copy of the letter must be delivered to all other parties at the time it is delivered to the Court. Attorney's fees and costs, including the cost of preparing a reporter's transcript, if any, may be awarded thereafter based the merits of the matter.

(Rule 3.07 adopted effective January 1, 2011.)

3.08 Procedures Regarding Applications for Extraordinary Writs:

A. Form and Length of Briefs in Support of or in Opposition to Writ Petitions.
    1. The form of briefs in support of or in opposition to writ petitions (regarding mandate and prohibition) must generally conform to rules specified for motions in both these Rules and the California Rules of Court, except that no brief, either in support of or in opposition to a writ petition, including its memorandum of points and authorities (but excluding exhibits, declarations, attachments, tables, and proof of service) may exceed thirty-five (35) pages in length, and no reply brief may exceed 20 pages. Leave of Court to file a brief in excess of the limitations fixed by this Rule may be granted upon a showing of good cause, and an application for such leave of Court must be made according to the procedures set forth in CRC Rule 3.1113, and on such other conditions as the Court may impose.

2. A brief that exceeds 15 pages must include a table of contents, table of authorities, and an opening summary of argument.
3. Any paper that violates this Rule must be filed and considered in the same manner as a late-filed paper, and the Court, in its discretion, may impose other conditions and/or sanctions because of the violation.

B. Preparation of Record.
If a proceeding in prohibition or mandate includes a record for the Court's review that exceeds 25 pages, the record must be prepared for filing as follows: it must be copied onto double-sided pages, each page consecutively numbered, with two holes punched into the top margin and all pages fastened together, and the front page must bear the caption of the matter and the case number. Upon receipt of the record, the Clerk will enter the record into the Court's file and denote its entry upon the register of filings.

C. Service of Petition Prior to Hearing.
All petitions for writs of mandate, for prohibition, or for administrative mandamus or prohibition must be served upon the respondent in the same manner as a summons and complaint. Proof of service thereof must be filed with the Court prior to the hearing on any motion or order to show cause for issuance of the requested writ as specified in Local Rule 3.02(B).

(Rule 3.08 amended effective January 1, 2015; adopted effective January 1, 2011.)

CHAPTER 4: SETTING FOR TRIAL, AND TRIAL IN CIVIL MATTERS

4.01 Setting General Civil Cases for Trial:

Trial Setting in Cases that are Subject to Delay Reduction Rules.
All general civil cases filed on or after July 1, 1993, or transferred to this Court by a Court in another jurisdiction on or after July 1, 1993, are subject to this Local Rule and to the time disposition standards adopted by the Court in Rule 2.03.B.

1. Policy Statement.
The Government Code and the California Rules of Court mandate that trial courts actively manage and supervise the pace of litigation, from the date of filing to full disposition, by reference to specific procedures and guidelines, Government Code §§ 68600 et seq.; CRC Rules 2.100-2.119 and 3.700. In most cases, the Court will implement that mandate by conducting pre-trial conferences, described as follows:
    a. An Initial Case Management Conference, where the parties must be prepared to state that service of all pleadings has been effected on all parties, the proposed schedule for discovery and pretrial motions, and to schedule arbitration, mediation or settlement conference, if appropriate; and
    b. An Additional Case Management Conference, where the parties must be prepared to declare the case to be at issue, to identify all issues to be

tried, to inform the Court as to all case management issues, to summarize the pertinent results of discovery activity, to address alternative dispute resolution and settlement, and to schedule, trial, or other proceedings.

2. Case Development Benchmarks.
   The Court adopts the following time periods for progression of general civil cases:
   a. Service of the Summons and complaint within 60 days of case initiation, filing of the proof of service of the Summons and complaint within 60 days of case initiation, and filing and service of responsive pleadings within 30 days of service of the complaint.
   b. Except to the limited extent permitted by CRC Rule 3.110, no extensions of the previously mentioned times that are based on stipulation between the parties will be allowed. To the extent that stipulated extensions are permitted pursuant to CRC Rule 3 2.100-2.119, they must be in writing and filed promptly with the Court.
   c. The Court only upon ex parte application that 1) conforms to Rules 3.1200-3.1207 of the California Rules of Court and 2) demonstrates good cause will allow stipulated extensions of time for periods longer than permitted by statute.
   d. Periodically after case initiation, the Court will conduct a review of each general civil case in order to determine if the plaintiff has complied with the case development benchmarks described in item (a), above. If the plaintiff has not complied, the Court, in its discretion and only after the plaintiff has been given notice and an opportunity to be heard, may impose sanctions.
3. Scheduling and Noticing Conferences.
   a. The Clerk will set the Initial Case Management Conference on the first case management calendar that falls no earlier than the 90th day after case initiation.
   b. At the time the complaint is filed, the Clerk of the Court will provide plaintiff with a form “Notice of Case Management Conference” that will specify the date, time, and place of the Initial Case Management Conference. At the time of service of the summons on any party, plaintiff must also serve a complete copy of said Notice upon that party; and plaintiff must serve a copy of the Notice on plaintiffs in intervention or plaintiffs in interpleader, within ten (10) days of being served with a complaint in intervention or interpleader. All cross-complainants must serve a copy of the Notice upon each cross-defendant at the time the cross-complaint is served.
4. Case Management Conferences.
   a. Not later than five (5) calendar days prior to every Case Management Conference (including Additional Case Management Conferences unless expressly excused by the Court), each party must file, and serve on all other parties, a fully-completed case management conference statement prepared on Judicial Council Form CM-110.
5. Non-Compliance with Delay Reduction Rules.
   Failure to appear at and/or failure to file appropriate required statements for any Case Management Conference scheduled under these Rules may result in the

imposition of sanctions, the dismissal of the action, or the striking of responsive pleadings.

(Rule 4.01 adopted amended effective January 1, 2015; effective January 1, 2011.)

4.02 Changing Trial Date Once Assigned and Special Settings:

A. Dates for Trial Are Firm.
All dates for trial are firm and no trial date will be changed without Court approval. Motions to advance a trial date, to reset or specially set a case for trial, or to continue a trial date must be made on written notice to all parties who have appeared, and must be set for hearing.

B. Motions and Stipulations for Continuance of Trial.
1. A motion for continuance of a trial date must be noticed for hearing as soon as possible after the need for a continuance has been ascertained. No continuance will be granted except upon an affirmative showing of good cause (CRC Rule 3.1332; Standards of Judicial Administration).
2. A stipulation to continue a trial, or to vacate a trial date and calendar the matter for resetting, may be accepted in lieu of a motion as long as 1) all parties agree in writing; 2) the terms of the written stipulation set forth good cause pursuant to the Standards of Judicial Administration and CRC Rule 3.1332, and further state that the stipulation is subject to approval by the Court; and 3) the stipulation is accompanied by a proposed Order.
3. The Court may refuse to grant a requested trial continuance if it is not timely, or if it fails to meet the requirements specified in this Subpart 4.02.B.

C. Effect of Continuance.
If a trial date is continued by stipulation or at any time other than during a case management conference, the matter will be set for further proceedings on the regular case management calendar, and at least five (5) days before that date each party must file a current and complete case management statement (JC Form CM-110).

(Rule 4.02 amended effective January 1, 2015; adopted effective January 1, 2011.)

4.03 Procedures for Telephonic Appearances at Case Management and Pre-Trial Conferences:

A. Who May Appear and Manner of Request.
1. In general, counsel for parties and self-represented parties may appear telephonically at all Case Management Conferences.
2. An outside vendor (currently “CourtCall”) will handle telephonic appearances at conferences. Requests by counsel to appear telephonically at any of the previously mentioned conferences must be submitted directly to the vendor, not to the Court, although notice that the

appearance will be telephonic should be sent to the Court in writing prior to the hearing.

B. Time Limit for Requests to Appear Telephonically.
All requests for telephonic appearance must be made directly to the vendor in sufficient time prior to the scheduled hearing to allow the vendor to schedule the appearance. Failure to submit the request in a timely manner may result in denial of the request and/or a requirement that counsel or unrepresented party appears in person at the conference.

C. Billing and Non-Taxability of Costs.
The outside vendor will bill all participants directly, at prevailing rates. Costs associated with telephonic appearances are not a taxable cost as authorized by Code of Civil Procedure §1033.5.

D. Effect of Failure to File Conference Statement.
In the Court's discretion, a request to appear telephonically may be denied if counsel or unrepresented party has failed to file and serve a conference statement as required by these Local Rules and the Rules of Court.

E. Order of Appearance.
Order of appearance on the calendar is not determined by receipt of the telephonic requestor notice. The Court will fix the order, and cases will be taken as they appear on the calendar. Cases will not be taken out of order except for good cause.

F. Initiation of the Call, Standby, and Type of Phone Used.
At the time of the scheduled conference, telephonic participants must contact the vendor at the telephone number provided on the confirmation of the telephonic request. The Court will bring in the participants at the discretion of the Court as to order. Participants must stand by until their matter is called. If the participant is not available when called, the Court may treat his or her absence as a non-appearance and impose appropriate sanctions. In addition, if a participant is not available when called, the Court will conduct the conference despite the absence, and the unavailable participant will be billed for the call. In order to assure a quality record of the proceeding, participants may not use pay, cellular, or speakerphones.

G. Conducting the Telephonic Proceeding.
After the telephone connections are confirmed, the judge will call the case. The judge will ask for appearances and will direct the manner in which the conference proceeds. Each time a participant speaks, he or she must identify himself or herself for the record. When the judge informs the participants that the hearing is completed, the participants may disconnect.

H. Cancellation of Telephonic Requests.

Although the Clerk of the Court may notify the outside vendor when a matter that was previously set for telephonic conference is dropped from calendar or continued, it is the responsibility of each participant to cancel his or her telephonic request, by contacting the vendor directly.

I. Requirement of Compliance; Failure to Comply.
Telephonic appearances at conferences are a privilege extended by the Court. All provisions of this Rule 4.03 require strict compliance. Repeated failures to comply by any given individual may result in permanent denial of the privilege.

(Rule 4.03 amended effective January 1, 2015; adopted effective January 1, 2011.)

4.04 Duties if Case Settles:

Whenever a case that has been assigned a trial date settles, then the attorneys or unrepresented parties must immediately notify the Court of the settlement. The plaintiff bears the primary obligation to notify the Court. Notification may be by telephone to the Clerk, but, in such case, must be followed within five (5) days by a confirmation letter copied to all parties. Such notification to the Court will cause the Clerk to vacate any trial date and to remove the action from the master calendar and civil active list, and may result in the setting of a further case management conference, to assure that the case is dismissed or judgment entered.

(Rule 4.04 adopted effective January 1, 2011.)

4.05 Demand for Jury Fees; Waiver of Jury; Refunds:

A. Payment of Jury Fees Before and During Trial.
A party who wishes to preserve the right to a jury trial must deposit with the Clerk, no later than the date of the initial Case Management Conference, the sum of $150.00, Code of Civil Procedure §631(b), (c), or at least five (5) days prior to the date set for trial in an unlawful detainer action, CCP §631(c) (1). Thereafter, at the beginning of the second trial day and each succeeding trial day, the courtroom clerk will ask the party or parties who demanded the jury to pay a sum equal to one day's actual jury fees plus the accrued mileage of and/or transportation for the jury, if any there be. Each such request must be honored on the day it is made.

B. Notice of Waiver of Jury; Refund of Jury Fee Deposit.
   1. A party who has demanded a jury trial and later decides to waive such demand must give prompt written notice of the waiver to the Clerk and to all other parties.
   2. Requests for refunds of jury fees must be submitted in writing by the depositing party within 20 days from the date that the jury is waived, or from the date that the action is settled or dismissed or the trial is continued (CCP §631.3).

C. Effect of Failure to Deposit or Pay Jury Fees.
Failure of a party who has demanded a jury trial to deposit or pay jury fees in a timely manner, as prescribed by law and these Rules, whether prior to or during trial, will be deemed a waiver by that party of the right to trial by jury. The adverse party or parties will be promptly notified by the Clerk, of the demanding party's failure to timely deposit or pay jury fees.

D. Deposit of Jury Fees after Waiver by Demanding Party.
When the party who has demanded a jury trial waives or is deemed to have waived a jury, the other party or parties will have up to five (5) court days from the date that the Clerk mails the notice of waiver, to deposit one day's jury fees. (Note: this five-day period is not subject to extension pursuant to CCP §1005 or any other provision of law.) However, if the waiver occurs within five (5) days of the commencement of the trial, or if it occurs after trial has commenced, then the other party or parties must make the deposit on the first or next trial day.

E. Effect of Failure by any Party to Pay Jury Fee Deposit.
If the other parties fail to deposit fees as prescribed herein, after waiver by the party who has demanded a jury trial, then the other parties will be deemed to have waived the right to a jury trial, and the case will be tried without a jury.

F. Jury Trial after Untimely Request.
Notwithstanding any other provision of these Rules, the Court may order, upon a showing of good cause, that the deposit of jury fees take place at any time prior to trial, and the applicant, upon deposit of jury fees in accordance with such order, will be entitled to trial by jury (CCP §631.3(d)).

(Rule 4.05 amended effective January 1, 2015; adopted effective January 1, 2011.)

4.06 Parties Not Present for Trial:

A. Default Judgments When Matter is set for Trial.
If a party has been served and has not answered, but neither default nor default judgment has been entered against that party and the action has been set for trial as to other parties, then, on proper application, judgment may be entered against the defaulting party in accordance with Code of Civil Procedure §§585 or 586.

B. Non-Appearance of Answering Party.
If a party has been served and has answered, but does not appear for trial, and appropriate notice of time and place of trial has been given, then the Court will proceed with the case in accordance with Code of Civil Procedure §594.

C. Dismissal of Named Parties Not Served.

If a named party has not been served, then ordinarily, at or before the time of trial, the plaintiff will be required to dismiss, without prejudice, as to that party.

(Rule 4.06 adopted effective January 1, 2011.)

4.07 Conduct of Civil Jury Trials:

A. Challenging Jurors for Cause.
Upon completion of voir dire examination, whether of all prospective jurors in the jury box or of an individual prospective juror, a party must state whether he or she “passes for cause”.

B. Peremptory Challenges.
If there are more than two sides in a trial, and one side is allotted substantially more peremptory challenges than any other side, then the trial judge will require the side with the greater number of challenges to exercise every second challenge, i.e., to alternate with each of the other sides, rather than rotate the challenges from one side to a second side to a third side.

C. Presentation of Exhibits to Jurors.
Exhibits admitted into evidence will be handed to jurors in the jury box only after leave to do so is obtained from the trial judge. Exhibits such as writings, which are not subject to cursory examination, ordinarily will not be provided to jurors until they retire to the jury room after the cause has been submitted. Rules 3.1110 and 3.1113 of the California Rules of Court govern the form and format of exhibits to a motion or application, including photographs used as exhibits.

D. When Jury Instructions Are to Be Submitted.
1. Pursuant to Code of Civil Procedure §607a, all jury instructions covering the law as disclosed by the pleadings must be delivered in writing to the trial judge before jury voir dire commences, unless indicated by the judge. At the same time, copies thereof must be served upon all opposing counsel or unrepresented parties.
2. Thereafter, but before commencement of argument, any additional proposed instructions upon questions developed by the evidence and not disclosed by the pleadings may be delivered to the trial judge and served upon the opposing side or sides.

E. Duty to Prepare, Submit and Modify CACI Instructions.
1. The parties may designate their desired standard CACI instructions by giving the trial judge a list of same, referenced by number. The judge may provide the form of such standard instructions, or the parties may be ordered to do so.
2. Desired CACI instructions in which deletions, strikeouts, insertions or other changes have been made must be referenced by number, and must

carry a notation that there has been a modification thereto, and a copy of the instruction, as modified, must be provided to the trial judge.

F. Form of Proposed Jury Instructions.
All proposed jury instructions must conform to the requirements of Rule 2.1055 of the California Rules of Court.

G. Special Verdict and Finding Forms.
1. A party who requests a special verdict or special findings must, in connection with requested instructions, comply with Rule 3.1580 of the California Rules of Court, and must serve and file such request or proposed special findings forms before jury voir dire commences.
2. A special verdict or special findings form must be drafted so as to require, if possible, an answer of "yes" or "no", or, if that is not possible, then to require the most concise answer that will be sufficient.

(Rule 4.07 amended effective January 1, 2015; adopted effective January 1, 2011.)

4.08 Setting Unlawful Detainer Cases for Trial:

A. Case Disposition Standards.
The Court's disposition goal for unlawful detainer cases is to have one hundred percent (100%) of such cases disposed of within ninety-days (90) after filing. This Rule 4.08 establishes target dates intended to assist the parties and the Court in achieving that goal.

B. Filing Proof of Service of Summons and Complaint.
1. Within fifteen (15) days after filing an unlawful detainer complaint, the plaintiff must file a proof of service of the summons and complaint, or an application for a posting order, unless a responsive pleading has been filed.
2. Failure of the plaintiff to comply with the previously mentioned requirement, in the absence of a filed response, will result in the issuance of an order to show cause re status. The order to show cause will be issued within 10 days of the date that the proof of service or posting application was due. Attendance of all parties and counsel who have appeared in the action will be required at the hearing, so that the Court can determine the following: the status of the case, whether or not the case is ready for trial, time limits, and possible sanctions, in the absence of good cause shown, for failure to serve the complaint and/or to file a proof of service.

C. Request to Set for Trial.
1. Within twenty-five (25) days after filing an unlawful detainer complaint, the plaintiff must file and serve a written request to set the matter for trial, unless a request for entry of default or request for dismissal has been filed, or unless the case has already been set for trial. By filing a request to set, a party

indicates that the case is at issue and will be ready to go to trial on the date assigned.

2. Failure of the plaintiff to comply with the previously mentioned requirement will result in the issuance of an order to show cause re status. The OSC will be issued within 10 days of the date that the trial-setting request was due. Attendance of all parties and counsel who have appeared in the action will be required at the hearing, so that the Court can determine the status of the case, whether or not the case is ready for trial, time limits, and possible sanctions, in the absence of good cause shown, for failure to file a trial-setting request.

D. Setting for Trial.
   1. Court Trials.
      After the trial-setting request is filed, and if the proof of service complies with these Rules in all respects, and if no jury trial is demanded, then the Clerk, no sooner than five (5) days thereafter, will assign the case for court trial on the earliest available date within the next twenty (20) days, and will promptly notify all parties in writing of the trial date.
   2. Jury Trials.
      If a jury trial is demanded, then the Clerk will assign the earliest available date for settlement conference (to be held within the next ten (10) days), and will assign the earliest jury trial date within the next twenty (20) days, and will promptly notify all parties in writing of both dates.

E. Case Closure.
   Within six months after a clerk's judgment for restitution is entered, the plaintiff must set the case for ex parte prove-up hearing, unless the money damages are dismissed. Plaintiff's appearance will not be required if a declaration is submitted pursuant to Code of Civil Procedure §§ 585(b) and (d).

(Rule 4.08 amended effective January 1, 2015; adopted effective January 1, 2011.)

CHAPTER 5: MISCELLANEOUS CIVIL RULES

5.01 Attorney Fees for Prevailing Party.

Where law authorizes such fees, the Court, in its discretion, may determine reasonable compensation (computed on an hourly or per-day basis) for research, general preparation, trial, or other services rendered.

(Rule 5.01 adopted effective January 1, 2011.)

5.02 Attorney Fees in Cases Involving Minors or Incompetent Persons:

A. Attorney Fees in Minor's Compromise.

On any application for approval of a compromise under Code of Civil Procedure §372 or Probate Code §3500, the attorney fees hereafter set forth will be considered reasonable under normal circumstances. In computing fees based on the amount of the judgment or settlement, special damages allotted to the parents and the costs paid or incurred by any attorney must be deducted from the amount of the judgment or settlement before the fees are calculated. The fee schedule is as follows:

1. Settlement without the commencement of a trial: twenty-five percent (25%).
2. Recovery of judgment or obtaining settlement after trial has commenced: thirty-three and one-third percent (33-1/3%).
3. Settlement after filing appellant's opening brief on
4. : forty percent (40%).

B. Cases Involving Unusual Circumstances.
In cases involving unusual circumstances or conditions, the foregoing fees may be subject to variation, as ordered by the Court, to meet such circumstances or conditions.

(Rule 5.02 adopted effective January 1, 2011.)

5.03 Compromise of Claim of Minor or Incompetent Person:

A. Use of Mandatory Judicial Council Forms.
Requests for Court approval of compromise of a claim of a minor or incompetent person will not be considered unless submitted on a fully completed Judicial Council Form MC-350. The Petition must be accompanied by a proposed order approving the compromise, prepared on Judicial Council Form MC-351.

B. Order to Deposit Money; Deposit and Receipt for Deposit.
1. Order to Deposit Money: If the order approving the compromise includes an order for deposit of funds into a blocked account, the applicant must also submit to the Court, along with the petition and approval order, a separate order to deposit the funds, prepared on Judicial Council Form MC-355.
2. Deposit and Receipt: Petitioner or counsel must deposit the subject funds as ordered within 48 hours of receipt, and must file a receipt from the depository, on Judicial Council Form MC-356, within 15 days thereafter.

C. Withdrawal of Funds.
If a court order for deposit of funds for the benefit of a minor does not allow for withdrawal without further order upon the minor’s eighteenth (18th) birthday or thereafter, then a petition for withdrawal of funds so deposited will be allowed only according to these Local Rules, and must be submitted on Judicial Council Form MC-357. When the attorney for the petitioner was allowed fees at the time of settlement, no attorney fees incidental to securing such withdrawal order will be awarded, except for good cause.

D. Presence of Petitioner and Minor or Incompetent Person at Hearing.
The presence of the petitioner and the minor or incompetent person is required at the hearing on a petition for approval of any compromise in excess of Ten Thousand Dollars ($10,000), unless, in advance of the hearing, good cause for non-appearance is established to the Court's satisfaction by a letter request seeking to excuse that person's attendance. In weighing the request, the Court will consider the following:
1. Amount of the settlement;
2. Policy limits;
3. Extent of the injury and the need for future medical care related to the injury;
4. Extent of residual injuries (including cosmetic and/or psychological injury);
5. Liability;
6. Travel distance for the minor or incompetent person and his or her guardian, including consideration of any disability which makes travel difficult; and
7. Interruption of education.

(Rule 5.03 adopted effective January 1, 2011.)

5.04 Form of Judgment:

A. Required Elements of Formal Judgment.
In drafting forms of judgment for the trial judge to sign, counsel must:
1. Clearly show the full names of the parties for whom and against whom the judgment is rendered, including their legal capacities as plaintiffs, defendants, cross-complainants and cross-defendants;
2. Refer to full names as they appear in the caption of the initial pleadings, or obtain an order amending the pleadings in respect to such names; and,
3. All judgments must be full and complete. Judgments that have exhibits are discouraged and may not be accepted. If such judgment is accepted, there must be a place for signature of the judge at the end of the attached exhibit.

B. Submission of Proposed Judgment to the Court.
When required by the Court, or when Rule 3.1590 of the California Rules of Court requires a proposed judgment, counsel must lodge the proposed judgment with the Clerk. The proposed judgment must be entitled "Proposed Judgment" and must bear an attached proof of service indicating that a copy has been served upon all counsel and unrepresented parties. At the same time that the proposed Judgment is lodged with the Clerk, counsel must also lodge therewith the original form of the judgment. The original judgment must be in the same form and have the same content as the proposed judgment, except that it must be entitled "Judgment", and must be suitable for signature by the judge. The Clerk will mark the proposed judgment as having been received, and will retain it as well as the original judgment, unmarked, in the Court's file. After the requisite period of time has elapsed pursuant to Rule 3.1590 of the California Rules of Court, the Clerk will present the file to the judge so that the judgment may be signed, if appropriate.

(Rule 5.04 amended effective January 1, 2015; adopted effective January 1, 2011.)

5.05 Form of Stipulated Judgment:

The Court will sign a judgment that is presented as part of a stipulation for judgment, whether or not the proposed judgment is included in the body of the stipulation or is an attachment thereto.

(Rule 5.05 adopted effective January 1, 2011.)

5.06 Settlement Conferences:

A. Required Conference.
   1. Civil cases, whether or not subject to the Trial Court Delay Reduction Act, may be set for settlement conference, at the discretion of the Court.
   2. Any matter may be voluntarily submitted to the Court for settlement conference.

B. Attendance and Preparation.
   At the settlement conference, all parties must:
   1. Be prepared to make a bona fide settlement offer;
   2. Have all principals or clients either in attendance or available by telephone, unless excused in advance for good cause shown, after notice to all other parties that a request to be excused will be made (requests for non-appearance may be made by letter);
   3. Produce memoranda of items of any special damages claimed; and
   4. Have available any and all medical reports (if a personal injury is claimed), depositions, photographs, records, diagrams, maps, bills, contracts, memoranda and other documents pertinent to settlement of the case.

C. Settlement Conference Statement.
   No later than five (5) calendar days prior to the date fixed for the settlement conference, the parties must lodge with the Court, and must serve upon all other parties, a brief statement of the facts and the law of the case. These statements will become a part of the Court's file.

D. Duty re Settlement.
   If a settlement conference has been calendared and the matter is resolved prior thereto, the settlement conference will not be dropped from calendar unless and until the parties have filed settlement papers or a dismissal of the action, and have informed the Clerk of the Court that the matter can be dropped from calendar. If neither dismissal nor settlement papers have been filed prior to the conference, the matter will be returned to the case management calendar for status review.

(Rule 5.06 adopted effective January 1, 2011.)

5.07 Sanctions:

A violation of these Rules of Court constitutes a violation of a lawful court order, as that term is used in Code of Civil Procedure §177.5, and may subject the party and/or counsel to sanctions there under or as otherwise provided by law. In addition to sanctions authorized by the Code of Civil Procedure, the Court adopts and incorporates herein the provisions of Rule 2.30 of the California Rules of Court. Any request for money sanctions must be made upon advance notice, in writing, unless ordered on the Court's own motion, in which case notice need not be in writing.

(Rule 5.07 adopted effective January 1, 2011.)

5.08 Default Prove-Ups:

A. Manner of Presentation.
   1. Except for default cases in which the Clerk of the Court may enter judgment without review by a judicial officer, Code of Civil Procedure §585(a), and cases in which plaintiff seeks to quiet title pursuant to CCP §764.010 (see Rule 5.11, below), applications for entry of default judgment and evidence in support thereof may be presented either in written form or by oral testimony.
   2. Affidavits and declarations presented in support of a prove-up application must comply with the requirements of CCP §585 and §585.5.
   3. If a prove-up by oral testimony is desired, the plaintiff must apply to the Clerk of the Court for a hearing, which will be set on the regular civil law and motion calendar, unless more than fifteen (15) minutes will be required, in which case a special setting will be necessary.

B. Evidence on Prove-Up, Generally.
   For purposes of default prove-ups, allegations in the complaint or cross-complaint, if applicable, are not deemed proved because of the failure of the adverse party to answer. Rather, proof must be presented by competent evidence with respect to all essential elements of the causes of action to be proved. Mere conclusions are insufficient. Affidavits and declarations must show, affirmatively, that the affiant or declarant is competent to state those things that appear therein. Generally, the Court will use the same standard for assessing the quality and sufficiency of the evidence as it would apply in a contested proceeding, CCP §585(d); Harris v. Cavasso (1977) 68 CA3d 723; Devlin v. Kearny Mesa AMC (1984) 155 CA3d 381.

(Rule 5.08 adopted effective January 1, 2011.)

5.09 Prove-Up in Quiet Title Proceedings:

The Court will not enter judgment by default in any action to quiet title, Code of Civil Procedure §764.010. An application for entry of judgment in such action must be set for hearing on the civil law and motion calendar, subject to special setting where more than fifteen (15) minutes will be required. At the hearing or by papers filed prior thereto, the applicant must demonstrate that all parties have been served and have either appeared or failed to appear, and the applicant must comply with the provisions of CCP §585(c). At the hearing on the application, the applicant must present such oral and documentary evidence as may be necessary to prove his or her claim to title.

(Rule 5.09 adopted effective January 1, 2011.)

5.10 Obtaining Default Judgments Pursuant to Service by Publication:

A. Obtaining an Order for Service by Publication.
Applications for service by publication must be submitted to the Clerk of the Court for ex parte approval by a judicial officer, and must be supported by one or more factual declarations describing all efforts to locate the other party. The Court will not grant the application unless it appears from one or more supporting declarations that the petitioner has exercised all due diligence in attempting to locate the other party. [Olvera v. Olvera (1991) 232 Cal.App.3d 32.] Petitioner's due diligence search may include the following, as appropriate:
   1. Recent inquiries of relatives and friends of the other party, and of other people likely to know his or her whereabouts;
   2. Searches of relevant telephone directories, tax rolls, and other public records; and
   3. Internet searches and/or searches by licensed search firms or entities.

B. Publication and Entry of Default.
Upon receiving the signed order for publication, the petitioner must cause the summons to be published in a newspaper of general circulation in the State of California that is most likely to give actual notice to the other party, pursuant to Code of Civil Procedure §415.50 (i.e., the summons must be published once a week for four consecutive weeks). Upon completion of publication, the petitioner must all file the proof of publication and the request to enter default. The Clerk will then determine whether service is complete and, if so, will enter default. (A hearing on the request to enter default may be required when the circumstances so merit.) After default has been entered, the petitioner may apply for a default judgment as described in the preceding section.

C. Applications for Orders for Alternative Service by Publication Where Plaintiff/Petitioner Is Indigent.
An indigent plaintiff/petitioner may apply to the Court for an alternative manner of publication, other than publication in a California newspaper of general circulation. A plaintiff/petitioner may be eligible for indigent relief when a prior fee waiver has been granted in the same action. The petitioner must submit, for the Court’s review, an application and declaration for alternative publication, stating

that the Court has granted a fee waiver and the reasons that the applicant cannot now afford the cost of publication. After reviewing the application and the file, the Court may order alternative service of process, require a hearing to determine Petitioner's ability to pay, or deny the request.

(Rule 5.10 adopted effective January 1, 2011.)

5.11 Small Claims Court; Appearance by Plaintiff; Dismissal:

A. Statement of Policy.
The goal of the Court is to process small claims cases in the most expedient manner that is fair to all concerned. The Court aims to achieve disposition of 100 percent (100%) of small claims cases within thirty-days (30) after filing when all defendants reside in Modoc County, and within sixty-days (60) after filing when any defendant resides outside of Modoc County. Small claims cases are scheduled for trial within these timeframes whenever practicable. In many cases, service cannot be completed upon the defendant before the scheduled hearing date. If the plaintiff contacts the Court prior to the hearing date, the hearing date will be continued for a reasonable amount of time to allow for proper service upon the defendant.
B. Duty of Plaintiff to Appear or Request Continuance.
The Court will dismiss, without prejudice, any small claims action for which there is no appearance by the plaintiff at the scheduled hearing, unless the plaintiff contacts the Clerk of the Court in advance of the hearing date, either by telephone or in writing, to request a continuance. At the time the complaint is filed, the Clerk of the Court will provide plaintiffs with written notice of this policy.

(Rule 5.11 adopted effective January 1, 2011.)

5.12 Representation in Unlawful Detainer Proceedings:

General Court Policy. It is the policy of this Court that a property manager or a rental agent may file an unlawful detainer complaint on behalf of the owner or a lawful tenant of the subject property, or prepare the petition or complaint for filing, and represent the property owner in the proceeding.

(Rule 5.12 adopted effective January 1, 2011.)

CHAPTER 6: FILING CRIMINAL COMPLAINTS AND CITATIONS; BAIL; ARRAIGNMENT; WARRANTS; AMENDMENTS TO COMPLAINTS AND INFORMATIONS

6.01 Filing Criminal Complaints and Citations:

A. Number of Copies of Charging Document.

At the time a criminal charging document is filed, the filing agency must submit two copies of the charging document for each defendant named therein.

B. Time of Filing: In-Custody Defendants.
All criminal complaints charging in-custody defendants must be filed with the Clerk of the Court at the earliest time possible, in no case later than one (1) hour before the time of the defendant's first appearance on those charges.

C. Time of Filing: Out-of-Custody Defendants.
All criminal complaints charging out-of-custody defendants shall be filed with the Clerk of the Court no later than two (2) days before the time of the defendant's first appearance on those charges.

(Rule 6.01 adopted effective January 1, 2011.)

6.02 Bail and "O.R." Procedures:

A. General Provisions.
The following provisions apply to all proceedings in which bail is requested or has been set:
1. Out-of-Court Requests for Increase or Reduction. When a judge outside of court has set bail, then any further out-of-court requests for the increase or reduction of bail must be made, if practicable, to the judge who set such bail.
2. Disclosure of Prior Requests. Any person requesting a bail reduction or bail increase must disclose all prior such applications that have been made in the pending matter.
3. Requests for Bail or Release on Own Recognizance. No defense applications for bail or release on one’s own recognizance, (O.R.), will be considered unless the Office of the District Attorney has been given adequate notice of the request, so that a representative of the District Attorney has the opportunity be present at the time the request is presented.

B. Source of Bail Pursuant to P.C. Section 1275.
When a Source of Bail Order pursuant to Penal Code §1275 has been issued, the defendant, in order to show that no portion of the consideration, pledge, security, deposit, or indemnification which is paid, given, made, or promised for its execution was feloniously obtained, must utilize the following procedures to calendar the matter for hearing:
1. Declaration or Offer of Proof. The request for hearing must be accompanied by a declaration or offer of proof setting forth the following:
    a. The identity of the bail agent and surety, or, if there is no surety, the depositor;
    b. The source of the bond premium, including name and address of any person proposing to pay said premium; and
    c. The source of the security or pledge, including the name and address of the owner, and description of the property.

2. Filing and Service of Declaration. The declaration or offer of proof must be filed with the Clerk and must be personally served on the Office of the District Attorney no later than twenty-four (24) hours before the hearing.
3. Hearing. At the hearing, the defendant must produce the bail agent, the person proposing to pay the premium, and the person proposing to provide the security, for examination and cross-examination, if so directed by the Court.

(Rule 6.02 amended effective January 1, 2015; adopted effective January 1, 2011.)

6.03 Arrest Warrants and Search Warrants:

A. Issuance Procedures.
All requests for arrest warrants and search warrants must first be presented to the District Attorney or Attorney General, as appropriate, for review and approval before delivery to the Court. Approval by the District Attorney or Attorney General must be in writing. All supporting declarations for arrest warrants must be fully dated and executed before submission to a judge.

B. Return Procedures.
Search warrant returns are to be presented to the Clerk of the Court, who is authorized to receive and execute the return for the Court. (Penal Code §1534(c).)

(Rule 6.03 adopted effective January 1, 2011.)

6.04 Arraignment:

A. Appearance of Public Defender at Arraignment.
The Public Defender will be notified of all pending in-custody arraignments, and a Public Defender must be present for all in-custody arraignment calendars, whenever available, to undertake representation of defendants for whom the Public Defender may be appointed as counsel.

B. Continuance to Obtain Counsel.
In cases in which a defendant appears at arraignment without counsel and advises the Court that he or she is in the process of hiring or attempting to hire private counsel, the case may be continued for appearance of counsel and initial plea. The continuance will generally not extend beyond fourteen (14) calendar days from the date of first appearance, absent a showing of good cause for a later appearance.

C. Further Calendaring in Misdemeanor Matters.
As a general case-handling guideline, the Court will schedule misdemeanor cases not resolved at arraignment for a settlement/pretrial conference to be conducted approximately two (2) weeks after the arraignment.

D. Further Calendaring in Felony Matters.
As a general case-handling guideline, the Court will schedule felony cases not resolved at arraignment for a pretrial or settlement conference to be conducted approximately two (2) weeks after the arraignment (unless time is not waived). The defendant must be personally present at the felony plea/disposition conference, unless excused by the Court, in advance, on good cause shown. If no pretrial or settlement conference is set, a preliminary examination will be set within two (2) weeks after the arraignment, unless the Court requires a later setting.

E. Assignment for All Purposes.
Unless otherwise stated by the Court at the time of the arraignment in all criminal matters, the case is deemed assigned for all purposes to the bench officer presiding over the arraignment.

(Rule 6.04 adopted effective January 1, 2011.)

6.05 Amendments to Complaints and Informations:

A. Filing and Hearing Requirements.
If the defendant has already entered a plea, leave of court is required for filing of an amended Complaint or Information. (Penal Code §1009.) If a party wishes to file an amended pleading, and leave of court is required but has not yet been obtained, the amended pleading may be lodged with the Court. The Clerk will mark it “received”, and at the next calendared hearing the Court will determine if there is objection to the amended pleading, and will permit counsel, or a party appearing in propria persona, to present argument in support or opposition. If the matter is not already on calendar for some purpose within a reasonable time after the amended pleading is lodged, then the party requesting leave to file the amended pleading must place the matter on calendar by filing a noticed motion in accordance with Local Rule 13.03.

B. Service Requirements.
At the time the amended pleading is lodged with the Court, the party lodging the pleading must immediately serve a copy on all other counsel, or parties appearing in propria persona.

(Rule 6.05 adopted effective January 1, 2011.)

CHAPTER 7: MISDEMEANOR SETTLEMENT AND PRETRIAL PROCEEDINGS

7.01 Negotiations Prior to Pretrial or Settlement Conference:

A. Meet and Confer.

Counsel are strongly encouraged to meet and discuss actions informally in order to resolve matters prior to the pretrial or settlement conference.

B. Prosecution Offers for Resolution.
The prosecuting agency should deliver any formal offer for resolution to defense counsel prior to the day of the pretrial or settlement conference.

C. Defense Preparation.
Defense counsel should appear at the pretrial or settlement conference having already discussed the case, and the prosecuting agency's offer, with the defendant.

(Rule 7.01 adopted effective January 1, 2011.)

7.02 Pretrial or Settlement Conference:

A. Presence of Defendant.
Defense counsel are strongly encouraged to have the defendant(s) present at the pretrial or settlement conference unless the Court has given prior approval for non-appearance.

B. Preparation and Continuances.
At the pretrial or settlement conference, both sides must be fully prepared to discuss the facts of the case and the availability of witnesses for trial. The pretrial or settlement conference will not be continued without actual good cause shown.

C. Dispositions and Trial Dates.
The Court will be prepared at the pretrial or settlement conference to accept dispositions and to set trial dates.

(Rule 7.02 adopted effective January 1, 2011.)

7.03 Pretrial Motions:

A. Controlling Procedures.
All procedures for pretrial motions that are imposed by California statutes and Rules of Court are controlling in this Court. The Court incorporates herein by this reference the requirements of Rule 4.111 of the California Rules of Court pertaining to the making and timing of pretrial motions and oppositions thereto.

B. Effect of Failure to File Moving Papers.
If the moving papers are not timely filed for the assigned hearing date, the motion may be deemed to have been waived by the moving party unless good cause is shown for the failure to file as required.

C. Motions to Suppress Evidence (Penal Code §1538.5).

In all pre-trial motions made pursuant to Penal Code §1538.5, the procedural guidelines contained therein must be followed. All such motions to suppress must be in writing, and must be scheduled on a regular motion date prior to trial. The notice of motion and motion shall specifically describe and list the evidence that is the subject of the motion to suppress, and shall state the theory or theories which will be relied upon, and state generally the legal authorities supporting the theory or theories upon which suppression of the evidence is sought.

D. Motions for Continuance.
Motions to continue any hearing, including trial, are disfavored and will be denied unless the moving party, pursuant to and in accordance with Penal Code §1050, presents affirmative proof that the ends of justice require a continuance. A stipulation by all parties to continue a hearing does not, by itself, constitute good cause. Substitution of counsel does not automatically constitute good cause for a continuance.

(Rule 7.03 adopted effective January 1, 2011.)

7.04 Trial Settings:

Estimates of Length of Jury Trial.
At the pretrial or settlement conference or as soon thereafter as becomes apparent, counsel must indicate to the Court a reasonable estimate of the length of the trial.

(Rule 7.04 adopted effective January 1, 2011.)

7.05 Readiness/Trial Management Conferences:

A. General Requirements.
The obligations of the parties and counsel in relation to readiness/trial management conferences are as set forth in Rule 4.112 of the California Rules of Court, incorporated herein by this reference. All counsel must attend the readiness/trial management conference, and counsel must be prepared at that time to indicate to the Court whether they are ready to proceed to jury trial.

B. Appearance of Defendant.
Defense counsel must ensure that the defendant is present at the readiness/trial management conference, unless the defendant has executed a waiver of appearance pursuant to Penal Code §977(b)(1).

C. Dispositions.
The Court will be prepared, at the readiness/trial management conference, to accept dispositions.

D. Acceptance of Plea after Conference.

Without a showing of good cause, the Court will not accept any plea by the defendant after the readiness/trial management conference other than a guilty or no contest plea and admissions to all allegations in the complaint or information.

(Rule 7.05 adopted effective January 1, 2011.)

CHAPTER 8: CRIMINAL DISCOVERY RULES

8.01 Discovery:

A. Governing Provisions.
Discovery is governed by the provisions of Penal Code §§1054, et seq., and by all applicable constitutional, statutory, and decisional law.

B. Obligation to Make Discovery.
The obligation to make discovery available is an automatic, reciprocal, and continuing obligation.

C. Requirements of Discovery Motion.
Unless otherwise ordered, a motion in a criminal case for the discovery of information or evidence must be in writing and, absent an order shortening time, will be subject to the time standards of Rule 4.111 of the California Rules of Court, incorporated herein by this reference. Specific written discovery requests and motions must identify the precise material sought. Any response to a specific request also must be in writing and must state the date, time, and location of availability.

D. Timeliness of Discovery.
All discovery must be timely sought so that the attorneys are adequately prepared to discuss the case at the pretrial or settlement conference.

E. Failure to Comply with Discovery Requirements.
In the event of a failure to comply with this Rule or an order of discovery, the Court may grant a continuance, exclude the evidence not disclosed, dismiss the case, or order any other relief or sanction available at law or under these Rules.

(Rule 8.01 adopted effective January 1, 2011.)

CHAPTER 9: CRIMINAL TRIAL RULES

9.01 Motions at Trial:

Motions that are out-of-the-ordinary or unusual (e.g. complex or extensive motions in limine) must be made in writing whenever possible, and served upon opposing counsel. They should be filed timely so that they may be heard prior to the trial confirmation

hearing. The trial judge may make further orders regarding the filing, serving and scheduling of such motions, at any time as may be appropriate.

(Rule 9.01 adopted effective January 1, 2011.)

9.02 Submission of Jury Instructions, Verdict Forms and Voir Dire Questions:

It is the policy of the Court in all criminal jury trials to use the instructions contained in CALCRIM. Absent an order of the Court on good cause shown, all jury instruction requests covering the law as disclosed by the pleadings, all special findings and verdict forms, and all requested jury voir dire questions, must be in writing and must be delivered by counsel to the trial judge and opposing counsel/party(s) no later than the pretrial conference on morning of the first day of the trial.

(Rule 9.02 adopted effective January 1, 2011.)

9.03 Exhibits:

In any case where a party has in excess of ten (10) exhibits to enter in evidence at a trial, the party or attorney must arrange to have all exhibits pre-marked prior to the trial, and the exhibits must be accompanied by a cover sheet for the clerk that identifies the nature of each exhibit in order, and provides a place for the clerk to mark, “admitted”, “withdrawn” or “excluded” after each marked exhibit.

(Rule 9.03 adopted effective January 1, 2015.)

CHAPTER 10: PRELIMINARY EXAMINATIONS

10.01 Time Estimate for Preliminary Examination:

Counsel must, at the time of setting or as soon as possible thereafter, indicate to the setting judge, the presiding judge, or the presiding judge's designee a reasonable estimate of the length of any preliminary hearing.

(Rule 10.01 adopted effective January 1, 2011.)

10.02 Continuance of Preliminary Examination:

A. Basis for Continuance of Preliminary Examination.
Motions to continue the preliminary examination are disfavored, and will be denied unless the moving party, pursuant to and in accordance with Penal Code §1050 and the particular statutes pertaining to continuances of preliminary examinations, presents affirmative proof that the ends of justice require the continuance. A stipulation by all parties to continue the preliminary examination, by itself, does not constitute good cause. Likewise, substitution of counsel does not automatically constitute good cause for a continuance.

B. When to File Motion.
No motion for continuance of a preliminary examination will be considered unless submitted to the Court in writing no later than 4:00 P.M. of the Friday before the preliminary examination is scheduled.

(Rule 10.02 adopted effective January 1, 2011.)

10.03 Exhibits:

In any case where a party has in excess of ten (10) exhibits to enter in evidence at a hearing, the party or attorney must arrange to have all exhibits pre-marked prior to the hearing, and the exhibits must be accompanied by a cover sheet for the clerk that identifies the nature of each exhibit in order, and provides a place for the clerk to mark, “admitted”, “withdrawn” or “excluded” after each marked exhibit.

(Rule 10.03 adopted effective January 1, 2015.)

CHAPTER 11: MISCELLANEOUS TRAFFIC INFRACTION RULES

11.01 Traffic School:

As a means of resolving traffic infraction charges, the Court will permit attendance at a traffic school that has been approved by the California Department of Motor Vehicles. Rules of eligibility and procedures for completing traffic school will be established by the Court from time-to-time, and will be made available to the public by the Clerk of the Court. Attention is hereby directed to Vehicle Code §§ 41501, 42005, 42007, and 42007.1.

(Rule 11.01 amended effective January 1, 2015; adopted effective January 1, 2011.)

11.02 Trials by Declaration:

A. Adoption of Procedure for Trial by Declaration.
This court adopts the provisions of Vehicle Code §40902, except as may be limited herein.

B. Eligibility.
Upon written request, any defendant will be afforded a trial by declaration, as may be allowed by Vehicle Code §40902. A defendant who requests a trial by declaration will be required to waive time for speedy trial.

C. Requirement for Posting of Bail.
Any person who requests a trial by declaration will be informed by the Clerk of the Court of the requirement to post bail in the full amount specified by the bail schedule. Failure to post bail in a timely manner will be deemed a withdrawal of

the request for trial by declaration. Thereafter, a person will not be afforded a trial by declaration in that case, absent an order of the Court on good cause shown.

D. Time Limits.
A person who has posted bail for a trial by declaration must adhere to the time limits set by the Clerk of the Court for submission of any required declarations, exhibits, or other evidence. Failure to submit said evidence in a timely manner will result in bail forfeiture without further proceedings.

E. Evidence.
Pursuant to Vehicle Code §40902(c), this Court will admit all relevant evidence, including but not limited to the complaint, citation, police reports, written declaration of the defendant or any witness, photographs, drawings, diagrams, or other probative evidence.

(Rule 11.02 amended effective January 1, 2015; adopted effective January 1, 2011.)

CHAPTER 12: GENERAL CRIMINAL RULES

12.01 Sanctions:

A. Incorporation of Local Rule 5.07.
Rule 5.07 of these Local Rules, pertaining to civil actions, is incorporated herein by this reference as though fully set forth at length, and is hereby made applicable to criminal actions in this Court.

B. Incorporation of RPC Rule 5-300(B).
Rule 5-300(B) of the Rules of Professional Conduct of the State Bar of California relating to ex parte communications with the Court is incorporated by reference as though fully set forth at length and is hereby made applicable to criminal actions in this Court.

(Rule 12.01 adopted effective January 1, 2011.)

12.02 Photographing or Recording Court Proceedings:

The Court adopts Rule 1.150 of the California Rules of Court regarding photographing or recording of any court proceeding. The photographing or recording of any proceeding will be as determined by the judge who is presiding over that proceeding, subject to CRC Rule 1.150, and any request concerning photographing or recording the proceeding must be made to that judge.

(Rule 12.02 adopted effective January 1, 2011.)

12.03 Pretrial Motions:

A. Form of Pretrial Motions.
Unless otherwise ordered or specifically provided by law, all pretrial motions must be in writing and must be accompanied by a memorandum of points & authorities. All such motions and supporting documents, opposition papers, and the hearings thereon must comply with Rule 4.111 of the California Rules of Court. The form and format of all motions, and supporting or opposition documents, must be as required by the California Rules of Court and, specifically, CRC Rules 2.100-2.119.

B. Filing and Service.
The time for filing and the manner of service of pretrial motions must be as set forth in Rule 4.111 of the California Rules of Court unless otherwise ordered or specifically provided by law. The Court upon ex parte written application may grant an order shortening time, if the application is supported by a declaration demonstrating good cause. Any ex parte application to the Court for an order shortening time must comply with Local Rule 3.03.

C. Hearings.
Hearings on pretrial motions must be set on the Court's regular criminal law and motion calendar, if the hearing will require no more than a total of 15 minutes for all sides to fully argue. No evidence will be taken at any hearing on the law and motion calendar. In the event that counsel determines that the matter will require more than a total of 15 minutes, or will require the taking of evidence, counsel must notify the Clerk of the Court, no later than the third court day prior to the day set for hearing, that the matter requires an extended hearing, in which case the matter may be continued by the Court to a date and time certain.

D. Hearings by Stipulation of Counsel/Parties.
If counsel, or counsel and parties in propria persona, unanimously stipulate in writing that a matter may be placed on calendar and heard by the Court without notice, then counsel or such party may notify the Clerk of the Court, in person or by telephone, of the fact of the stipulation, and may request that the matter be calendared for hearing at a designated date and time. Upon receipt of approval by a judge, the Clerk of the Court may authorize the matter to be so calendared, and shall telephonically notify the court reporter, all counsel and parties in propria persona, and all necessary security personnel (and custodial personnel if the defendant is in custody), of the date and time of the hearing. Unless expressly ordered by the Court, or otherwise provided for in these Rules or some other written policy of the Court, no counsel or party may unilaterally request that a matter be calendared for hearing. Exceptions to this Rule include the Court's existing policy regarding the calendaring of juvenile detention hearings under Welfare & Institutions Code Sections 300 and 600, and calendaring the arraignments of defendants taken into custody for alleged probation violations.

(Rule 12.03 amended effective January 1, 2015; adopted effective January 1, 2011.)

12.04 Policy Regarding Acceptance of Negotiated Plea after Final Pretrial Conference:

A. Policy.
Except in extremely unusual circumstances when good cause is shown, the Court will not approve a negotiated plea after the trial readiness conference has been conducted and the trial is confirmed. For purposes of this policy, the term “negotiated plea” means any plea other than a plea of guilty or nolo contendere to all counts (not including alternative counts) charged in the information, and also means any plea which is conditional upon a grant of probation or a certain specified punishment, even if the defendant is pleading guilty or nolo contendere to all counts.

B. Meet and Confer Requirement.
Counsel must have fully investigated their cases, and must have met and conferred with one another, prior to the final pretrial conference.

(Rule 12.04 adopted effective January 1, 2011.)

12.05 Requests for Sentence Modification and Other Post-Trial Motions:

A. Setting for Hearing.
In any case in which the Court has not lost jurisdiction and the defendant or counsel seeks modification of a term of probation, including a jail term, the defendant or counsel must contact the Clerk of the Court in order to set a hearing before the bench officer who imposed the sentence. The matter will be set on a regular calendar over which that bench officer presides.

B. Form of Request.
The Court adopts the time limits set forth in Rule 4.111 of the California Rules of Court for all post-trial motions unless otherwise ordered or specifically provided by law. The Court upon ex parte written application may grant an order shortening time, if the application is supported by a declaration demonstrating good cause. Any ex parte application to the Court for an order shortening time must comply with Local Rule 3.03.

(Rule 12.05 adopted effective January 1, 2011.)

12.06 Claims by Court-Appointed Counsel for Payment of Fees:

A. Requirement of Claim.
A claim for fees and/or reimbursement of expenses by an attorney appointed by the Court to represent an indigent defendant in a criminal or juvenile action must be submitted in writing to the Court, or to such agency as may be designated by the Court from time-to-time, or to the presiding judge of the Court, in the form, and not later than the time, prescribed in this Rule 12.06. Failure to comply with these requirements may be deemed a waiver of the claim for and right to

reimbursement. Claims submitted to the Court will be reviewed and approved by the Court, and then forwarded to the County Auditor for payment.

B. Content of Claim.
The claim must include an itemized statement of the services rendered, the time devoted to each service, the sum requested for each item of service, the date of service, the items and amounts of reasonably necessary expenses incurred, and the total amount requested by the attorney. The Court will review these applications based upon standards which are maintained by the Court and which may be modified from time-to-time as circumstances warrant.

C. Time for Presenting Claim.
The attorneys claim must be presented no later than ninety-days (90) from the date that he or she last rendered service in the matter. Failure to present a claim within the required time limitation may be deemed a waiver of the claim and of the right to reimbursement.

(Rule 12.06 adopted effective January 1, 2011.)

CHAPTER 13: FAMILY LAW RULES

13.01 Use of Judicial Council Forms, Proofs of Service.
(1) All pleadings, including orders to show cause, notices of motion, and responsive declarations, must be pleaded on the appropriate Judicial Council form where mandated, and all documents filed with the Court must comply with the California Rules of Court as to form and format.
(2) Except for the initial Petition or Complaint and any Order to Show Cause in a matter governed by these Rules, any document filed with the Court shall be accompanied by a proof of service of that document, and the proof of service shall be in compliance with Code of Civil Procedure §1013(a).

13.02 Family Law Motions and Orders to Show Cause:

A. Calendars for Family Law Motions and Orders to Show Cause.
1. Date and Time.
The law & motion calendar for Family Law cases is held weekly, at 10:00 a.m. each Monday. The dates and times for fixed calendars are subject to change. Parties should confirm dates with the Clerk of the Court. The Clerk will set any motion, or enter the date of hearing on an Order to Show Cause, and will insert the requested date on the moving papers along with the appropriate time.
2. Fifteen-Minute Time Limit.
All hearings on the law and motion calendar in the Family Law Department are limited to fifteen minutes or less. A moving or responding party may request a long-cause hearing pursuant to the provisions of Section Three of these Rules. Where a hearing on the law and motion calendar exceeds fifteen

minutes, the Court may rule without further hearing, defer the matter to the end of the calendar, continue the matter to another date, order the matter off calendar, or declare a mistrial.

3. Lengthy Matters.
   If, after call of the calendar, the moving or responding party contends that the hearing will require more than fifteen minutes, and has made sufficient offer of proof or has filed, at least twenty-four hours before the hearing, a request for live testimony, then the Court will set the matter on the next available trial or long-cause calendar. If, after call of the calendar and commencement of argument, it appears to the Court that more than fifteen minutes will be required for hearing of a matter, then the Court may set the matter on the next available trial and long-cause calendar.

B. Requests for Ex Parte Orders Pending Hearing.
   Ex parte motions must be made and conducted as set forth in Section Three of these Rules, and will be calendared by the Clerk of the Court.
   1. For ex parte matters made pursuant to the Family Code, a “Declaration Re Ex Parte Notice” (See Appendix A) must be completed by counsel or self-represented party, and submitted with the ex parte application.
   2. Orders will be issued ex parte only if the application is accompanied by an affidavit or declaration adequate to support its issuance under Family Code Section 6300 and Code of Civil Procedure Section 527. If the affidavit or declaration does not contain a sufficient factual basis for a requested order, it will not be granted. Counsel and unrepresented parties will not be permitted to augment affidavits or written declarations by verbal statements.
   3. A judicial officer will review ex parte applications and request for orders as soon as is practical after submission to the Clerk of the Court.
   4. The reviewing judicial officer has discretion to deny a requested hearing on the ex parte application, solely because of the submitted documents.

C. Service of Moving and Responsive Documents; Effect of Failure to Serve.
   1. Service of Documents.
      Moving and responsive pleadings must be served on the opposing party or attorney, including the designated child support agency if a party has applied for and/or is receiving public assistance, or has referred the matter to such agency, in accordance with Code of Civil Procedure §1005. Orders to Show Cause (OSC) issued in connection with temporary restraining orders under the Family Code must be served in accordance with Family Code §242.
   2. Failure to Serve.
      If a responding party fails to appear at a hearing, the moving party must submit proof of timely service to the Court. Otherwise, the matter may be taken off calendar. A moving party may submit, on the appropriate Judicial Council form, an application and order for re-issuance of an order to show cause.

D. Responsive Pleadings to OSC or Notice of Motion.

1. Time Requirements.
   Unless otherwise ordered or good cause is shown, any responses, declarations, or points and authorities must be served and filed according to the provisions of Code of Civil Procedure §1005(b). Failure to comply with this requirement may result in the refusal by the Court to consider any papers not timely filed. The Court also may continue the matter and/or impose appropriate sanctions.
2. Alternative Relief.
   A responding party may request alternative relief in the responsive pleadings, without filing a separate order to show cause or motion. (Family Code §213.) The Court may consider a request for mutual restraining orders, but only in the case where the parties requesting the orders have complied with Family Code §6305. A responding party seeking affirmative relief must file and serve a separate order to show cause or notice of motion.

E. Meet and Confer Requirements; Exchange of Documents; Stipulations.
   1. Meet & Confer; Exchanging Documents.
      Prior to any hearing, counsel and the parties must meet and confer in good faith, in an effort to resolve all issues. While conferring, or prior thereto, litigants must exchange all documentary evidence that is to be relied on for proof of any material fact. Failure to meet and confer or to exchange documents in a timely manner may result in the matter being dropped from the calendar or continued, and the Court may order other appropriate sanctions, including monetary sanctions. At the hearing, the attorneys for the parties must advise the Court as to what issues have been settled by agreement and what issues remain contested.
   2. Stipulations.
      All stipulations must be in writing, and all stipulations must be submitted to the Court prior to or at the calendar call on the date set for hearing.

F. Continuances.
   1. The Court looks with disfavor on requests for continuances, unless good cause is shown.
   2. A continuance of the initial date for any hearing may be granted by the Clerk by telephone if (a) the moving party represents to the Clerk that service has been made and that the parties agree to the continuance to a specified date certain; and (b) the request is made before 4:00 PM at least two (2) court days before the scheduled hearing. The requesting party must send a confirming letter by method reasonably calculated to reach the Court prior to the originally scheduled hearing.
   3. Failure to notify the court of an agreement for a continuance before 4:00 P.M. at least two (2) court days preceding the hearing may result in the imposition of monetary sanctions. Such monetary sanctions will be in addition to any fees required for the continuance.

G. Hearing Procedures.

1. Calendar Call.
    a. Time Estimate. Parties or counsel must be prepared to state a time estimate on the length of the matter. Hearings on the Family Law & Motion calendar are limited to fifteen (15) minutes, and may be subject to further limitations to accommodate the Court's calendar. Generally, the Court will hear stipulated matters first, and may give calendar preference to volunteer attorneys representing pro bono clients. If both parties believe in good faith that the matter cannot be completed within fifteen (15) minutes, they must so inform the Court at the time the matter is called. The Court may then continue the matter to another date on its long-cause calendar, or make other appropriate orders.
    b. Non-Appearance by a Moving Party. If the moving party or counsel is not present when the calendar is called, the matter ordinarily will be either dropped to the bottom of the calendar or ordered off calendar unless the responding party has requested affirmative relief. If the moving party or counsel is going to be unavoidably late, the Clerk of the Court must be so notified at the earliest possible opportunity.
    c. Non-Appearance of Responding Party and Requirement and Effect of Proof of Service. If a responding party fails to appear at a hearing, the moving party must immediately submit proof of timely service to the Court. If proof of service is not produced but the moving party alleges that timely service has been accomplished, the matter may be taken off calendar or continued to allow submission of proof of service. Where a valid proof of service is provided, the Court will hear the order to show cause or motion as an uncontested matter.
2. Attorney's Calendar Requirements.
   Because contested matters are often continued to another date, attorneys must bring their calendars to each hearing. If an attorney does not have his or her calendar available at the time the continuance is being set, a matter that is continued to a date that conflicts with an attorney's prior commitment will not be continued because of said commitment.
3. Copies of Other Pleadings.
   When counsel or self-represented party plans to refer to a document that was previously filed with the Court but is now unavailable (because the file containing the document is on microfiche, or otherwise), it is the responsibility of the party relying on the document to obtain copies thereof, to attach the copies to his or her papers, and to make the document available to the Court prior to the hearing on the matter.

H. Presentation of Evidence at the Hearing.
1. Declarations Received in Evidence.
   Counsel must be prepared to present their positions based upon pleadings, declarations, and offers of proof. The Court will consider all declarations to have been received in evidence at the hearing, subject to legal objection and cross-examination where appropriate, Reifler v. Superior Court, (1974) 39 Cal.App.3d 479. The Court may decide in appropriate cases contested issues

based solely on the application, the response, the supporting declarations, and the memoranda of points and authorities submitted by the parties.

2. Offers of Proof.
   In lieu of testimony, and solely at the Court's discretion, an offer of proof may be made during any hearing or trial. An offer of proof is a succinct statement given by counsel that declares what a particular witness would say if called to the stand. Offers of proof are subject to the same evidentiary objections as live testimony, and must be distinguished and presented separately from argument.
3. Live Witnesses.
   A party seeking to introduce oral evidence at a hearing (except for oral evidence in rebuttal to oral evidence presented by the other party) must comply with the requirements of Rule 3.1306 of the California Rules of Court.
4. Sanctions for Misstating an Offer of Proof.
   The Court may impose appropriate sanctions for misstating evidence in an offer of proof.

I. Preparation and Service of Orders after Hearing; Form of Support Stipulations.
   1. Procedure.
      Preparation of orders after hearing, and obtaining the approval of opposing counsel, must be accomplished as set forth in Local Rule 3.07.
   2. Service of Orders.
      a. Service on Opposing Party. After an order has been signed by the Court and filed, the party preparing the order must mail an endorsed filed copy to opposing counsel or self-represented party.
      b. Service on the Mediator. If an order involves custody and/or visitation, and the Court Mediator has seen the parties, an endorsed filed copy of the order must be sent by the party preparing the order to the Court Mediator.
      c. Service on Child Support Agency. If an order involves custody, visitation, and/or support, and the County of Modoc is a party, or a designated child support agency is involved in the collection of support for the benefit of a party to the matter, the party who has prepared the order must sent an endorsed copy of the order must be sent to the support agency.
   3. Stipulations Establishing or Modifying Child Support Orders.
      All stipulations establishing or modifying child support must be submitted on the appropriate Judicial Council forms.

(Rule 13.02 amended effective January 1, 2015; adopted effective January 1, 2011.)

13.03 Family Law Discovery:

Parties are encouraged to participate in informal discovery as a means of conserving their financial resources. In appropriate cases, upon the Court's own motion or upon a request from either party, the Court may adopt a discovery plan that is tailored to the

issues of the case and to the financial resources of the parties. (Note: the Code of Civil Procedure governs discovery in Family Law matters, in general. Expert witness disclosures are governed specifically by CCP §3034.)

(Rule 13.03 amended effective January 1, 2015; adopted effective January 1, 2011.)

13.04 Rules Applicable to All Financial, Child Support and Spousal Support Issues:

A. In General Rule 13.04 applies to any Family Law proceeding where a financial matter is at issue. “Financial matter” as used herein includes any request for child support, for spousal or family support, or for attorney’s fees and costs. Parties must disclose to each other and to the Court all relevant financial information, in a timely and complete manner, whenever a financial matter is at issue. The Court may impose sanctions, including monetary sanctions, for failure to comply with this Rule.

B. Income and Expense Declaration; Additional Financial Information.
   1. I&E Declarations Must Be Current.
      Each party must submit a current Income and Expense Declaration (“I&E”) whenever a financial matter is an issue. If an I&E has been filed more than sixty (60) days before the date of the hearing, a new declaration must be filed unless the party who would be filing the I&E files and serves instead a declaration under penalty of perjury that the contents of the last filed I&E (identified by filing date) have not changed materially in any respect. The I&E must state the best estimate of the other party’s income, and whether or not child custody or visitation is currently an issue. The Declaration must state the declarant’s best estimate of the timeshare each party has with the minor child(ren). The Court will accept a Simplified Financial Declaration form in lieu of an I&E for child support calculations in appropriate cases.
   2. Declaration Must Be Complete.
      All applicable blanks on the Income and Expense Declaration must be completed. Notations such as "Unknown," “Estimate," "Not Applicable," and "None" may be used where appropriate. The following items or information must be attached to the Income and Expense Declaration:
      a. W-2’s or 1099 forms if the income tax return is unavailable;
      b. Last two (2) pay stubs.
      c. If the submitting party is self-employed, a profit and loss statement for the preceding twelve (12) months, or other appropriate time period that is at least as detailed as the IRS form Schedule “C”. In addition, and not withstanding subsection B.(1) of this Rule, if more than sixty (60) days have elapsed since the filing of the Income and Expense Declaration, self-employed individuals must prepare a supplemental profit and loss statement, at least as detailed as the IRS form Schedule C, for the period of time from the ending date of the profit and loss statement attached to the I&E through the time of the hearing. Any supplemental profit and loss

statement must be delivered to the other party no later than five (5) court days preceding the hearing date.

d. If child support is sought for a child who is sixteen (16) years of age or older, the moving party must state the child's school grade level as of the application.
e. Upon request, the parties must also exchange income tax returns for the prior two (2) years, including all attachments.

3. Requirement of an Additional Factual Declaration When a Party Is Unemployed.
If a party is unemployed, that party must submit a declaration describing his or her previous employment, gross/net income earned when employed, and reasons for termination. It also must describe the party's current efforts to obtain employment.

C. Filing Tax Returns with the Court.
Any tax return to be filed with the Court, whether it is the tax return of the person filing it or the tax return of any other person must be attached to a separate declaration that identifies the tax return(s) being submitted and that is conspicuously marked "CONFIDENTIAL TAX RETURN". Any document so identified will be kept in a confidential section of the file, to be viewed only by the parties, their attorneys, and the Court. Tax returns must not be attached to any other pleadings, forms, or documents submitted to the Court. If the Court finds that the tax return is not relevant to the issues of the case, the tax return will be returned to the party who submitted it, in accordance with Family Code §3552.

D. Calculation of Child Support.
The Court may utilize any computer program approved by the Judicial Council for calculation of child support. Parties should submit a printout of their own calculations to the Court to consider when support issues are to be decided.

(Rule 13.04 adopted effective January 1, 2011.)

13.05 Procedures and Policies for Resolution of Custody and Visitation Issues:

A. Mediation.
1. Introduction.
The Court Mediator's Office, in conjunction with the Court, assists in resolving contested issues concerning children. To that end, the Court Mediator provides mediation of custody and visitation disputes, and may conduct Court-ordered evaluations. The Court Mediator is committed to the principle that parents should retain responsibility for child rearing and should not abdicate this authority to the Court. Consequently, extraordinary efforts are expended to assist parents in resolving differences and in formulating a parenting plan that is in the best interest of the child(ren). Mediation provides a framework within which parents can make their own decisions regarding the lives of their child(ren). Parties are encouraged to resolve disputes by using

all available resources, including mediation in the private sector. If any parenting issues remain unresolved, Court-ordered mediation is required prior to a contested hearing. When an order to show cause or notice of motion places child custody and/or visitation at issue, the parties will be ordered to participate in mediation. A subsequent court date will be set for submission of the Mediator's report. Pending the outcome of mediation, the Court may make necessary interim orders for the safety of the parties as well as for custody and visitation. The Mediator may assist the Court in mediating interim custody and visitation orders.

2. Procedures Following Mediation.
    a. Agreement Reached. In those cases where mediation results in an agreement, the Mediator will report the agreement in written form to the Court, which may adopt the agreement and make it an order.
    b. No Agreement, And Physical Custody an Issue. When mediation does not achieve full agreement and physical custody continues to be an issue, the Mediator may recommend that a Family Code §3111 custody evaluation be performed.
    c. Contested Hearing. Should the parties, with the assistance of counsel if represented, be unable to settle the dispute on the basis of the mediation, then a hearing date for trial on contested custody and/or visitation issues may be set at the discretion of the Court, or an evaluation pursuant to Family Code §3111 may be ordered.
3. Custody and/or Visitation Issues Filed Under the Domestic Violence Act.
    a. Separate Mediation Sessions. In any proceeding for which mediation is required and there is a history of domestic violence between the parties, or when a protective order as defined in Family Code §6218 is in effect, then at the request of the party who alleges domestic violence or who is protected by the order, the appointed Mediator will meet with the parties individually, and at separate times.
    b. Conducting the Mediation. If the parties agree to meet jointly rather than individually with the Mediator, then during the mediation a support person may accompany any party who is protected by a restraining order. However, the Mediator may exclude a support person from a session if that person disrupts the process of mediation.
4. Extended Mediation; Review.
    a. Subsequent Mediation. If the parties' desire subsequent session with the Mediator and the Mediator agrees, the parties may be seen again.
    b. Review. If the parties and the Mediator agree, a case may be set for review, usually within six (6) months, to determine if additional mediation will be needed. Should the parties continue to have a dispute; the Mediator will report this to the Court on the calendared review date. The Court may then order the parties back to mediation, order a recommendation from the mediator at a later date, or order a §3111 evaluation.
5. Participation of Attorneys in the Mediation Procedure; Non-Resident Participants.

a. Meet and Confer Requirement. Prior to setting an appointment for mediation, counsel should "meet and confer", by telephone if not in person, in an effort to resolve child custody and visitation disputes.
b. Participation of Counsel in Mediation. Attorneys do not attend the mediation sessions.
c. Client Preparation. Attorneys are advised to prepare clients to participate in mediation in an open, responsive, and receptive manner. Clients should be advised that the focus of mediation is on the present and future (not the past), and they should come to mediation with proposals regarding residence, time-share, education, child care, transportation, holidays, vacations, special needs of the child(ren) and decision-making responsibilities.
d. Nonresident Participants. If one of the parties to the mediation is not a resident of Modoc County or is not available for any other reason (which may include incarceration), the party may request a telephonic session with the Mediator. At the sole discretion of the Mediator, the personal presence of the requesting party at mediation may be excused; however, the mediation will be scheduled and will go forward as in all other matters. Generally, mediation will be conducted only during business hours, and a non-resident party must be prepared to make him or herself available during business hours for any telephone mediation approved by the Mediator.

6. Required Disclosures; Testimony by a Mediator.
    a. The Mediator may make suggestions and discuss options with parents and counsel, and may report or recommend to the Court. If it is alleged that a child is "at risk" by virtue of abuse or neglect, the Mediator is required by law to report that allegation to Children's Services. A Mediator must also disclose the existence of threats of death or bodily harm (Tarasoff vs. Board of Regents, 17 Cal.3d 425).
    1. The Mediator may be cross-examined, and the Mediator may make recommendations to the Court during testimony. A party desiring to have the Mediator testify must subpoena the Mediator for the scheduled hearing.
7. Involvement of Children in the Process.
    a. It is the general position of this Court that attorneys representing the parents should not interview the child(ren) involved in the proceeding, and should not interview or elicit information from a child's therapist, except upon the Court’s order.
    b. Absent extraordinary circumstances, a judge of this Court will not interview any child who is the subject of a custody or visitation dispute.
    c. Children must not be brought to mediation sessions. If parents or counsel wish a child to be seen, their reasons should be discussed with the Mediator. In mediation proceedings, the Mediator is entitled to interview a subject child where the Mediator considers the interview appropriate or necessary pursuant to Family Code Section 3180.
8. Court-Appointed Counsel for the Child.

Family Code §3150 provides that counsel may be appointed to represent the child in custody/visitation cases, and will have all rights provided by this section if the Court finds that to be in the child's best interest. Section 3114 provides that the Mediator may recommend to the Court that counsel be appointed to represent a minor child. In making this recommendation, the Mediator will inform the Court why it would be in the best interest of the child. When the Court appoints counsel for the minor, counsel may expect to receive a reasonable sum for compensation and expenses. On the motion of any party, or the Court, the Court will determine both parties' ability to pay for such counsel.

9. Disputed Paternity.
   If paternity is disputed, the Court need not resolve the issue prior to mediation. Mediation will not be denied to the parties on the basis that paternity is an issue in the proceeding before the Court (Family Code §3172). The Court may make a pendente lite order granting visitation to a non-custodial parent absent the tests authorized by Evidence Code §621, upon finding that a grant of such visitation rights would be in the best interests of the child.
10. Non-English-Speaking Parents.
    The Court Mediator does not provide interpreters. A neutral individual who is fluent in both English and the party's native language must accompany a non-English-speaking parent, or the mediation may not go forward in the discretion of the Mediator. The Mediator must agree to any proposed interpreter.
11. Disclosure of Juvenile Court Proceedings.
    Neither counsel nor parties may bring an action for custody or visitation in the Family Law Department without disclosing to the Court the status of any prior or pending Juvenile Court proceedings. (Comment: prior consideration by a Family Law Court of the custody of a minor cannot deprive the Juvenile Court of jurisdiction to make orders to protect the minor, In Re Benjamin D.(1991) 227 Cal.App.3d 1464).
12. Investigation by Adult and Children's Services.
    When an investigation by Children's Services (or the equivalent agency in another jurisdiction) is pending, this fact must be made known to the Court. No permanent custody order will be made until the agency's investigation is completed and the findings are made known to the Court. If a family was previously involved with Children's Services (or an equivalent agency in another jurisdiction), the disposition of that investigation or the nature of the agency's involvement must be disclosed to the Court if that information is available.
13. Medical, Psychological, or Educational Reports.
    Medical, psychological, educational or other types of reports concerning a child must not be attached to motions, but must be provided to the Court or Mediator as may be ordered. Information not provided to the Mediator that is intended by a party to be filed with the Court must be served on the other party or parties in accordance with applicable provisions of law and the Local

Rules, but in no event fewer than (5) five days before a scheduled hearing. (Exception: said reports must be provided directly to the Mediator when so ordered by the Court.)

B. Specific Procedures.
   1. Ex Parte Applications.
      No party who is participating in mediation or an evaluation may submit an ex parte application to the Court regarding custody and/or visitation without first notifying the Mediator of such application prior to filing it.
   2. Substitution of Attorney/Change of Address.
      When a case is in mediation or evaluation, counsel must send a copy of any filed substitution in or out of the case to the Court Mediator. Counsel and unrepresented parties must also advise the Mediator of any relevant changes of address or telephone number.
   3. Settlement or Dismissal of the Action.
      If a case that is in mediation or evaluation is settled or dismissed, counsel or a self-represented party must provide a copy of the filed stipulation, order, or dismissal disposing of the case, to the Court Mediator.
   4. Evaluator's Questionnaire and Format of Documents.
      The court-appointed evaluator may require parties who are participating in a Family Code §3111 evaluation to complete a questionnaire. Additionally, parties may submit documents to the evaluator. Questionnaires and documents cannot be bound. Documents must be 8-1/2 by 11 inches in size. Odd-sized documents must be mounted on an 8-1/2 x 11-inch page. Documents must be one-sided only. All photographs submitted to the Mediator must be photocopied on 8–1/2 x 11-inch white paper with the following information typed or written below each photograph: the date and location at which the photograph was taken, by whom it was taken, and a short summary of what the photograph depicts.
   5. Grievance Policy and Peremptory Challenge Policy.
      a. The procedure outlined herein is intended to respond to general problems relating to mediation and to requests for a change of Mediator pursuant to Family Code §3163.
      b. Anyone with a complaint about his or her experience with the Mediator is encouraged to first raise that concern with the Mediator and to seek direct resolution of the problem.
      c. No peremptory challenges of the Mediator will be permitted.
   6. Inquiries Concerning Mediation and Evaluations; Availability of Local Court Rules.
      When the Mediator receives an inquiry regarding the policies and procedures relating to mediation or evaluations, the Mediator will inform the inquiring individual of the policies and procedures provided by these Local Rules of Court. The Mediator will maintain a copy of these Rules for public reference.

C. Family Code §3111 Evaluations.

1. No Agreement and Physical Custody an Issue.
   When mediation does not achieve full agreement and physical custody continues to be an issue, the Mediator may recommend that a Family Code §3111 custody evaluation be performed.
2. Physical Custody Evaluations: Family Code Section 3111 Procedures.
   a. In General. The Court may order a Family Code §3111 evaluation whenever the parties are unable to agree upon a physical custody plan for their child(ren). An evaluation is an assessment of the child(ren), their needs, and the ability of each parent to meet those needs. An evaluator will gather relevant information and prepare a report for the Court that may recommend a physical custody plan. Pending the results of the evaluation, the Court may make temporary custody and/or visitation orders.
   b. Section 3111 Evaluation. A Family Code §3111 evaluation involves separate in-office (or in some cases telephonic) interviews by the evaluator with the parents, an opportunity for the parents to submit written documents to the evaluator, and the evaluator's personal or telephone contact with whomever the evaluator deems appropriate. Whenever possible, a §3111 evaluation will include interviews of both parents, unless a parent has refused to participate or is not available. A §3111 evaluation may also involve interviews with the child(ren) if the evaluator deems such interviews to be appropriate. In addition, the evaluator may perform (or arrange) a home study of each parent's residence. There may be follow-up interviews with the parents and/or child(ren) as more information is gathered. All specific allegations will be addressed individually in the written report.
   c. Cost of Evaluation. Responsibility for payment of the costs associated with evaluations must be determined, and all fees paid, prior to commencement of the evaluation. The Court will order payment according to the Court's assessment of ability to pay. Generally, fees are not waived for these evaluations. The evaluation does not begin until the fees are paid in whole.
   d. Evaluator's Report. At the conclusion of an evaluation, the evaluator will submit a written report and recommendation to the Court, along with all documents that have been provided. The evaluator will distribute copies of §3111 reports to the Court, to counsel, and to self-represented parties. The reports will not be distributed to the minor child(ren). The original report will be maintained in the Court's file under seal, accessible only to the attorneys for the parties in the proceeding, or to self-represented parties themselves.
   e. Evaluator's Interview of Children. When an evaluator conducts an interview with a subject child during a §3111 evaluation, the evaluator will explain to the child that there is no confidentiality of the proceedings as between the parties, their attorneys, the minor child, the evaluator and the Court, but that the report of the evaluator will be maintained under seal in the Court's file.

f. The evaluator's interview of a child may be conducted either privately or in the presence of a parent, at the evaluator's discretion. Siblings may be interviewed together or separately, also at the evaluator's discretion.

(Rule 13.05 amended effective January 1, 2015; adopted effective January 1, 2011.)

13.06 Contested Trials:

A. Requirement: Resolution of Custody and Visitation Issues before Trial of Other Issues.
Orders resolving custody and visitation issues in any pending action must be obtained before any remaining issues will be set for trial except where the Court, for good cause shown, excuses compliance with this requirement. The procedure for resolving custody and visitation issues is as follows:
1. Parties with a custody and/or visitation dispute must first attempt to mediate the dispute through the Court Mediator. At any settlement or other pre-trial conference held pursuant to the filing of an at-issue memorandum, the Court may order participation in mediation pursuant to these Rules, and in such case the Court will calendar the matter for a further conference on a date after the anticipated return of the Mediator's report on the outcome of the ordered mediation. Ordinarily, the matter will not be set for trial prior to the Court's receipt of the Mediator's report.
2. If mediation fails in whole or in part to resolve the parties' dispute, the Court may make a temporary order concerning custody and visitation, and may order an evaluation or recommendation by the Mediator pursuant to Local Rule 13.05.A.
3. When the Court orders an evaluation, the evaluator will issue a written report, after which, if necessary, a trial of the disputed custody and visitation issues will be conducted. Except for good cause shown, no trial date will be calendared until the evaluation has been completed and the report filed.
4. Where mediation has failed and the Court has not ordered an evaluation, counsel for the parties, or unrepresented parties, must meet and confer, and must attempt to stipulate to a Judgment or Order resolving all contested custody and visitation disputes. If the Mediator reports that the parties have failed to resolve outstanding custody and visitation disputes, a party may bring a motion to set these issues for trial. The contested custody and visitation issues must be tried prior to the filing of an at-issue memorandum setting other issues for trial.

B. Custody Agreements.
If the parties agree on terms for custody and visitation of a minor child or children, they must file, not less than three (3) court days before the hearing or trial, a signed written agreement setting forth in detail its terms.

C. Family Law Case Management.
1. Purpose of Rule.

The Court has implemented case management procedures in order to promote the prompt disposition of family law actions, and to reduce the stress and cost of family law litigation by offering status reviews, early resolution of issues, and opportunities to settle.

2. Case Management Conferences.
   The Clerk of the Court will issue a notice for a calendared case management conference in all cases at the filing of the initial petition. The petitioner is responsible for serving a copy of the Notice of case Management Conference on other litigants, and providing the Court with a proof of service of it.
3. Further Case Management Conferences.
   At the case management conference, the Court may set further case management conferences and may consider other case management options pursuant to Family Code §2451.
4. The Court in family Law cases does not require the California Judicial Council form “Case Management Conference Questionnaire”.

D. Trials and Settlement Conferences.
   1. Purpose of Rule; Duties of Counsel.
      The purpose of this Rule is to ensure that contested Family Law actions are thoroughly prepared and expeditiously tried, and to avoid use of the trial itself as a vehicle for pretrial, deposition, discovery, and settlement procedures. The Court encourages counsel and unrepresented parties to confer with one another, in good faith, prior to the settlement conference, with the mutual goal of resolving issues whenever feasible and of delineating those issues which remain be resolved by the Court.
   2. Relief from Rules; Sanctions for Non-Compliance.
      Relief from the operation of these Rules relating to contested trials may be obtained in appropriate cases, but only on motion and for good cause shown. Either side may move to strike the at-issue memorandum, the trial documents, or the statement of issues, upon the ground that such document was not prepared and filed in good faith but, instead, is being utilized as a means of avoiding the operation of these Rules. Sanctions against the offending side may be ordered as permitted by law. (CRC Rule 2.30; CCP §575.2.)
   3. Compliance with Other Rules.
      Filing of the statements referred to in these Rules will be deemed to comply with all California Rules of Court, or other Local Rules, that might require filing of a pre-trial statement or settlement conference statement.
      a. The Court will set the date and time for trial and the Court Clerk will certify mailing of notice to the parties, or to counsel if represented. With the trial setting, the Court, in its discretion or if requested by either party, will set a mandatory settlement conference prior to the trial date.
   4. Settlement Conference.
      Counsel and the parties must personally appear for a mandatory settlement conference. Counsel and the parties must participate in good faith in the settlement conference.

5. Statement of Issues, Contentions, and Proposed Disposition of the Case.
   When a matter is set for a contested trial, both parties must file and serve a "Statement of Issues, Contentions, and Proposed Disposition of the Case" (hereinafter referred to as the "statement of issues" or "settlement statement") at least twenty (20) days prior to the trial date or at least ten (10) days prior to the settlement conference if one is set. Failure by both sides to do so will result in the matter being dropped from the settlement conference calendar or trial calendar. Failure by one party to file a statement of issues as required will permit the complying party to vacate the trial or continue the cause, and may result in the imposition of monetary sanctions to the extent permitted by law. The statement of issues required by this Rule must cover all contested matters to be raised at trial, including, without limitation, a concise statement of all contested legal and factual issues or matters, the relative positions of the parties as to contested issues (along with the legal and factual basis therefore), and the proposal of the party for resolution of each contested issue by the Court.
6. Trial Brief.
   Trial briefs are not required. If utilized, however, a trial brief must be served and filed no later than five (5) court days prior to the trial.
7. List of Exhibits.
   A list of exhibits (not the exhibits themselves) must be lodged with the Court at time of trial. At least five (5) days prior to trial, the parties must exchange legible copies of any and all exhibits that each party reasonably anticipates will be introduced at trial. Only disclosed exhibits may be offered at trial, except for good cause shown. See Rule 3.02.C regarding the duty of parties to have their exhibits pre-marked.

E. Guidelines Applicable to the Evaluation of the Community's Personal Property.
   1. Motor Vehicles.
      If there is a dispute as to the value of a motor vehicle, the value generally will be fixed at the mid-point between the high and low value shown in Kelley's Blue Book, unless the circumstances show that a different valuation should be made. Counsel should attempt to agree on the value of a vehicle in advance of trial. Copies of the appropriate pages of the Blue Book (or Web pages) relied upon by counsel must be attached to the trial statement or response thereto.
   2. Furniture, Furnishings and Tools.
      With regard to valuation of normal furniture, furnishings, and tools, the age of the items is much more important than initial purchase price or the replacement cost. The test is the fair market value of the items as of the date of trial. (Note: in general, used furniture has a low value on the open market).
   3. Unusual Items.
      When there are subject assets of an unusual nature such as oriental rugs, antiques, custom or rare jewelry, works of art, and handcrafted items, then the parties should endeavor to agree upon a qualified appraiser for such items, and to agree and stipulate that the report of the appraiser will be

admitted into evidence without the necessity of the appraiser's personal appearance at trial.

F. Alternate Valuation Date (Date Other than Trial).
A party who seeks a valuation date for community property that is not the date of trial must serve and file, not less than thirty (30) calendar days before the trial date, a notice of motion for alternate valuation date.

G. Continuance of Trial.
Continuances of trial dates are subject to the Local Civil Rules relating to the continuances of civil trials. Any continuance so granted may be subject to rescheduling by the Court of any settlement or other pre-trial conference, and to the requirement of an updated statement of issues and contentions, to be filed and served prior to the new trial date in accordance with these Rules.

(Rule 13.06 amended effective January 1, 2015; adopted effective January 1, 2011.)

13.07 Judgments by Default and Uncontested Dissolutions:

A. Default Judgments.
1. In General.
To obtain a default judgment of dissolution, of legal separation [Family Code §2336], or for nullity [Family Code §2211], the petitioner must file a request to enter default, accompanied by the original summons and a completed proof of service of the summons (if not previously filed). When the Court's file contains evidence of proper service of the summons, and no responsive pleadings have been filed within the allotted time to respond, the Clerk of the Court will enter the respondent's default.
2. Special Requirements: Default Judgment for Dissolution or Legal Separation.
After default of the respondent has been entered, the petitioner must file a completed form declaration for default that indicates which orders are to be included in the judgment of dissolution or legal separation. A party may not request orders in the judgment beyond the relief requested in the petition, except that if there are minor children, the Court will have and retain jurisdiction to order child support whether or not it was so requested. [Family Code §4001.]
3. Special Requirements: Default Judgments for Child Custody, Visitation, or Support.
When a child custody, visitation, or support order is requested in a default proceeding, the moving party must state on the declaration for default, or on attachments thereto, the following:
    a. Date of parties' separation;
    b. Custodial arrangement since separation;
    c. Extent of contact between the child(ren) and the non-custodial parent;
    d. If the moving party seeks to deny visitation to the defaulting party, a statement of the reasons;

e. The amount of child support sought, the basis for the amount sought, and, if available, the computer print-out of the guideline support proposed;
f. If the moving party seeks to waive child support, or to reserve that issue, then that party's reasons for such must be set forth.
g. If child support has been ordered in another Superior Court proceeding, then the moving party must disclose that fact to the Court, and must state the case number of the other proceeding, if known.

4. Income and Expense Declaration.
A fully-completed form income and expense declaration must be submitted where any one of the following orders is requested in a default proceeding: child support or waiver of child support, spousal support (except where a party reserves the Court's jurisdiction to award spousal support in the future), waiver or termination of spousal support in a long-term marriage (ten (10) years or more between the date of marriage and the date of separation), family support, or attorney's fees or costs. The declaration shall include the submitting party's best estimate of the other party's income.
5. Property Declaration.
If there are assets and/or debts to be disposed of by the Court in a default proceeding, the petitioner must submit a completed property declaration that proposes the division of said assets and/or debts, as well as proof of service of the disclosure declaration. (Family Code §2106.)

B. Form of the Proposed Default Judgment.
The party requesting a default judgment, or the party's attorney, must prepare the formal judgment. All proposed provisions relating to child custody, visitation, child support, attorney's fees and costs, property, and injunctive orders must be set forth in the formal judgment, either by attaching and incorporating a copy of the parties' marital settlement agreement addressing these issues, or by attaching continuation pages containing the orders the party has requested.
1. Child Support Orders Where Custodial Parent Is Receiving Temporary Assistance to Needy Families.
When a party wishes to obtain a child support order by default and the custodial parent receives Temporary Assistance to Needy Families ("TANF"), the designated child support agency must be served by mail with notice of the request. All such orders for child support must specify that payments will be made to the designated support agency.
2. Spousal Support Orders.
The petitioner must address the issue of spousal support for both parties in the proposed judgment. The petitioner may request that spousal support be ordered for either party, that the Court terminate its jurisdiction to award spousal support to either or both parties, or that the Court reserve jurisdiction to award spousal support in the future to either or both parties. All orders for spousal support must state the amount of support, the dates payable, and, unless there is an agreement to the contrary, that support will terminate on the death of either party or on remarriage of the supported party. A marriage

of ten (10) or more years is presumptively a long-term marriage. In a long-term marriage, the petitioner may not automatically waive the right to receive spousal support, or terminate the respondent's right, absent a showing of an ability of the party to support him or herself. The petitioner must complete and file an Income and Expense Declaration listing both parties' incomes. (Comment: If spousal support is not requested in the petition, the Court may not have jurisdiction to make orders regarding such support, and the right of the requesting party to seek a spousal support may then be terminated.)

3. Property Orders.
   All real property referred to in the judgment must be identified therein by its complete legal description and common address.
4. Attorney's Fee Orders.
   Any request for an award of attorney's fees in an amount greater than $750.00 must be supported by a factual declaration indicating the amount of time the attorney spent on the case and the attorney's hourly rate. Alternatively, the matter may be set for a contested hearing on this issue.
5. Restraining Orders.
   Any and all restraining orders must be stated in the body of the judgment and must include the date of expiration.
6. Termination of Marital Status.
   The marital status for all dissolutions will terminate no less than six (6) months and one (1) day from the date the Court acquired jurisdiction over the respondent (or the next court day where said date falls on a court holiday or weekend). If a judgment is not presented for the Court's approval until after the six months has lapsed, marital status will terminate on the date that the Court signs the judgment. In this instance, the petitioner may leave the termination date blank on the proposed judgment. (Note: proposed judgments for legal separation must not state a termination date.)
7. Notice of Entry of Judgment.
   The petitioner must submit, together with the proposed judgment and any forms required above, an original and two copies of the form "Notice of Entry of Judgment". The petitioner must also submit two (2) first-class postage prepaid envelopes, addressed to the parties as listed on the notice of entry of judgment.

(Rule 13.07 amended effective January 1, 2015; adopted effective January 1, 2011.)

13.08 Uncontested Judgments Pursuant to Stipulation:

A. Approval or Incorporation of Property Settlement Agreement.
   No property settlement agreement will be approved by the Court or incorporated by reference in an uncontested judgment unless all of the following requirements are satisfied:
   1. Agreement.
      The petition refers to the property settlement agreement, or the agreement or a separate stipulation signed and filed by the parties and their respective

attorneys, if any, and provides that the agreement may be presented for Court approval and incorporation, or both parties and their respective attorneys, if any, have endorsed their approval of the agreement on the stipulation for judgment.

2. Signature by Counsel; Acknowledgment of Party if Self-Represented.
    a. If both parties are represented by counsel, the agreement has been signed by both attorneys;
    b. If only one party is represented by counsel, the attorney for that party has signed the agreement and the self-represented party has signed a statement that he or she has been advised to consult an attorney regarding the agreement, but has declined to do so;
    c. If neither party is represented by counsel, any party who has not appeared before the Court has acknowledged in the agreement that he or she is aware of the right to consult an attorney.
3. Service of Disclosure Declarations.
   Proofs of service of the disclosure declarations required by Family Code §2105 have been filed.

B. Notice of Entry of Judgment.
   The moving party must submit, together with the proposed judgment and any forms required above, an original and two (2) copies of the form “Notice of Entry of Judgment”. Petitioner must also submit two (2) first-class envelopes, postage prepaid, addressed to the parties as listed on the notice of entry of judgment.

Rule 13.08 adopted effective January 1, 2011.)

13.09 General Procedure for Default and Uncontested Cases Pursuant to Family Code Section 2336:

A. Submission to the Court.
   1. Normal Procedure.
      The Clerk of the Court will submit requests for entry of a default or uncontested judgment of dissolution, legal separation, or nullity to the judicial officer after receipt. Thereafter, the judicial officer will do one of the following:
        a. Sign the proposed judgment;
        b. Return the documents to the party with a request for correction or additional information; or
        c. If the case presents issues on which a record should be made, set the matter for hearing. The moving party will be notified in cases where a hearing is required.

B. Default and Uncontested Status-Only Judgments; Bifurcation by Notice of Motion.
   Pursuant to Stipulation or Default. A "status-only" judgment (sometimes referred to as a “bifurcated” judgment) may be granted pursuant to stipulation or default. Where the Court has entered a default pursuant to Family Code §2336, the

petitioner may request termination of the marital status by submitting an ex parte application and supporting declaration for bifurcation, along with the proposed judgment, three (3) notices of entry of judgment, and two (2) first-class mail, postage prepaid envelopes addressed to the parties as listed on the notice of entry of judgment.

(Rule 13.09 amended effective January 1, 2015; adopted effective January 1, 2011.)

13.10 Family Law Facilitator:

A. Appointment; Authority for Duties and Conduct.
The Court has appointed a Family Law Facilitator pursuant to Family Code §10000, et seq., "The Family Law Facilitator Act". The Court at no cost provides the Facilitator's services to the parties. The Family Law Facilitator Act governs the Facilitator's duties and conduct.

B. Additional Duties.
In addition to the services provided by the Family Law Facilitator pursuant to Family Code §10004, the Court designates the following additional duties prescribed by Family Code §10005, which may be implemented by the Court Facilitator at the direction of the Court Executive Officer, upon the Executive Officer's determination that funding is available, without further notice:
1. Meeting with litigants to mediate issues of child support, spousal support, and maintenance of health insurance, subject to §10012 (actions in which one or both of the parties are not represented by counsel will have priority);
2. Drafting stipulations to include all issues agreed upon by the parties, which may include issues other than those specified in §10003;
3. If the parties are unable to resolve issues with the assistance of the family law facilitator, then prior to or at the hearing, and at the request of the Court, the Facilitator will review the paperwork, examine documents, prepare support schedules, and advise the Court as to whether or not the matter is ready to proceed;
4. Assisting the Court Clerk in maintaining records;
5. Preparing formal orders consistent with the Court's announced order in cases where both parties are self-represented;
6. Serving as a special master in proceedings, and making findings to the Court, unless the Facilitator has previously served as a Mediator in the case.
7. Providing the services specified in Division 15 (commencing with Family Code §10100);
8. Providing the services specified in Family Code §10004 concerning the issues of child custody and visitation as they relate to calculating child support.

C. Further Additional Duties.

If staff and other resources are available, and the duties listed in subdivision 14.10.B have been accomplished, the duties of the Family Law Facilitator may also include the following:

1. Assisting the Court with research and any other responsibilities that will enable the Court to be responsive to the litigants' needs.
2. Developing programs for the Bar and community outreach through day and evening programs, videotapes, and other innovative means that will assist self-represented and financially disadvantaged litigants in gaining meaningful access to Family Court. These programs may include information concerning under-utilized legislation, such as expedited child support orders (Chapter 5, commencing with §3620, of Part 1 of Division 9), and pre-existing, Court-sponsored programs such as supervised visitation or the appointment of attorneys for children.

D. Duties Beyond the Scope of Family Code §10000.
To the extent that local court budget is provided for the purpose, the Family Law Facilitator may assist parties in matters not specifically designated in Family Code §10000, et seq., including but not limited to: dissolution of marriage, legal separation, nullity, matters arising out of the Domestic Violence Prevention Act, guardianship, stepparent and kinship adoption, name change, emancipation of minors, and civil harassment restraining orders. Additional types of service may be added at the direction of the local court administrator without further notice.

E. Referral by the Court.
If the Court determines that it would be of assistance to the parties in a Family Law proceeding, the Court may refer the parties to the Facilitator, and continue any hearing that may be pending.

(Rule 13.10 amended effective January 1, 2015; adopted effective January 1, 2011.)

CHAPTER 14: PROBATE RULES

14.01 Settings and Assignments:

1. At the time of its filing, every pleading that requires a hearing will be set on the regular calendar for that type of proceeding. As of the effective date of this Rule, the conservatorship and guardianship calendar is heard on Mondays at 9:30 A.M.; the probate calendar is heard on Mondays at 10:00 A.M. Because the day and hour reserved for these calendars may change from time-to-time, counsel are advised to consult the Clerk before requesting a specific setting.
2. The attorney or self-represented party who files the pleading may select the initial hearing date, as long as the setting permits sufficient time for service of appropriate notice.
3. Any request for an earlier setting than would normally be allowed must be presented to the Court pursuant to the Local Rules governing orders shortening

time. Note: mere convenience or inconvenience of counsel is insufficient justification for such request.

(Rule 14.01 amended effective January 1, 2015; adopted effective January 1, 2011.)

14.02 Filing of Documents and Review Prior to Hearing:

Filing Documents for Calendared Matters.
Except for good cause, all documents in support of a pleading must be filed with the Clerk of the Court no later than five (5) court days before the calendared hearing thereon. This Rule applies, but is not limited, to affidavits of publication, proofs of subscribing witnesses, waivers of account, receipts, inventories, and reappraisals for sale, agreements for in-kind distributions, proposed orders, and similar papers. At the Court's discretion, documents that are not filed in a timely manner may not be considered before or during the hearing, and the matter may be continued, denied without prejudice, or ordered off calendar.

(Rule 14.02 adopted effective January 1, 2011.)

14.03 Execution and Verification of Pleadings:

Probate pleadings must be executed and verified as required by Chapter 2 of Division 3 of the Probate Code (commencing with Section 1020) and Chapter 3 of the Probate Rules of Court (commencing with Rule 7.101).

(Rule 14.03 adopted effective January 1, 2011.)

14.04 General Notice Requirements:

A. Notices Generally.
These Rules do not increase or reduce the statutory notice requirements with respect to probate matters brought before the Court.

B. Burden of Proving Proper Notice.
It is the responsibility of the petitioner or his or her attorney, and not the responsibility of the Court Clerk, to give notice of any proceeding requiring notice, or cause it to be given, and also to file the proper proof of service of such notice.

C. Service of the Petition in Addition to Notice.
When notice of any petition or other application is served on a person requesting special notice, or if the petition is for approval of the accounting of a testamentary trustee, then a complete copy of the petition, along with any supporting papers, must be served with each notice of hearing. If the fiduciary or attorney is requesting extraordinary fees or compensation (i.e., fees or compensation other than the "ordinary" fees and compensation authorized by Probate Code §10800 and §10810), notice of hearing and a copy of the petition must be served on all

interested parties. When service of a copy of the petition is required, the proof of service of notice must also show service of the copy.

(Rule 14.04 adopted effective January 1, 2011.)

14.05 Probate Orders and Decrees; Ex Parte Applications; Nunc Pro Tunc Correction of Clerical Error:

A. Orders and Decrees.
   1. Form of Orders.
      Counsel or the self-represented petitioner must prepare probate orders or decrees, unless otherwise ordered by the Court. All probate orders or decrees must be complete in themselves (i.e., they must be worded so that their general effect can be determined without reference to the petition on which they are based). Orders and decrees must set forth the date of hearing, the Court's findings, the relief granted, and the names of persons, and descriptions of property or amounts of money, that are affected by the order, all with the same particularity as is required of judgments in civil matters. Some printed forms of orders or decrees are designed to permit the attachment of supplemental material. If such form is utilized, attachments will be permitted.
   2. Judicial Signature.
      The place provided for the judicial signature must appear at the end of the order or judgment.
   3. Submitting Proposed Orders.
      If the parties wish to obtain formal orders on the date that the matter is calendared for hearing, then the proposed orders must be submitted to the Clerk at least five (5) court days before the hearing.
   4. Orders for Continuing Payments.
      All proposed orders for continuing payments must provide that the payments will commence on a date certain and will continue until a) a date certain or b) for a specified period. The Court will not make orders that require continuing payments to run "until further order".
   5. Orders Distributing Estate to Trustee.
      Orders calling for distribution of estate assets to the trustee of a testamentary trust must set forth all provisions of the will or codicil relating to the trust or trustees, in a manner that will give effect to existing conditions at the time distribution is ordered. Pertinent provisions must be set forth in the present tense and third person.

B. Ex Parte Applications for Orders.
   1. In General.
      Applications for orders may be made ex parte unless a statute or Rule requires notice, and must be made as set forth in Local Rule 3.03.
   2. Form of Order.

Except for form petitions and orders approved by the Judicial Council or this Court, all applications for ex parte orders must be accompanied by a separate proposed order, complete in itself. It is not sufficient for such order to provide merely that the application has been granted.

3. Special Notice.
   All applications for ex parte orders must contain an allegation that no special notice has been requested, or an allegation that any requested special notice has been waived (with identification of the persons requesting special notice). Any waiver of special notice must be filed with the application.
4. Sales of Property.
   Ex parte petitions for orders for sale of stock or personal property must allege whether or not the property is specifically devised. If so, the consent of the specific devisee must accompany the petition.

C. Public Administrator.
   The Public Administrator of Modoc County is the District Attorney, whose offices are located at 204 S. Court Street, 2nd Floor, Alturas, California 96101 (mailing address: P.O. Box 1171, Alturas, CA 96101). In all cases where it appears the Public Administrator may have priority to serve as personal representative of an estate, notice to the District Attorney must be given.

D. The Petition for Probate.
   1. Allegations Re Heirs and Beneficiaries.
      In addition to the required allegations (set forth in Probate Code §8002) in the petition for letters or for appointment, the petition must include the following information:
      a. As to the actual or nominated trustee of a trust that is a beneficiary of the decedent's estate, said trustee must be listed by name and title as a devisee or legatee, and, if a sole trustee is also the personal representative of the estate, the individual beneficiaries of the trust must be listed in the petition and be given notice of the proceedings. [Probate Code §1208.]
      b. When a beneficiary of the estate has died, notice must be given as required by Rule 7.51(e) of the California Rules of Court.
      c. As to contingent heirs, devisees and legatees, all such persons must be listed in the petition for probate or for letters of administration so that each will receive notice by mail of the hearing on the petition. This includes persons provided for in the will offered for probate, but whose legacy has been revoked by a subsequent codicil.

E. Subsequent Petitions for Probate.
   Admitting Subsequent Wills and Codicils. Every will or codicil not specifically mentioned in the original petition must be presented to the Court by way of an amended petition or a second petition, and new notice thereof must be published.

F. Service of Notice When Recipient's Address is Unknown.
Reference: Rule 7.52 of the California Rules of Court.

G. Proof of Written Will or Codicil.
1. Attachment to Petition.
When a petition for probate of will and/or codicil is filed, a copy of the document(s) being offered for probate must be attached thereto.
2. Proof of Holographic Instrument.
If the will or codicil is handwritten and a photographic copy is attached, then a typewritten copy of the text of the document must be attached as well. Holographic instruments may be proved by an appropriate affidavit or declaration setting forth the foundation upon which the declarant bases his/her statement that the handwriting is the decedent's.
3. Proof of Formal Wills.
In uncontested will proceedings, if the attestation clause of the testamentary instrument is signed under penalty of perjury, then the will or codicil is deemed to be self-proving and can be admitted to probate without proof thereof by affidavit or declaration. If the attestation clause is unverified, any proof offered by a subscribing witness must be filed on Judicial Council form DE-131.

H. Bond of Personal Representative.
1. Effect of Bond Waiver.
If bond has been waived in the will or codicil, or if it is waived by all beneficiaries of the will by way of duly executed and filed waivers of bond, then the fact that bond has been waived must be alleged in the petition.
2. Bond When Independent Powers Granted.
When the personal representative is granted independent powers to sell real property or to lease it for a term of more than one year, the Court may require a bond that includes the equity value of the real property.

(Rule 14.05 adopted effective January 1, 2011.)

14.06 Appearance of Counsel in Uncontested Matters:

A. Required Appearance at Hearing on Guardianship or Conservatorship Petition.
The petitioner or the petitioner's attorney must appear at any hearing on a petition for appointment of a guardian or conservator.

B. When Non-Appearance Allowed at Hearing on Petition.
1. Except as otherwise provided by law or these Rules, all verified petitions in decedent's estate matters will be deemed submitted without an appearance, except that the attorney or petitioner must appear on a petition for confirmation of sale of either 1) real property, or 2) personal property valued in excess of One Hundred Dollars ($100.00). As used in this Rule, "verified" means verified by the petitioner as set forth in Rule 15.04 hereof.

2. Before denying any petition where there is no required appearance, the Court, at its discretion, will continue the matter to a future law & motion calendar in order to give the petitioner or counsel an opportunity to appear. If there is no appearance or other response by the petitioner or counsel at the continued hearing, the Court may drop the matter from the calendar. (Note: it is the responsibility of the non-appearing petitioner or counsel to determine whether the matter has been approved or continued.)

(Rule 14.06 adopted effective January 1, 2011.)

14.07 Required Matters in a Petition for Final Distribution:

A. Required In All Petitions For Final Distribution.
In addition to items otherwise required by law, a petition for final distribution must include the following matters, unless set forth in the account and report:
1. A full and complete description of all assets to be distributed. The description must include all cash on hand, and must indicate whether promissory notes are secured or unsecured. If secured, the security interest must be described. Real property must include a complete legal description. Note: descriptions made by reference to the inventory and appraisal are not acceptable.
2. Facts specifically showing the entitlement of each heir to the portion of the estate to be distributed to that heir, including any information concerning predeceased children.
3. A computation of the attorney fees and representative commissions being requested, even if an accounting is waived. Where an accounting is waived and the statutory compensation is based upon receipts during probate, the method of computation must be set forth, together with an allegation that such receipts have been or will be reported on fiduciary income tax returns for the estate. Applications for compensation for extraordinary services will not be considered unless the caption and prayer of the petition, and the notice re distribution, contain a reference to such application for extraordinary compensation.
4. A statement regarding payment of all taxes pursuant to Probate Code §9650(b).
5. An allegation that all legal advertising, bond premiums, probate referee's fees, and costs of administration have been paid. (Note: the final account will not be approved, and neither will a petition to terminate proceedings be granted, unless the Court is satisfied that all costs of administration, including charges for legal advertising, have been paid.)
6. A schedule of claims showing the name of the claimant, amount claimed, date presented, date allowed, and, if paid, the date of payment. As to any rejected claims, the date of rejection must be set forth, and the original of the notice of rejection, with affidavit of mailing to the creditor, must be filed. Even if a claim has not been filed, the Court may approve payment of a debt if the accounting shows that such payment was made in compliance with the requirements of Probate Code §9154. Such approval is discretionary with the Court, and must

be justified by appropriate allegations in a verified petition or by testimony in open court, Estate of Sturm (1988) 201 Cal.App.3rd 14.

7. An itemization of costs for which counsel or the personal representative has been paid or is seeking reimbursement. Ordinary overhead items, including but not limited to costs of duplication of documents, long distance charges, and automobile mileage, are not proper cost items.
8. A schedule showing the proration, if any, of taxes, fees, and costs.
9. In all cases where the character of property may affect distribution of the estate, a statement or listing of which assets are separate property and which assets are community properties.
10. If distribution is to be made pursuant to an assignment of interest, then the details of the assignment, including the consideration therefore, shall be set forth in the petition, and the acknowledged assignment shall be filed with the Court.
11. The names and current addresses of all persons who are affected by the petition. Each such person must be identified as an adult or a minor.
    a. If property is to be distributed to a minor, the minor's present age must be indicated.
    b. If a trust is established in which property will be distributed to a beneficiary upon reaching a given age, the petition must allege the present age of the distributee.
12. If the distribution is to be made to a minor or an incompetent, then facts showing compliance with Probate Code §3300, et seq., must be alleged. Alternatively, current certified copies of letters of guardianship or conservatorship of the estate must be filed.
13. An allegation of compliance with Probate Code §9202 (notice of death to the Director of Health Services), or an allegation that notice is not required because decedent did not receive Medi-Cal services, or an allegation that no claim can be made by the Director of Health Services because decedent
    a. died before June 28, 1981;
    b. was under age 65; or
    c. was survived by a spouse, minor child, or disabled child.
14. An allegation of compliance with Revenue & Taxation Code §19513, if the estate exceeds $1,000,000 and assets greater than $250,000 are distributable to a non-resident.
15. A statement that complies with the disclosure requirements of Probate Code §1064(a)(4), or an allegation that no family or affiliate relationship exists between the fiduciary and any agent hired by the fiduciary for probate purposes.
16. A Schedule of Graduated Filing Fee Information as required by Rule 7.552 of the California Rules of Court.

B. Terms of Testamentary Trust.
The terms of any testamentary trust must be set out in full in the petition and in the order or decree, and not merely be incorporated by reference. Because the decree of distribution supersedes the will, the terms of the trust must be set forth

in the decree in a manner that will give effect to the conditions existing at the time distribution is ordered. The pertinent provisions must be set forth in the present tense and in the third person instead of by merely quoting the will verbatim, because the will in some instances may be in the future tense and/or the first person, and may contain provisions that are no longer applicable.

C. Distribution to a Trust.
If distribution is to be made to a trust, then either an acknowledged statement by the trustee accepting the property under the terms of the trust, or a petition by the executor or administrator for the designation of a substitute trustee, must be filed with the Court.

(Rule 14.07 adopted effective January 1, 2011.)

14.08 Required Form of Accounts in all Probate Proceedings:

A. Accounts in General.
All accounts filed in probate proceedings, including guardianship, conservatorship, and trust accounts, shall comply with Probate Code §§1060 et seq. A suggested form of summary of account is set forth in Probate Code §1061.

B. Waivers of Accounting.
A detailed accounting may be waived when all persons having a valid interest in the matter have consented in writing. Only waivers given by competent adults are effective. All waivers must be filed with the Court or endorsed on the petition. The effect of full waivers is to make it unnecessary to list the details of receipts and disbursements. No other required matters may be waived.

(Rule 14.08 adopted effective January 1, 2015.)

14.09 Petition to Establish the Fact of Death:

A petition to establish the fact of death (to terminate a joint tenancy or life estate) must be verified, and must have the following documents attached as exhibits: 1) a copy of any instrument relating to any interest in the property; and 2) a copy of the death certificate.

(Rule 14.09 adopted effective January 1, 2011.)

14.10 Attorneys Fees:

In all petitions requesting attorney fees, both ordinary and extraordinary, a specific sum (not merely a "reasonable amount") must be requested.

(Rule 14.10 adopted effective January 1, 2011.)

14.11 Non-Statutory (Extraordinary) Fees and Commissions:

A. Discretion of the Court; and Standards for Consideration.
   1. The award of extraordinary fees and commissions is within the discretion of the Court.
   2. The standards by which requests for extraordinary fees and commissions will be measured are reasonableness, and benefit to the interested parties. The Court will take into consideration the following:
      a. Nature and difficulty of the services;
      b. Results achieved;
      c. Benefit to the estate, conservatee or ward;
      d. Productivity of the time spent in performing the services;
      e. Expertise and experience of the person requesting the fees;
      f. Hourly rate for the person performing the services; and
      g. Total amount requested in relation to the size and income of the estate.

B. Contents of Petition for Extraordinary Fees and Commissions.
   A petition filed under any provision of the Probate Code which requests fees or commissions in excess of the authorized statutory compensation must include: 1) a declaration by the attorney, personal representative, trustee, or other fiduciary stating the services rendered, or to be rendered, by each of them, itemized by date, time and service rendered; 2) the amount requested for each item of service, together with the total amount requested; and 3) a reference in the caption and prayer to the additional fees. In addition, the request for extraordinary fees and/or commission must be included in the notice of hearing on the petition.

(Rule 14.11 adopted effective January 1, 2011.)

14.12 Guardianship Appointments:

A. Agency Investigations.
   1. Referral.
      The Court for an investigation, pursuant to Probate Code Sections 1513 and 1513.1, will refer all petitions for appointment of a guardian. One of the following agencies, as ordered by the Court will conduct the investigation: The Modoc County Family Court Mediator, the Modoc County Probation Department, or the Modoc County Department of Social Services.
   2. Agency Copies.
      When a petition for appointment of guardian is filed, the petitioner must provide an additional copy of the petition and of all supporting documents for transmittal by the Clerk to the appropriate investigating agency. (Note: This requirement does not relieve the petitioner or counsel from the responsibility

of personally providing copies of the petition and supporting documents to the agency.)

B. Appointment of Temporary Guardian.
   1. Ex Parte Applications.
      Applications for appointment of a temporary guardian may be submitted ex parte for determination by the Court, with or without an appearance by the petitioner or counsel. If the petitioner or counsel wishes to appear on the ex parte application, he or she must calendar and notice the matter pursuant to Local Rule 3.03.
   2. Hearings on Temporary Guardianships.
      After a petition for the appointment of a temporary guardian of the person of a minor is filed, the following hearings may be held, consistent with the intent of Probate Code §2250:
      a. A noticed hearing on an ex parte petition for appointment of temporary guardian. When it sets the noticed hearing, the Court may make other appropriate orders relating to the application.
      b. A reconsideration hearing to be conducted on the regular guardianship calendar within 30 days from the date of the ex parte order granting temporary guardianship, for the purpose of reviewing the merits and the status of the temporary guardianship. At this hearing, the appropriate investigative agency will provide the Court with a recommendation as to whether or not the temporary guardianship should be continued or be terminated. More than one reconsideration hearing may be required.
   3. Hearings on Petitions for General Guardian.
      Petitions for appointment of a general guardian are set for hearing by the Clerk of the Court, and normally are calendared for hearing six to eight (6-8) weeks after the petition for general guardianship is filed.
   4. Notice Regarding Temporary Guardianships.
      The order appointing a temporary guardian will identify the agency that will conduct the investigation, and the order will require that the temporary guardian give notice of the reconsideration hearing to the parents of the minor (this notice is in addition to the notice of hearing required by Probate Code §1511).

(Rule 14.12 adopted effective January 1, 2011.)

14.13 Probate Conservatorship Appointments:

A. Public Guardian.
   The Public Guardian for Modoc County is the Modoc County Department of Social Services, 120 N. Main Street, Alturas, California 96101, telephone (530) 233-6501.

B. Court Investigator.

When a petition for appointment of a conservator is filed, the petitioner must also submit a fully completed Judicial Council Form GC-330, "Order Appointing Court Investigator", for the Court's approval, and must provide the Clerk with an additional copy of that document for transmittal to the Court Investigator after the appointment has been made. For the same purpose, the petitioner must submit an extra copy of the petition and all supporting documents to the Court Clerk at the time of filing. (Note: This requirement does not relieve the petitioner or counsel from the responsibility of personally providing copies of the petition and supporting documents to the Court Investigator, and from giving the Investigator notice of hearings on the petition.)

(Rule 14.13 adopted effective January 1, 2011.)

14.14 Blocked Accounts in Guardianships and Conservatorships:

A. Time of Establishment.
A request to deposit funds of a guardianship or conservatorship estate in blocked accounts, for the purpose of reducing bond or otherwise, may be included in the petition for appointment or made in a subsequent petition.

B. Type of Account.
All deposits into blocked accounts must be made into federally insured, interest-bearing accounts, with no maturity date unless otherwise ordered by the Court. If funds are to be placed in an account having a maturity date, the applicant and counsel are cautioned that funds must also be maintained in another account in an amount sufficient to pay reasonably foreseeable expenses (e.g., taxes) without incurring penalties or loss of interest.

C. Maximum Amount of Deposits.
The initial deposit into any one blocked account must not exceed Ninety Thousand Dollars ($90,000). In no event may more than One Hundred Thousand Dollars ($100,000) be held in a single federally insured depository. If it becomes necessary to transfer funds to an additional depository in order to comply with this Rule, prior approval of the Court is required.

D. Proof of Deposit into Blocked Account.
Within 30 days after the Court signs an order for deposit into a blocked account, the trustee of the account must file a receipt from the depository, evidencing the ordered deposit.

E. Withdrawals from Blocked Accounts.
1. Court Order Required.
Except when the terms of the order for deposit provide for automatic withdrawal by the minor upon attaining majority, withdrawals of principal or interest may not be made unless ordered by the Court.
2. Supporting Documentation.

Every application for an order to withdraw funds from a blocked account must be verified. The following documents must be attached to the application:

a. a certified copy of the birth certificate of the minor, and
b. either (i) an updated savings passbook or a statement showing all deposits and withdrawals since the account was opened, or (ii) a letter from the depository identifying the account and setting forth the dates and amounts of all deposits and withdrawals, along with the current balance.

3. Consent of Minor.
If the minor is fourteen years of age or older, he or she (as well as the guardian or trustee) must sign the petition.
4. Ex Parte Requests.
A request for withdrawal from a blocked account may be made ex parte.
5. Parental Responsibilities; Withdrawals for the Payment of Taxes. Except for withdrawals to pay taxes on a minor's funds, petitions for withdrawals ordinarily will not be granted if either or both parents of the minor are living and either is financially able to pay the requested expenditure. Except for petitions for withdrawals to pay taxes, a financial declaration by the parents or parent describing his, her, or their income and expenses must be attached to the petition. In addition, a statement regarding the minor's employment and income, if any, must be attached to the application. Copies of bills, statements, or letters related to the request also must be attached. If the application is for payment of taxes on the minor's funds, copies of the applicable tax returns must be submitted with the petition, but must not be attached to the petition, and must be marked "confidential".
6. Withdrawal for Purchase of Vehicle.
If the requested withdrawal is for the purchase of a vehicle, a copy of the proposed purchase/sale agreement must be attached to the petition. The agreement must show the type of vehicle, year, purchase price, and whether the payment will be made in full or in specified installments. Because the petition may be denied, a binding purchase/sale agreement must not be entered into before a court order is obtained. In addition to the previously mentioned agreement, a casualty insurance quote must be attached to the petition. The quote must show that the minimum public liability coverage equals or exceeds the funds that will remain on deposit after the purchase, and the petition must identify the person or persons who will pay for the insurance.
7. Withdrawal for Medical Expenses.
If the request for withdrawal pertains to medical care for an accident or other casualty, or for a legal matter, the petition must explain why the expense is necessary and why it is not covered by insurance or other resource.
8. Withdrawals for Reimbursement.
If the request is for reimbursement for an expense already paid, then proof of payment (i.e., cancelled check or receipt) must be attached to the petition.

(Rule 14.14 amended effective January 1, 2015; adopted effective January 1, 2011.)

14.15 Accounts of Guardians and Conservators:

A. Multiple Accounts in Guardianships.
When a guardian accounts for the assets of more than one ward in the same proceeding, the accounting for each ward must be set forth separately.

B. Final Accounts in Guardianships.
The Court does not favor the waiver of final accounts by the ward, and generally will not approve a final report when the account is waived unless the ward is present in court at the time of the hearing.

C. Notice of Death to Director of Health Services.
Upon termination of a proceeding due to the death of the ward or conservatee, the final report and account must contain either an allegation that notice of said death was provided to the Director of Health Services (as required by Probate Code §215) or an allegation that no such notice is required.

D. Order Dispensing with Accounting.
If it appears likely that the estate will satisfy the conditions of Probate Code §2628(b) throughout its duration, the Court may dispense with an accounting. Application for an order dispensing with accountings may be made at the time of the appointment of the guardian or conservator, or when the interim account is due.

(Rule 14.15 adopted effective January 1, 2011.)

14.16 Change of Conservatee's Address:

The conservator must notify the Court of any change of the conservatee's residence, within thirty-days (30) of the conservatee's move, by filing a notice of change of address with the Clerk of the Court.

(Rule 14.16 adopted effective January 1, 2011.)

14.17 Procedures upon the Death of the Ward or Conservatee:

A. Required Notice to Court.
The guardian or conservator must notify the Court, within thirty-days (30) and in writing, of the death of the ward or conservatee.

B. Termination of the Guardianship or Conservatorship Estate.
If the ward dies before reaching majority, or upon the death of the conservatee, the guardian or conservator must petition the Court to terminate the estate and may, in conjunction with that petition, seek allowance for claims against the estate and for disposition of the estate if the estate is valued at less than $60,000 and can be disposed of pursuant to Probate Code Sections 13100 through

13111. If the provisions of §§13100 et seq. are utilized, the petition for termination and the final account must include a declaration, pursuant to Probate Code §13101, from each person entitled to distribution of the estate.

(Rule 14.17 adopted effective January 1, 2011.)

CHAPTER 15: JUVENILE DEPENDENCY RULES

15.01 General Applicability of the Modoc County Local Rules of Court to Juvenile Dependency Proceedings:

Except to the extent that there may be a conflict with the Rules in this Section 15, the Local Rules pertaining to civil, family law, probate and criminal actions are incorporated herein by this reference as though fully set forth at length, and are hereby made applicable to all juvenile dependency proceedings in the Modoc County Superior Court.

(Rule 15.01 adopted effective January 1, 2011.)

15.02 Calendar Matters:

A. Dependency Master Calendar.
The Court maintains a weekly master calendar for dependency proceedings. However, cases assigned to that calendar may be subject to calendar change.

B. Detention Hearings in Dependency Proceedings.
In general, detention matters in dependency cases will be set for hearing at 1:00 P.M. each Monday, although they may be set otherwise on an as-needed basis by the Clerk of the Court. It is the responsibility of the detaining agency to give notice to the Clerk of the Court of any detention matter to be heard on the calendar, by no later than 3:00 PM of the immediately preceding court day. If a dependency detention matter must be heard at any time other than as set forth in this Rule 15.02.B, the detaining agency must give notice to the Clerk of the Court by no later than 12:00 PM (noon) on the court day immediately preceding the day of the proposed hearing, so that the Clerk can reserve a bench officer, a reporter, and security personnel. It is the responsibility of the detaining agency to give timely notice of the date and time of any detention hearing to all parties and to all counsel who may have been appointed.

C. Ex Parte Applications in Dependency Proceedings.
Local Rule 3.03 regarding ex parte applications, including the date, time, and manner of notice, applies to proceedings in the Juvenile Court. No matter may be presented for ex parte consideration by the Court, except on a showing of good cause, without prior notice to, or waiver by, counsel for each party in accordance with these Rules, with the exception of applications by counsel for funding for investigators or expert consultants, or other matters as may be authorized or required by law.

(Rule 15.02 adopted effective January 1, 2011.)

15.03 Attorneys Representing Parties in Dependency Proceedings:

A. Adoption of Rule.
This Rule 15.03 is adopted to comply with Rule 1438(a) of the California Rules of Court.

B. Competency of Counsel; Required Experience and Education; Standards of Representation and Caseload Guidelines.
1. Competency of Counsel.
Every party in a dependency proceeding who is represented by an attorney is entitled to competent counsel as defined by Rule 5.660 of the California Rules of Court.
2. Experience and Education of Counsel.
An attorney seeking appointment as counsel for a party or parties in dependency proceedings must meet the experience and education standards set forth by Rule 5.660 of the California Rules of Court.
3. Standards of Representation.
An attorney representing a party or parties in dependency proceedings, and the agents of that attorney, are expected to meet the standards of representation set forth in Rule 5.660 of the California Rules of Court.
4. Caseload Guidelines.
Pursuant to Rule 5.660 of the California Rules of Court, the attorney for a child in a dependency matter must adopt caseload management practices that allow for effective performance of the duties required by CRC Rule 5.660, referenced above.

C. Appointment of Counsel for Parents and Guardians.
1. Applications.
Applications by parents and guardians who seek appointed counsel in dependency proceedings must be presented by oral request in open court, or by oral or written request to the Clerk of the Court.
2. Appointment.
Upon application, or on its own after finding good cause, the Court will appoint either a Modoc County Public Defender or a private attorney or law firm to represent parents and guardians.

D. Appointment and Responsibilities of Counsel for Children.
1. Appointment.
Pursuant to Rule 5.660 of the California Rules of Court, the Court will appoint either a Modoc County Public Defender or a private attorney or law firm to represent children in dependency proceedings.
2. Appointment Not Required.

An attorney for a child need not be appointed if the Court finds, in any given case, that the child would not benefit from counsel because the circumstances described in CRC Rule 5.660 apply to that child. In such case, the record will reflect the Court's findings.

3. Responsibilities of Counsel for Children.
   An attorney for a child or children in dependency matters is specially charged with the duties and responsibilities set forth in Welfare & Institutions Code §317(e).
4. Appointment Panel.
   Attorneys for children and other parties in dependency proceedings will be appointed by the Court from a panel maintained by the Clerk of the Court. Said panel will be comprised of attorneys or law firms that meet the requirements set forth in CRC Rule 5.660 and these Local Rules. The supervising Judge of the Juvenile Court will, from time-to-time and at his/her discretion, require evidence of the competency of attorneys who seek to be included on the panel from which dependency appointments are made.
5. Notification of Appointment.
   The Clerk of the Court, by telephone call to an appointed attorney's business office, will notify counsel promptly upon appointment.

E. Special Appearances.
   Because the qualifications of attorneys who represent parties in juvenile dependency matters are regulated by W&IC §317.6, and CRC Rule 5.660, special appearances on behalf of attorneys who have been appointed pursuant to W&IC §317(d) are discouraged, especially in contested matters. Special appearances will be permitted in the following circumstances only: 1) with the Court's permission, upon a showing of good cause; or 2) when the matter is calendared only for setting of a future court date (e.g., for setting a continuance or a contested hearing), in which case counsel making a special appearance must know and be prepared to stipulate to the available dates of appointed counsel.

F. Compensation and Claims.
   1. Compensation.
      Appointed attorneys or agencies will be reasonably compensated for their services and expenses, according to rates and schedules to be fixed by the Presiding Judge of the Superior Court.
   2. Claims for Compensation.
      Claims for compensation by appointed attorneys or agencies must be submitted in writing to the Judge of the Juvenile Court, or to such agency as may be designated by the Court from time-to-time, in the form, and not later than the time, prescribed in Local Rule 13.07. Failure to comply with these requirements may be deemed a waiver of the claim for and right to reimbursement. Properly submitted claims will be reviewed and, when approved, will be forwarded to the County Auditor for payment.

G. Client Complaints.
Complaints by or questions from a party in a dependency hearing regarding his/her representation will be addressed as follows:
1. Initial Referral.
Complaints or questions will be referred initially, for informal resolution, to the agency, attorney, or law firm appointed to represent the party.
2. Formal Resolution.
If the party was not represented by an appointed agency, attorney, or law firm, or if the issue remains unresolved after referral to the appointed agency, attorney or law firm, the party may submit his/her complaint or question, in writing, to the Presiding Judge of the Superior Court. In most cases, the Court will conduct its own review of the complaint or question, and take appropriate action if required, as the Court may deem appropriate.

H. Information Received by the Court Concerning the Child or the Child's Interests.
If the Court receives information from some person other than the attorney for a child, regarding any interest or right of the child, the Court may provide that information to the child's attorney and direct the attorney to investigate the matter further and to report his/her findings to the Court. If the child has no attorney and such information is brought to the Court's attention, the Court may appoint an attorney for the child for the purpose of investigating and reporting on the information.

(Rule 15.03 adopted effective January 1, 2011.)

15.04 Court-Appointed Special Advocate Program:

A. Designation of the Local CASA.
The organization "Choices for Children" is designated as the Court-Appointed Special Advocate ("CASA") program for Modoc County. This designation will remain in effect until terminated or modified by the presiding judge of the Superior Court. The designated CASA program must report regularly to the Superior Court with evidence that it is operating under the guidelines established by the National CASA Association and by Rule 5.655 of the California Rules of Court.

B. The Advocate Program.
1. Request for Appointment.
A request for appointment of a child advocate in dependency proceedings may be made orally or by written application in open court, or ex parte by any interested person, or by the Court on its own motion. After approval by the Court, the referral shall be forwarded to the CASA program's office for screening and assignment.
2. Officer of the Court.
An advocate is an officer of the Court and is bound by these Rules. Each advocate will be sworn in by a Superior Court Judge before beginning his/her

duties, and must subscribe to the written oath required by the Court. The duties and responsibilities of a child advocate are set forth in Welfare & Institutions Code Section 356.5.

3. Specific Duties.
   The Court will, in its initial order of appointment and/or in subsequent orders, specifically delineate the advocate's duties in each case. Such duties may include conducting an independent investigation of the circumstances of the case, interviewing and observing the child as well as other individuals where appropriate, reviewing pertinent records and reports, and recommending visitation rights for the child's grandparents, siblings, and other relatives. The advocate shall report the results of his/her specific duties directly to the Court.
4. Required Reporting of Child Abuse.
   A CASA advocate is a mandated child abuse reporter with respect to the case to which he/she has been assigned. (CRC Rule 5.655.)
5. Advocate's Right to Timely Notice.
   The designated CASA organization shall be given timely notice, by the moving party, of any motion concerning a child for whom a CASA advocate has been appointed.
6. Advocate's Right to Appear and Be Represented.
   An advocate has the right to be present and to be heard at all court proceedings involving the subject child, and to accompany the child into chambers for conferences. The advocate will not be subject to exclusion by virtue of the fact that he/she may be called to testify at some point in the proceedings. An advocate has the right to appear with counsel and to request court-appointed counsel if the need arises.
7. Transition from Dependency to Delinquency.
   Current CASA cases involving children facing crossover from dependency status to delinquency status will transition with the child pursuant to Rule 5.655 of the California Rules of Court. The advocate will provide input to the Court at least five (5) days prior to the Delinquency Disposition Hearing when the 241.1 Protocol is initiated.
8. Visitation throughout Dependency and Delinquency.
   The advocate must visit the child regularly until the child is in a permanent placement. Thereafter, the advocate must monitor the case as appropriate until it is dismissed.

C. Education Advocacy; Release of Information to Education Advocate.
   1. Appointment.
      The Court, upon the request of any interested person or upon its own motion, may order the appointment of a specific suitable person from the CASA Program to serve as an education advocate in a designated juvenile dependency case.
   2. Duties.
      The appointed Education Advocate shall act as an education consultant to the Court and to the Department of Social Services in the matter of the designated case.

3. Access to Information.
   The appointed Education Advocate shall have access to all information contained in the Court's file, as well as all information in the possession of the Department of Social Services relating to the subject case.
4. Reporting.
   The Education Advocate shall report to the Court either through the Department or through any CASA who may be appointed as advocate for the subject child.

D. Service of CASA Reports.
   The CASA Reports required by Welfare and Institutions Code Section 102(c)(1) must be served as follows:
   1. Time and Manner of Service.
      Not later than five calendar days prior to any hearing at which a CASA Report will first be considered, copies of that Report must be served on all counsel of record, on the Department of Social Services, and on any party to the proceeding not represented by counsel. (Note: the Court favors personal service of the Report over service by mail.)
   2. Alternative Service of Reports.
      If a CASA Report cannot be served on an attorney within the time established by Local Rule 16.04.D.1, and if the Clerk of the Court maintains a pickup box for that attorney, then CASA may serve the Report by depositing it in the pickup box maintained by the Clerk for that attorney. Service in this manner will not be deemed complete unless CASA has complied with the requirements of Local Rule 16.04.D.3.
   3. Limitations on the Privilege.
      The service privilege described by Rule 16.04.D.2 extends to service of CASA Reports only.

E. Service of W&IC §388 Petitions.
   If a CASA advocate files a petition pursuant to Welfare & Institutions Code Section 388, such petition must be served according to the provisions of Code of Civil Procedure Sections 1011, 1012, or 1013.

F. Proof of Service of CASA Documents.
   A proof of service indicating the method of service must accompany any document filed by a CASA advocate in Juvenile Court proceedings, including CASA Reports.

G. Calendar Priority for CASA Matters.
   Because CASA advocates are providing volunteer services for the benefit of the Court as well as for the children for whom they advocate, proceedings at which the CASA advocate appears will be granted priority on the Court's calendar whenever it is feasible to do so.

(Rule 15.04 adopted effective January 1, 2011.)

15.05 Confidentiality:

All persons interested in dependency proceedings are hereby notified of the provisions of Welfare & Institutions Code Section 827, et seq., and of Rule 1423 of the California Rules of Court, which restrict access to information relating to dependency proceedings. The Court may, from time to time, enact or issue an order to specify local rules and procedures related to access to, and dissemination of, confidential juvenile information.

(Rule 15.05 adopted effective January 1, 2011.)

CHAPTER 16: JUVENILE DELINQUENCY RULES

16.01 General Applicability of the Modoc County Local Rules of Court to Juvenile Delinquency Proceedings:

Except to the extent that there may be a conflict with the Rules in this Section 17, the Local Rules pertaining to civil, family law, probate and criminal actions are incorporated herein by this reference as though fully set forth at length, and are hereby made applicable to all juvenile delinquency proceedings.

(Rule 16.01 adopted effective January 1, 2011.)

16.02 Calendar Matters:

A. Delinquency Master Calendar.
The Court maintains a weekly calendar for delinquency proceedings; however, cases assigned to that calendar may be subject to calendar changes. Interested persons can confirm the date and time of a calendared delinquency matter by calling the Clerk of the Court.

B. Detention Hearings in Delinquency Proceedings.
In general, detention matters in delinquency cases will be set for hearing at 1:00 P.M. on Mondays. If a delinquency detention matter must be heard at any time other than as set forth in this Rule 17.02.B, the detaining agency must give notice to the Clerk of the Court by no later than 3:00 PM on the court day next preceding the day of the proposed hearing, so that the Clerk can reserve a bench officer, a reporter, and security personnel. It is the responsibility of the detaining agency to give timely notice of the date and time of the detention hearing to the Clerk of the Court, as well as to all parties and all counsel who may have been appointed.

(Rule 16.02 adopted effective January 1, 2011.)

SUBJECT INDEX

LOCAL RULES INDEX

Chapter	Rule #	Rule Title	Effective Date	Amended Date
1	-	General Rules	-	-
1	1.01	Citation of Rules	01/01/2011	
1	1.02	Effective Date of Rules	01/01/2011	01/01/2015
1	1.03	Effect of Rules; Judicial Council Preemptions	01/01/2011	
1	1.04	Construction and Application of Rules; Publisher of Rules	01/01/2011	
1	1.05	Definitions of Words Used in these Rules	01/01/2011	
1	1.06	Amendment or Addition to, or Repeal of, Local Rules of Court	01/01/2011	
1	1.07	Appeals	01/01/2015	
2	-	Administrative Matters	-	-
2	2.01	Judges Pro Tem	01/01/2011	
2	2.02	Official Court Reporters	01/01/2011	
2	2.03	Case Disposition Time Standards	01/01/2011	
2	2.04	Smoking during Court Proceedings	01/01/2011	01/01/2015
2	2.05	Courtroom Decorum	01/01/2011	
2	2.06	Court Executive Officer; Executive Officer's Assumption of Responsibilities of the Clerk of the Court	01/01/2011	01/01/2015
2	2.07	Code of Ethics for Court Employees	01/01/2011	
2	2.08	Jury Selection Boundaries	01/01/2011	
2	2.09	Excuses from Jury Duty	01/01/2011	
2	2.10	Interpreters	01/01/2011	01/01/2015
2	2.11	Form of Papers Presented for Filing and Clerk's Authority regarding Such Papers	01/01/2011	
2	2.12	Facsimile (FAX) Filing in Civil, Probate and Family Law	01/01/2011	01/01/2015
2	2.13	Payment or Waiver of Filing Fees	01/01/2011	
2	2.14	Motions to be Relieved as Attorney of Record	01/01/2011	
2	2.15	Substitution of Attorneys of or Party In Pro Per	01/01/2011	
2	2.16	Procedure upon Filing of a Peremptory Challenge or Challenge Pursuant to CCP §170.1, 170.3, 170.6; Assignment for All Purposes	01/01/2011	01/01/2015
3	-	General Civil and Law & Motion Rules	-	-

3	3.01	Scope of Civil and Law & Motion Rules	01/01/2011	01/01/2015
3	3.02	Motions and Other Applications in General	01/01/2011	01/01/2015
3	3.03	Ex Parte Motions and Applications	01/01/2011	01/01/2015
3	3.04	Rules Affecting Pleadings, Motions and Papers	01/01/2011	01/01/2015
3	3.05	Motions for Summary Judgment or Summary Adjudication	01/01/2011	
3	3.06	Continuances and Conduct of Hearings on Motions and other Applications for Orders	01/01/2011	01/01/2015
3	3.07	Preparation of Orders	01/01/2011	
3	3.08	Procedures Regarding Applications for Extraordinary Writs	01/01/2011	01/01/2015
4	-	Setting for Trial, and Trial in Civil Matters	-	-
4	4.01	Setting General Civil Cases for Trial	01/01/2011	01/01/2015
4	4.02	Changing Trial Date Once Assigned an Special Settings	01/01/2011	01/01/2015
4	4.03	Procedures for Telephonic Appearances at Case Management and Pre-Trial Conferences	01/01/2011	01/01/2015
4	4.04	Duties if Case Settles	01/01/2011	
4	4.05	Demand for Jury Fees; Waiver of Jury; Refunds	01/01/2011	01/01/2015
4	4.06	Parties Not Present for Trial	01/01/2011	
4	4.07	Conduct of Civil Jury Trials	01/01/2011	01/01/2015
4	4.08	Setting Unlawful Detainer Cases for Trial	01/01/2011	01/01/2015
5	-	Miscellaneous Civil Rules	-	-
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5	5.02	Attorney Fees in Cases Involving Minors or Incompetent Persons	01/01/2011	
5	5.03	Compromise of Claim of Minor or Incompetent Person	01/01/2011	
5	5.04	Form of Judgment	01/01/2011	01/01/2015
5	5.05	Form of Stipulated Judgment	01/01/2011	
5	5.06	Settlement Conferences	01/01/2011	
5	5.07	Sanctions	01/01/2011	
5	5.08	Default Prove-Ups	01/01/2011	
5	5.09	Prove-Up in Quiet Title Proceedings	01/01/2011	
5	5.10	Obtaining Default Judgments Pursuant to Service by Publication	01/01/2011	
5	5.11	Small Claims Court; Appearance by Plaintiff; Dismissal	01/01/2011	

5	5.12	Representation in Unlawful Detainer Proceedings	01/01/2011	
6	-	Filing Criminal Complaints and Citations; Bail; Arraignment; Warrants; Amendments to Complaints; and Informations	-	-
6	6.01	Filing Criminal Complaints and Citations	01/01/2011	
6	6.02	Bail and “O.R.” Procedures	01/01/2011	01/01/2015
6	6.03	Arrest Warrants and Search Warrants	01/01/2011	
6	6.04	Arraignment	01/01/2011	
6	6.05	Amendments to Complaints and Informations	01/01/2011	
7	-	Misdemeanor Settlement and Pretrial Proceedings	-	-
7	7.01	Negotiations Prior to Pretrial or Settlement Conference	01/01/2011	
7	7.02	Pretrial or Settlement Conference	01/01/2011	
7	7.03	Pretrial Motions	01/01/2011	
7	7.04	Trial Settings	01/01/2011	
7	7.05	Readiness/Trial Management Conferences	01/01/2011	
8	-	Criminal Discovery Rules	-	-
8	8.01	Discovery	01/01/2011	
9	-	Criminal Trial Rules	-	-
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9	9.02	Submission of Jury Instructions, Verdict Forms and Voir Dire Questions	01/01/2011	
9	9.03	Exhibits	01/01/2011	
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10	10.01	Time Estimate for Preliminary Examination	01/01/2011	
10	10.02	Continuance of Preliminary Examination	01/01/2011	
10	10.03	Exhibits	01/01/2015	
11	-	Miscellaneous Traffic Infraction Rules	-	-
11	11.01	Traffic School	01/01/2011	01/01/2015
11	11.02	Trials by Declaration	01/01/2011	01/01/2015
12	-	General Criminal Rules	-	-
12	12.01	Sanctions	01/01/2011	
12	12.02	Photographing or Recording Court Proceedings	01/01/2011	
12	12.03	Pretrial Motions	01/01/2011	01/01/2015
12	12.04	Policy Regarding Acceptance of Negotiated Plea after Final Pretrial	01/01/2011	

		Conference		
12	12.05	Requests for Sentence Modification and Other Post-Trial Motions	01/01/2011	
12	12.06	Claims by Court-Appointed Counsel for Payment of Fees	01/01/2011	
13	-	Family Law Rules	-	-
13	13.01	Use of Judicial Council Forms, Proofs of Service	01/01/2011	
13	13.02	Family Law Motions and Orders to Show Cause	01/01/2011	01/01/2015
13	13.03	Family Law Discovery	01/01/2011	01/01/2015
13	13.04	Rules Applicable to All Financial, Child Support and Spousal Support Issues	01/01/2011	
13	13.05	Procedures and Policies for Resolution of Custody and Visitation Issues	01/01/2011	01/01/2015
13	13.06	Contested Trials	01/01/2011	01/01/2015
13	13.07	Judgments by Default and Uncontested Dissolutions	01/01/2011	01/01/2015
13	13.08	Uncontested Judgments Pursuant to Stipulation	01/01/2011	
13	13.09	General Procedure for Default and Uncontested Cases Pursuant to Family Code Section 2336	01/01/2011	01/01/2015
13	13.10	Family Law Facilitator	01/01/2011	01/01/2015
14	-	Probate Rules	-	-
14	14.01	Settings and Assignments	01/01/2011	01/01/2015
14	14.02	Filing of Documents and Review Prior to Hearing	01/01/2011	
14	14.03	Execution and Verification of Pleadings	01/01/2011	
14	14.04	General Notice Requirements	01/01/2011	
14	14.05	Probate Orders and Decrees; Ex Parte Applications; Nunc Pro Tunc Correction of Clerical Error	01/01/2011	
14	14.06	Appearance of Counsel in Uncontested Matters	01/01/2011	
14	14.07	Required Matters in a Petition for Final Distribution	01/01/2011	
14	14.08	Required Form of Accounts in all Probate Proceedings	01/01/2015	
14	14.09	Petition to Establish the Fact of Death	01/01/2011	
14	14.10	Attorneys Fees	01/01/2011	
14	14.11	Non-Statutory (Extraordinary) Fees and Commissions	01/01/2011	
14	14.12	Guardianship Appointments	01/01/2011	
14	14.13	Probate Conservatorship Appointments	01/01/2011	

14	14.14	Blocked Accounts in Guardianships and Conservatorships	01/01/2011	01/01/2015
14	14.15	Accounts of Guardians and Conservators	01/01/2011	
14	14.16	Change of Conservatee's Address	01/01/2011	
14	14.17	Procedures upon the Death of the Ward or Conservatee	01/01/2011	
15	-	Juvenile Dependency Rules	-	-
15	15.01	General Applicability of the Modoc County Local Rules of Court to Juvenile Dependency Proceedings	01/01/2011	
15	15.02	Calendar Matters	01/01/2011	
15	15.03	Attorneys Representing Parties in Dependency Proceedings	01/01/2011	
15	15.04	Court-Appointed Special Advocate Program	01/01/2011	
15	15.05	Confidentiality	01/01/2011	
16	-	Juvenile Delinquency Rules	-	-
16	16.01	General Applicability of the Modoc County Local Rules of Court to Juvenile Delinquency Proceedings	01/01/2011	
16	16.02	Calendar Matters	01/01/2011	

APPENDIX B:
Local Legal Forms List

Form No.	Year	Title
MOD-1	2015	Stipulation and Order for Termination or Modification of Protective and Other Restraining Orders (Mandatory)
MOD-2	2015	Ex Parte Motion for Publication (Mandatory)
MOD-3	2015	Ex Parte Petition for Modification of Probation (Mandatory)
MOD-4	2015	Ex Parte Petition to Place Matter on Calendar (Mandatory)
MOD-5	2015	Order for Modification of Sentence (Mandatory)
MOD-6	2015	Petition for Termination of Probation (Mandatory)
MOD-8	2015	Order for Publication (Mandatory)
MOD-9	2015	Request for Dismissal (Mandatory)
MOD-10	2015	Ex Parte Petition for Modification of Sentence (Mandatory)
MOD-11	2015	Order for Modification of Probation (Mandatory)
MOD-12	2015	Marsden Motion (Mandatory)
MOD-13	2015	Declaration of Restrained Person RE: Firearms (Mandatory)
MOD-14	2015	Stipulation and Order for Continuance (Mandatory)
MOD-15	2015	Declaration for Ex Parte Application (Mandatory)

Under California Rules of Court, Rule 10.613, the Court may adopt local forms to govern practice or procedure. The forms are available on the Court's website at: www.modocsuperiorcourt.ca.gov.

APPENDIX "A"

APPELLATE DIVISION

LOCAL RULES

A. SESSIONS.

The Appellate Division will convene at times and places designated by the Presiding Judge of the Appellate Division.

B. JUDGE.

The Presiding Judge of each participating court or their designee shall act as the Appellate Division Presiding Judge, rotating every two years, commencing January 1, 2020, in the following order by court: Modoc, Sierra, Lassen, and Plumas. The Presiding Judge of the Appellate Division shall oversee the processing of appeals, appoint the panel

judge(s) as may be required to hear the case assigned, designate the presiding judge of each panel and act upon routine matters, applications and motions before the court.

C. BRIEFS.

All briefs filed with the Appellate Division must be bound on the top, with covers in colors as designated by California Rules of Court, rule 8.40(a). Copies are not required to be submitted because briefs are submitted to the appellate panel judges electronically, eliminating the need for additional copies.

Briefs that are filed by fax filing or electronically filed are not required to be bound or to have covers in the colors designated by California Rules of Court, rule 8.40(a).

D. MOTIONS.

All motions, including ex parte applications for orders in a case where there has not been an appointment of a hearing panel and presiding judge thereof, shall be presented to the presiding judge of the Appellate Division. In cases where a panel designation has been made, they shall be presented to the presiding judge of the panel. Any such presiding judge may act on routine matters or may schedule a motion for hearing before the panel at their discretion.

E. MOTIONS FOR AUGMENTATION AND CORRECTION OF THE RECORD; MOTIONS FOR ADDITIONS TO THE RECORD.

All motions for augmentation and correction of the record pursuant to California Rules of Court, rule 8.841, and motions for the addition of omitted portions of the record pursuant to rule 8.841, shall set forth the facts showing: 1) good cause why the materials have not been included in the record on appeal; and 2) any previous motions for augmentation or additions to the record granted or denied to any party after filing of the notice of appeal.

All such motions shall specifically identify each paper, record, or exhibit that is being requested and/or specifically identify, by subject, date, and department what portion of the proceedings before the trial court is being requested to be transcribed.

F. COURT REPORTER.

The sessions of the Appellate Division shall not be reported by a court reporter unless a party so requests at least one week prior to the date set for the hearing.

G. WAIVER OF FEES AND COSTS.

Applications for a waiver of fees and costs shall be made pursuant to California Rules of Court, rule 8.818.

H. APPOINTED COUNSEL IN MISDEMEANOR APPEALS.

Right to counsel. A Defendant appealing a misdemeanor conviction, who was represented by appointed counsel at trial, or who has otherwise met the criteria to be represented by appointed counsel, is entitled to appointed counsel on appeal.

Applications for appointed counsel.

A party who meets the criteria may apply for appointment of counsel either in the trial court or in the Appellate Division pursuant to California Rules of Court, rule 8.851.

Applications filed in the Appellate Division are decided by the presiding judge without a hearing.

List of attorneys.

Appointments are made by the Appellate Division from the list of attorneys maintained by the Appellate Division.

I. FAX FILINGS.

Fax filings in the Appellate Division will be accepted during normal business hours.

A party may file by fax directly to the Appellate Division. Each document transmitted for fax filing shall contain the phrase *"By Fax"* immediately below the title of the document.

A party who files a signed document by fax represents that the original signed document is in their possession or control.

At any time after filing a signed facsimile document, any other party may serve a demand for production of the original physically-signed document. The demand shall be served on all other parties but not be filed with the court.

If a demand for production of the original signed document is made, the parties shall arrange a meeting at which time and place examination of the original signed document will take place.

Notwithstanding any provision of law to the contrary, a signature produced by facsimile transmission is an original.

Filings by fax shall be sent to the following telephone number: 530-233-6500

Filings by fax in the Appellate Division shall be accompanied by the *Facsimile Transmission Cover Sheet (MC-005)*. The cover sheet shall be the first page transmitted. Telephone Number and E-Mail Address fields on the cover sheet are deemed required.

If the facsimile filing is not filed by the court because of (1) an error in the transmission of the document to the court which was unknown to the sending party, or (2) a failure to process the facsimile filing when received by the court, the sending party may move the court for an order to file the document nunc pro tunc. The motion shall be accompanied by the transmission record and a dated and signed proof of transmission in the following form:

"At the time of transmission, I was at least 18 years of age and not a party to this legal proceeding. On (date) _____ and (time) _____, I transmitted to the Appellate Division of the Superior Court the following document(s): _____ by facsimile machine, pursuant to local rule. The court's fax telephone number that I used as (fax telephone number) was_____. The facsimile machine I used complied with rule California Rule of Court, rule 2.301, and no error was reported by the machine. I caused the machine to print a transmission record of the transmission, a copy of which is attached to this declaration. I declare under penalty of perjury that under the laws of the State of California that the foregoing is true and correct."

J. ELECTRONIC FILINGS.

Electronic filings will be accepted in the Appellate Division during normal business hours.

A party may submit documents electronically to the Appellate Division for filing. Each document transmitted electronically for filing shall contain the phrase *"Electronically Submitted"* immediately below the title of the document.

A party who files a signed document electronically represents that the original signed document is in his or her possession or control.

At any time after filing a signed electronically-filed document, any other party may serve a demand for production for the original physically signed document. The demand shall be served on all other parties but not be filed with the court.

If a demand for production of the original signed document is made, the parties shall arrange a meeting at which time and place examination of the original signed document will take place.

Notwithstanding any provision of law to the contrary, a signature produced by electronic transmission is an original.

Electronic filings shall be sent to clerk@modoc.courts.ca.gov unless instructed otherwise by a clerk of the Appellate Division.

Electronic filings shall be accompanied by a cover sheet with the following information:

TO: Appellate Division of the Superior Court
205 South East St
Alturas, CA 96101
Telephone Number: 530-233-6515
Email Address: clerk@modoc.courts.ca.gov

NAME, ADDRESS, TELEPHONE NUMBER & EMAIL ADDRESS OF PARTY MAKING FILING

DATE SUBMITTED
DOCUMENT SUBMITTED
TOTAL NUMBER OF PAGES

Electronically-submitted documents will be printed and the filed documents will be placed in the case file.

If a technical problem with respect to a court's electronic filing system precludes the court from receiving electronically submitted documents during its regular filing hours on a particular court day, the electronic filer may apply to the designated panel presiding judge for that case for an order deeming the electronically submitted documents received *nunc pro tunc* as of the day of the attempted filing.

K. ORAL ARGUMENT APPEARANCES BY VIDEOCONFERENCE.

Whenever hearings for oral argument on appeal have been set, upon request by any party or on their own motion, the presiding judge of the panel may permit appearances of any of the parties and any or all the judges assigned to the panel to appear by videoconference, provided all the following conditions are met:

Notice of the time and place of the oral argument will be given to all parties;

The parties will present oral argument in the venue where the underlying case being appealed was heard;

Each of the judges assigned to the panel shall participate in person or by videoconference during the entire oral argument hearing;

The oral argument hearings shall be open to the public in the venue where the place of the oral argument is being heard and in each other venue where one of the judges assigned to the panel is participating by videoconference equipment; and

Notice shall be given to all parties of the location where each participating panel judge will be located while participating in the oral argument hearing.

L. ELECTRONIC RECORDING.

Electronic Recording Pursuant to California Rules of Court rule 8.837(d)(6)(A), 8.869(d)(6)(A), or 8.916(d)(6)(A). A judicial officer may order that the original of an official electronic recording of the court proceedings, or a copy made by the court, be transmitted to the Appellate Division as the record of oral proceedings in a limited civil, misdemeanor or infraction case without being transcribed and in lieu of correcting appellant's proposed statement on appeal. Such order may be made when the judicial officer determines that this procedure would save court time and resources.

This rule shall apply only if the appellant elects a statement on appeal as the record of oral proceedings pursuant to California Rules of Court rule 8.831(b)(4), 8.864(a)(3) or 8.915(a).

M. OTHER APPELLATE RULES.

Except as modified by the Appellate Division Local Rules herein, the California Rules of Court (commencing with rule 8.800 et seq.) apply to the Appellate Division. Any applications involving matters pending before the Appellate Division shall be presented to the designated presiding judge of the assigned panel for the case involved. In the absence of such designation or unavailability of the respective assigned panel presiding judge, such applications shall be presented to the Presiding Judge of the Appellate Division.

(Effective 7/1/24, as amended 04/01/2024)