Table of Contents

CHAPTER 1 – General Rules..... 1
RULE 1.1 Application of Local Rules (Revised 7/1/08) 1
RULE 1.2 Construction, Scope and Effect of Rules (Revised 7/1/08) 1
RULE 1.3 Unification (Effective 7/1/99) 1
RULE 1.4 Abbreviations within Local Rules (Rev. 7/1/08)....……..……...…….1
CHAPTER 2 – Administration and Distribution of Judicial Business..... 2
RULE 2.1 Court Holidays (Revised 7/1/08) 2
RULE 2.2 Calendar (Revised 7/1/08) 2
RULE 2.3 Clerk's Office—Hours of Operation (Revised 7/1/08)..... 2
RULE 2.4 Presiding Judge (Revised 7/1/08) 2
RULE 2.5 Court Executive Officer (Revised 7/1/08) 2
RULE 2.6 Courtroom Decorum (Revised 7/1/08) 2
RULE 2.7 Court Records and Files (Revised 7/1/08) 3
RULE 2.8 Interpretation of the Term "Day" (Effective 7/1/08) 3
RULE 2.9 Definition of Vacation Day for Judges (Effective 7/1/08)..... 3
CHAPTER 3 – Expedited Civil Track Management System (ECT) 4
RULE 3.1 Objectives (Revised 7/1/08)..... 4
RULE 3.2 Definition (Revised 7/1/08) 4
RULE 3.3 Time Standards (Revised 7/1/08) 4
RULE 3.4 Case Management (Revised 7/1/08) 5
RULE 3.5 Motion for Relief from Time Limits (Revised 7/1/08)..... 7
RULE 3.6 Motions (Revised 7/1/08) 7
CHAPTER 4 – Non-ECT Civil Case Management 8
RULE 4.1 Scope (Revised 7/1/08)..... 8
RULE 4.2 At-issue Memorandum (Revised 7/1/08) 8
RULE 4.3 Case Management Conference (Revised 7/1/08)..... 8
CHAPTER 5 – Settlement Conferences..... 9
RULE 5.1 Setting a Settlement Conference (Revised 7/1/08) 9
RULE 5.2 Settlement Conference Statement (Revised 7/1/08) 9
RULE 5.3 Duty to Notify Court of Settlement (Revised 7/1/08)..... 10
RULE 5.4 Settlement of Jury Trials (Revised 7/1/08) 10
RULE 5.5 Duties of Party at Conference (Revised 7/1/08) 10

CHAPTER 6 – Civil Trials **11**
RULE 6.1 Jury Trials (Revised 7/1/08) 11
RULE 6.2 Court Trials (Revised 7/1/08) 11
CHAPTER 7 – Complex General Civil Litigation **12**
RULE 7.1 Definition (Revised 7/1/08) 12
RULE 7.2 Classification (Revised 7/1/08) 12
CHAPTER 8 – Law and Motion Rules **13**
RULE 8.1 Law and Motion Department (Revised 7/1/08) 13
RULE 8.2 Continuances (Revised 7/1/08) 13
RULE 8.3 Motions (Revised 7/1/08) 13
RULE 8.4 Argument and Oral Testimony at Law and Motion Calendar (Revised 7/1/08) 13
RULE 8.5 Summary Judgment and Summary Adjudication of Issues (Revised 7/1/08) 14
RULE 8.6 Ex Parte Applications (Revised 7/1/08) 14
RULE 8.7 Proposed Orders (Revised 7/1/08) 14
RULE 8.8 Sanctions (Revised 7/1/08) 14
RULE 8.9 Relief from Local Rules (Effective 7/1/99) 14
CHAPTER 9 – Reserved **15**
CHAPTER 10 – Miscellaneous Civil Rules **16**
RULE 10.1 Requests for Copies or Certified Copies (Revised 7/1/08) 16
RULE 10.2 Consolidation of Cases (Effective 7/1/99) 16
RULE 10.3 Facsimile Filings (Revised 7/1/08) 16
RULE 10.4 Substitution and Withdrawal of Counsel (Revised 7/1/08) 17
RULE 10.5 Attorney Fees (Revised 7/1/08) 17
RULE 10.6 Family Law Judgements (Revised 7/1/08) 18
RULE 10.7 Case Removed to Federal Court (Revised 7/1/08) 18
RULE 10.8 Arbitration (Revised 7/1/08) 18
RULE 10.9 Mediation (Revised 7/1/08) 18
RULE 10.10 Interpreters (Revised 7/1/08) 18
RULE 10.11 Court Reporting Services (Revised 7/1/08) 18
CHAPTER 11 – Domestic Relations **20**
RULE 11.1 General Rules (Revised 7/1/08) 20
RULE 11.2 Financial Issues (Revised 7/1/08) 20
RULE 11.3 Hearing Date (Revised 7/1/08) 21

RULE 11.4 Motions and Order to Show Cause (Revised 7/1/08) 21
RULE 11.5 Orders After Hearing (Revised 7/1/08)..... 21
RULE 11.6 Child and Spousal Support (Revised 7/1/08)..... 21
RULE 11.7 Ex Parte Orders (Revised 7/1/08) 21
RULE 11.8 Restraining Orders (Revised 7/1/08) 22
RULE 11.9 Child Custody and Visitation Issues (Revised 7/1/08) 23
RULE 11.10 Appointment of Court-Appointed Investigator or Evaluator (Revised 7/1/08) 23
RULE 11.11 Mediation of Visitation or Custody Issues (Revised 7/1/08)..... 24
RULE 11.12 Family Law Facilitator (Revised 7/1/08)..... 27
RULE 11.13 Child Support Commissioner (Revised 7/1/08)..... 28
RULE 11.14 Co-Parenting Program (Revised 7/1/08)..... 28
RULE 11.15 Court Communication Protocol for Domestic Violence and Child Custody Orders (Effective 7/1/08) 30
CHAPTER 12 – Jury Rules 31
RULE 12.1 Jury Commissioner (Revised 7/1/08)..... 31
RULE 12.2 Juror Service (Effective 7/1/99) 31
RULE 12.3 Court Policy (Revised 7/1/08) 31
RULE 12.4 Length of Juror Service (Revised 7/1/08)..... 31
RULE 12.5 Failure to Appear for Jury Duty When Summoned (Revised 7/1/08) 31
RULE 12.6 Jury Compensation (Revised 7/1/08)..... 32
RULE 12.7 Jury Deposits (Revised 7/1/08)..... 32
CHAPTER 13 – Juvenile Dependency Rules 33
RULE 13.1 Application (Revised 7/1/08)..... 33
RULE 13.2 Purpose and Authority (Revised 7/1/08)..... 33
RULE 13.3 General Competency Requirement (Revised 7/1/08) 33
RULE 13.4 Screening for Competency (Revised 7/1/08)..... 33
RULE 13.5 Minimum Standards of Education or Training (Revised 7/1/08) 34
RULE 13.6 Standards of Representation (Revised 7/1/08)..... 35
RULE 13.7 Procedures for Reviewing and Resolving Complaints (Revised 7/1/08)..... 36
RULE 13.8 Procedures for Informing the Court of the Interests of a Dependent Child (Revised 7/1/08) 37
RULE 13.9 Timelines (Revised 7/1/08) 39
RULE 13.10 Guardians Ad Litem (Revised 7/1/08)..... 40
RULE 13.11 Court Appointed Special Advocates (CASA) (Effective 7/1/08) 40

APPENDIX A – Certification of Competency..... 43

CHAPTER 1 - GENERAL RULES

RULE 1.1 APPLICATION OF LOCAL RULES

These local rules apply to all matters filed in the Superior Court of California, County of San Benito unless otherwise noted herein. Upon the effective date of these rules, all other rules previously adopted by this court and the former Municipal Court are repealed.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 1.2 CONSTRUCTION, SCOPE, AND EFFECT OF RULES

These local rules are designed to promote and facilitate efficient and fair administration of judicial business and justice. These local rules are to be liberally construed and are intended to supplement and do not replace or reduce any requirements set forth in California statutes, the California Rules of Court (CRC), or other policies or standards adopted by the Judicial Council of California. If a local rule is amended in the future, the new adopted and approved rule will be controlling.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 1.3 UNIFICATION

Effective September 1, 1998, Municipal Court of San Benito County unified with Superior Court. Therefore, all references to Municipal Court are hereby eliminated. Superior Court is divided into Department 1 (formerly Municipal Court) and Department 2 (formerly strictly Superior Court). Cases, which were in Municipal Court, will continue as is in Department 1.

(Eff. 7/1/99)

RULE 1.4 ABBREVIATIONS WITHIN THESE LOCAL RULES

ADR	Alternative Dispute Resolution
CLETS	California Law Enforcement Telecommunication System
CMC	Case Management Conference
CRC	California Rules of Court
ECT	Expedited Civil Track
MCLE	Minimum Continuing Legal Education

(Eff. 7/1/99) (Rev. 7/1/08)

CHAPTER 2 - ADMINISTRATION AND DISTRIBUTION OF JUDICIAL BUSINESS

RULE 2.1 COURT HOLIDAYS

The court will observe a holiday occurring on a Saturday on the proceeding Friday and a holiday occurring on a Sunday on the following Monday, pursuant to CRC 1.11 and Code of Civil Procedure section 135. The court observes all judicial holidays as prescribed by law. (See Code of Civil Procedure sections 133-136 and Government Code section 6700.)

(Eff. 7/1/99) (Rev. 1/1/02) (Rev. 7/1/08)

RULE 2.2 CALENDAR

All matters will be regularly calendared pursuant to the calendar policy determined by the presiding judge. Unless otherwise ordered, cases will be assigned by department.

(Eff. 7/1/99)(Rev. 1/1/02) (Rev. 7/1/08)

RULE 2.3 CLERK'S OFFICE—HOURS OF OPERATION

As of the effective date of this rule, the clerk's office hours are from 8 a.m. - 4 p.m. on court days. NO FILINGS WILL BE ACCEPTED AFTER 4 P.M. The clerk's office hours are determined by the judges and court administration and are subject to change with prior notice to the public.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 2.4 PRESIDING JUDGE

The judges will select the presiding judge. The presiding judge has the authority and the duties specified by CRC and statute. When necessary, the presiding judge will designate an acting presiding judge.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 2.5 COURT EXECUTIVE OFFICER

A majority of the judges of the court may appoint a court executive officer pursuant to Government Code sections 71620 and 77001.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 2.6 COURTROOM DECORUM

These local rules have been adopted to promote orderly proceedings and respect for the judicial process. All persons present before the court are required to dress and conduct themselves in a manner consistent with the traditional dignity of the court and the judicial process.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 2.7 COURT RECORDS AND FILES

No person may remove court files, papers contained therein, exhibits, or other records from the clerk‘s office without order of the court.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 2.8 INTERPRETATION OF THE TERM “DAY”

“Court day” means a day on which judicial business may be transacted within the meaning of Code of Civil Procedure section 133-136. “Day” means “court day” unless otherwise specified.

(Eff. 7/1/08)

RULE 2.9 DEFINITION OF VACATION DAY FOR JUDGES

A day of vacation for a judge is defined as an approved absence from the court for one full court day. Other absences from the court listed in CRC 10.603(c)(2)(H) are excluded from this definition.

(Eff. 7/1/08)

CHAPTER 3 - EXPEDITED CIVIL TRACK MANAGEMENT SYSTEM (ECT)

RULE 3.1 OBJECTIVES

These ECT rules are intended to implement the Trial Court Delay Reduction Act (Government Code section 68600 et seq.) and to bring general civil actions to disposition by trial, settlement, or other means as expeditiously as possible and within reasonable guidelines established by the court. These ECT rules apply to all general civil cases filed after the effective date of this rule. General civil cases filed prior to the effective date of this rule are subject to the provisions set forth in Local Rule 4.

No action or proceeding may be removed from the process set forth in this chapter because of a challenge filed under Code of Civil Procedure section 170.6.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 3.2 DEFINITION

“General Civil Cases” means all civil cases except probate, guardianship, conservatorship, juvenile, and family law proceedings (including proceedings under divisions 6-9 of the Family Code, Uniform Parentage Act, Domestic Violence Prevention Act, and Uniform Interstate Family Support Act; freedom from parental custody and control proceedings; and adoption proceedings), small claims proceedings, unlawful detainer proceedings, and petitions to prevent civil harassment, elder abuse, and workplace violence; petitions for name change; election contest petitions; and petitions for relief from late claims.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 3.3 TIME STANDARDS

The court adopts the case disposition time standards as set forth in Standards of Judicial Administration, standards 2.1 and 2.2 and the Economic Litigation Act. It is the policy of the court to strive to meet these time standards from the filing of the initial pleading to disposition of general civil cases in the following manner: 90% within 12 months, 98% within 18 months, and 100% within 24 months.

Timelines are as follows:

Filed Date		
+60		Summons and complaint must be served no later than 60 calendar days after the filing of the complaint. Except as otherwise provided by law, the court may extend any time requirements for service of process and return of summons upon a showing of good cause by the litigant.
+90		Responsive pleadings will be served upon each party entitled to service no later than 30 calendar days after service of the complaint or the cross-complaint
	+105	upon each party, unless an extension, not exceeding 15 calendar days, is obtained by stipulation of all parties of by order of the court granting the responding party‘s motion for relief from the time limit.

+120		Cross-complaint(s) must be served within 30 calendar days of filing responsive pleading(s), [except that a cross-complaint against new parties must be
	+135	served within 15 calendar days of filing the responsive pleading(s)].
+150		Filing and service of response(s) must be made within 30 calendar days of service
	+165	of the cross-complaint(s).
+120		Case management conference (CMC) is set approximately 120 calendar days after the filing of the initial pleading.

(Eff. 7/1/99)(Rev. 1/1/02) (Rev. 7/1/08)

RULE 3.4 CASE MANAGEMENT

(a) Notice of Inclusion: At the time of filing the initial pleading, the clerk will prepare a notice of inclusion which contains dates in accordance with the rules prescribed herein. This form must be served with the complaint and a copy with proofs of service filed in the case.

(b) Case Management Statement: Each party must file and serve a case management statement on the other parties no later than 15 calendar days before the CMC. A case management statement must contain the following information, whether or not a Judicial Council form is used:

(1) The names, addresses, phone and fax numbers of all attorneys of record and whom they represent;

(2) A brief outline of the nature of the case;

(3) The estimated court time to dispose of the case, including separate estimates of time for motions and trial;

(4) The estimated date the case will be ready for trial and whether or not a jury trial is demanded;

(5) The efforts made at settlement, what issues remain in dispute and whether further settlement conferences would be productive;

(6) The status of discovery and if not completed, what type of discovery remains and the date it is scheduled to be completed;

(7) A statement specifying the date, time spent, and results of the meet and confer required by Local Rule 3.4(c);

(8) A statement indicating whether or not the case is suitable for judicial arbitration or alternative dispute resolution and reasons therefor;

(9) The trial attorney‘s availability calendar for the 4th, 5th, and 6th months following the month in which the CMC is heard;

(10) Proof of service that the case management statement was served upon all necessary parties; and

(11) Other information pertinent to the court's ECT.

(c) Meet and Confer: Prior to the filing of the case management statement, parties must meet and confer in person or by telephone regarding the case. The results of this meet and confer must be summarized and included in the case management statement.

(d) Case Management Conferences (CMC):

(1) Calendaring: The CMC will be calendared as provided in the notice of inclusion (see Local Rule 3.4(a)) or to an earlier date if the parties sign a stipulation requesting such date. Counsel for each party and each self-represented party must participate in the CMC either by appearing in person or by telephone. Telephonic appearances are permitted, unless otherwise ordered or directed by the court.

(2) Participation: Each party must be fully prepared to discuss the following at the CMC:

(A) All items addressed in the case management statements.

(B) Any other matters that would achieve the interests of justice and the timely disposition of the case.

(3) Continuances:

(A) By Stipulation: Parties requesting an initial continuance must submit a stipulation signed by all parties and a declaration stating the reason for the request. The clerk must receive this request as soon as possible, but no later than the court day before the scheduled CMC. The stipulation must include the date of the rescheduled CMC, which should be no later than 30 calendar days after the initial CMC was set. Any further continuances may only be granted upon filing of a proper motion and order of the court.

(B) Without Stipulation: Parties requesting a non-stipulated continuance must file a noticed motion and set a hearing date prior to the scheduled CMC. A declaration and proof of service must support the motion. The motion will be granted upon a finding of good cause.

(4) Orders: To achieve expeditious resolution of these matters, the court must evaluate each case, take appropriate actions, and make necessary orders. Such actions or orders may include:

(A) Designating the case as an "uninsured motorist" case pursuant to CRC 3.712.

(B) Designating the case as exempt from differential case management by reason of exceptional circumstances pursuant to CRC 3.714(c), in which

case there will be established a case progression plan and a procedure to monitor case progression in order to assure disposition within 3 years.

(C) Consolidating cases.

(D) Referring the case to judicial arbitration, subject to Government Code Section 68616(g). The court will accept stipulations to refer a case to arbitration earlier than as set forth in that code section.

(E) Setting the case for trial and mandatory settlement conference.

(F) Continuing the case for further CMC.

(G) Severing or bifurcating causes of actions or issues.

(H) Setting discovery schedules.

(I) Setting a date for a special settlement conference.

(J) Dismissing the action in whole or in part.

(K) Assigning the case, upon stipulation, to ADR.

(L) Determining whether the case is one in which a right to a jury trial is available.

(Eff. 1/1/92) (Amended 1/1/96) (Rev. and renumbered 7/1/99) (Rev. 7/1/08)

RULE 3.5 MOTIONS FOR RELIEF FROM TIME LIMITS

Motions for relief from any of the provisions of this chapter must be brought before the judge. Any relief motion must be signed by (i) the attorney, if any, and (ii) the moving party, except for good cause shown by declaration under penalty of perjury of the attorney, which declaration sets forth facts establishing the unavailability of the moving party. If the judge or his or her designee grants a motion for relief from time limits, the matter will be reset on a specific date at the time the motion is granted. Motions for relief from time limits set forth in this chapter will be made and may be granted only upon a showing of good cause.

(Eff. 1/1/92)(Amended 1/1/96) (Rev. and renumbered 7/1/99) (Rev. 7/1/08)

RULE 3.6 MOTIONS

Notwithstanding these ECT rules, any party may file a motion on the law and motion calendar. The CMC calendar is not a law and motion calendar.

(Eff. 7/1/99) (Rev. 7/1/08)

CHAPTER 4 - NON-ECT CIVIL CASE MANAGEMENT

RULE 4.1 SCOPE

The cases covered by this chapter are those which are not included in the general civil case definition in Local Rule 3.2. These cases will be managed pursuant to CRC 3.720 - 3.771. A civil case under this chapter may be brought into the ECT upon noticed motion and finding of good cause; upon stipulation (including area for clerk to complete indicating first CMC) and order thereon; or upon the court's own motion by service of a notice of a case management conference to all parties.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 4.2 AT-ISSUE MEMORANDUM

(a) Time Lines: In all civil cases specified in Local Rule, 4.1, the plaintiff must file and serve an at-issue memorandum within 180 calendar days from the date the complaint is filed, unless there is a final disposition to the matter prior to the 180 calendar day time limit.

(b) Availability: The submitting party must designate available trial dates for the 1st, 2nd, and 3rd months following the date the at-issue memorandum or counter at-issue memorandum is submitted.

(c) Failure to File: If a timely at-issue memorandum is not filed, the case may be set for a CMC upon the court's own motion.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 4.3 CASE MANAGEMENT CONFERENCE

If either party requests a CMC, Local Rule 3.4 (b)-(d) will apply.

(Eff. 7/1/99) (Rev. 7/1/08)

CHAPTER 5 - SETTLEMENT CONFERENCES

RULE 5.1 SETTING A SETTLEMENT CONFERENCE

(a) The local rules set forth in this chapter are adopted to implement CRC 3.1380 and will apply to all settlement conferences whether mandatory or voluntary. A settlement conference may be set as follows:

(1) At the request of any party on the at-issue memorandum or counter at-issue memorandum.

(2) By the court's own motion at any time in the interest of justice and to ensure timely disposition of civil cases.

(3) By the court or any party at the time of the CMC.

(4) At the request of any party applying to the court for a specially-set settlement conference.

(5) A further settlement conference may be set prior to the date set for trial at the request of a party or by the court at the time of initial settlement conference.

(b) This rule does not prohibit any party from filing a motion on the law and motion calendar, which is generally a separate calendar.

(c) The court will not continue a settlement conference except upon a filing of a noticed motion. The court will hear the motion at the settlement conference unless an earlier date is requested and ordered.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 5.2 SETTLEMENT CONFERENCE STATEMENT

Each party must prepare, file, and serve on all other parties a settlement conference statement, in pleading or letter form, at least 5 court days prior to the settlement conference. In addition to the requirements listed in CRC 3.1380(c), the settlement conference statement must include:

(a) A caption including the date and time of the settlement conference and trial date, if set;

(b) The names of the parties and the dates, times, and locations giving rise to the controversy before the court;

(c) A summary of the important facts of the case indicating the parties' theories of liability;

(d) A statement of any and all legal issues to be resolved by the court;

(e) Copies of all relevant portions of key documents upon which the litigation is based and upon which any party intends to rely;

(f) A list of all motions in-limine to be made at the time of trial;

(g) A list of damages, current and future, and the legal and factual support thereof;

(h) A summary of all previous settlement negotiations;

(i) If an insurance carrier is involved and there are any reservations of rights or policy defenses, the legal and factual support therefor; and

(j) Any other information as that may be directed by the court.

(Eff. 1/1/92) (Amended 1/1/96) (Rev. and renumbered 7/1/99) (Rev. 7/1/08)

RULE 5.3 DUTY TO NOTIFY COURT OF SETTLEMENT

It is the duty of counsel, or the self-represented party, to inform the court immediately if the case is settled. Notice must be given to the court by filing a written notice of settlement, including any required attachments. Any party may move to seal a settlement agreement attached to the notice of settlement. Failure to notify the court in writing of settlement may be cause for sanctions.

(Eff. 1/1/92) (Amended 1/1/96) (Rev. and renumbered 7/1/99) (Rev. 7/1/08)

RULE 5.4 SETTLEMENT OF JURY TRIALS

(a) In the interest of jurors and taxpayers, the court strongly encourages parties to settle cases set for jury trial no later than 3:00 p.m. on the court day preceding the trial date. The court must be informed immediately of any settlement. Jury fees will be forfeited if the court deems it was not timely notified.

(b) Parties must, during the week preceding the date fixed for the trial, keep the court's calendar secretary advised as to the likelihood of settlement and any other factors that affect the readiness of the case.

(c) Code of Civil Procedure section 631 et seq. governs the return of jury fees.

(Eff. 7/1/99) (Rev. 1/1/02) (Rev. 7/1/08)

RULE 5.5 DUTIES OF PARTY AT CONFERENCE

The trial counsel for each party and each self-represented party must attend the settlement conference. Each party must be familiar with the case so that he or she is able to discuss thoroughly all aspects of the case.

(Eff. 7/1/99) (Rev. 7/1/08)

CHAPTER 6 - CIVIL TRIALS

RULE 6.1 JURY TRIALS

(a) Jury Deposits: For all civil matters scheduled for a jury trial, other than unlawful detainer actions, the clerk's office must receive the first day's jury deposit of $150 no later than 25 calendar days prior to trial. In unlawful detainer actions, the clerk's office must receive the first day's jury deposit of $150 no later than 5 calendar days prior to trial.

(b) Waiver: Upon waiver of trial by jury by announcement or by operation of law, any demand for trial by jury by opposing counsel must be accompanied by a jury deposit of $150.

(c) Refund of Jury Deposits: Jury deposits are refundable only if a written notification of cancellation of a jury trial is received by the clerk at least 2 court days before the date of trial.

(d) Jury Instructions: Each party must submit two copies of the proposed jury instructions no later than the second day of trial. Such instructions must comply with CRC 2.1055.

(e) Motions In-Limine: All motions in-limine must be in writing. Each motion and response must be filed no later than the first day of trial.

(f) Demand for Jury Trial: All civil cases set for trial in which there is an entitlement to a jury will be deemed to have a jury demand made by plaintiff absent a waiver in writing or in open court. If no waiver is made, plaintiff must pay the jury deposit. If plaintiff waives a jury, either by actual waiver or by failure to deposit the correct jury fees as set out in (a), any other party may demand a jury and be responsible for the jury deposit consistent with Code of Civil Procedure section 631(b).

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 6.2 COURT TRIALS

The court may specially set all matters subject to a court trial. A court trial is defined as a matter lasting more than one hour without a jury.

(Eff. 7/1/99) (Rev. 7/1/08)

CHAPTER 7 - COMPLEX GENERAL CIVIL LITIGATION

RULE 7.1 DEFINITION

Complex litigation cases are those cases that require specialized management to avoid placing unnecessary burdens on the court or the litigants. Complex litigation is not capable of precise definition and may involve, for example, multiple related cases, extensive pretrial activity, extended trial times, difficult or novel issues, and post judgment judicial supervision, or may concern special categories such as class actions; however no particular criterion is controlling and each situation must be examined separately.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 7.2 CLASSIFICATION

At the first CMC, the court must make the determination as to whether the matter constitutes complex litigation. Upon the court's finding of exemption from ECT, the court must ensure that the case is progressing to a disposition in a timely fashion. The court may do one or more of the following: establish a regularly monitored program, appoint a special master, or otherwise administer the matter in order to promote the efficient administration of justice in accordance with CRC and the Standards of Judicial Administration.

(Eff. 7/1/99) (Rev. 1/1/02) (Rev. 7/1/08)

CHAPTER 8 - LAW AND MOTION RULES

RULE 8.1 LAW AND MOTION DEPARTMENT

The rules in this chapter apply to matters as defined in CRC 3.1103. These matters include the following types of actions: petitions for changes of name, emancipation of minors, applications for appointment of a guardian ad litem pursuant to Code of Civil Procedure section 373, and all other matters as may be designated by the court.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 8.2 CONTINUANCES

As it is the policy of the court to avoid unnecessary delays in law and motion matters, requests for continuances must be based on good cause. The parties may stipulate, in writing, one time to continue a law and motion matter for a reasonable amount of time not to exceed 45 calendar days. The moving party must submit this request to the clerk's office by mail or fax at least (i) 24 hours before the scheduled hearing, or (ii) 48 hours before the scheduled hearing, if the hearing is before a visiting judge.

The parties must make all other requests for stipulated continuances of law and motion matters to the judge scheduled to hear the matter with parties in attendance. The request must indicate good cause for the continuance and describe the bases for previous continuances, if any. Failure to appear at the date and time set for the hearing may result in the matter being dropped from the calendar.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 8.3 MOTIONS

All motions must comply with CRC 3.1110 - 3.1116 and 3.1300 - 3.1302 regarding the format and filing of papers. The parties must also follow any other CRC prescribing the method or setting forth other requirements for presentation of papers for filing.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 8.4 ARGUMENT AND ORAL TESTIMONY AT LAW AND MOTION CALENDAR

(a) The court will ordinarily not allow argument in excess of 15 minutes per side. If an argument exceeds 15 minutes per side, the judge may determine the matter requires lengthier argument and set the matter for a special hearing.

(b) The court will ordinarily not allow extensive oral testimony on the law and motion calendar. If oral testimony is desired, the party must make a request to the law and motion judge, pursuant to CRC 3.1306, who may (i) grant the request and leave the matter as set, (ii) grant the request and re-calendar for a special setting, or (iii) deny the request and insist that the matter be heard on declarations.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 8.5 SUMMARY JUDGMENT AND SUMMARY ADJUDICATION OF ISSUES

All motions for summary judgment and summary adjudication of issues must conform to the requirements of Code of Civil Procedure section 437c, CRC 3.1350 - 3.1354, and applicable local rules. The court will strictly enforce these requirements.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 8.6 EX PARTE APPLICATIONS

All applications for ex-parte orders must comply with CRC 3.1200 - 3.1207, unless otherwise ordered by the court or directed herein.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 8.7 PROPOSED ORDERS

When the court's ruling is to be reduced to a formal written order, the prevailing party must file with the court and serve upon all parties a proposed form of order within 5 calendar days of the ruling, unless otherwise directed by the court.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 8.8 SANCTIONS

Failure to comply with any local rule or CRC may subject the party to sanctions pursuant to CRC 2.30 and Code of Civil Procedure sections 177.5 and 575.2.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 8.9 RELIEF FROM LOCAL RULES

Relief from applicability of these rules must be obtained by prior court approval.

(Eff. 7/1/99)

CHAPTER 9 - RESERVED

(Rules 9.1 and 9.2 repealed effective 7/1/08; adopted effective 7/1/99)

CHAPTER 10 - MISCELLANEOUS CIVIL RULES

RULE 10.1 REQUESTS FOR COPIES OR CERTIFIED COPIES

The requesting party must include a self-addressed stamped envelope and the required copying or certification fee with all requests for copying or certification of documents before any copying or certification will be done. If there is no envelope or fee, the clerk may attempt to notify the requesting party to forward such envelope or fee. However, it is the responsibility of the requesting party to contact the clerk regarding the status of his or her request.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 10.2 CONSOLIDATION OF CASES

When cases are consolidated for any purpose, the case with the higher docket number, unless otherwise specified, will be the controlling docket number, and future filings and correspondence will be routed to that docket number only.

(Eff. 7/1/99)

RULE 10.3 FACSIMILE FILINGS

(a) Pursuant to CRC 2.300 et seq., a party may file all documents in civil, probate, and family law matters by fax. Proper transmission of a document by a fax machine is the responsibility of the filing party, not the court. Faxed filings must comply with CRC 2.100 - 2.119 and other applicable rules and statutes.

(b) Filing by fax is permissive only; therefore, the cost of filing papers with the court pursuant to this rule is not a recoverable cost under Code of Civil Procedure section 1033.5.

(c) Fax filing will be by Automated Fax Filing System, provided by Official Payments Corp., an independent organization offering the fax filing service in association with the court. The first sheet transmitted must be the Judicial Council Facsimile Transmission Cover Sheet (Form MC-005 or JV 520, as appropriate) followed immediately by the document to be filed. When needed, the Civil Case Cover Sheet (Form CM-010) will be the last page transmitted. (Rev. 1/1/02)

(d) The document to be filed must include the words “BY FAX” immediately below the title of the document.

(e) The toll free fax filing number can be obtained by calling 1-800-322-4945. Parties will need to register with Official Payments Corp., by calling this number, prior to fax filing. Although the fax may be in operation 24 hours a day, any fax received after 4:00 p.m. or on a court holiday, Saturday, or Sunday will be deemed filed the next court day. (Rev. 1/1/99)(Rev. 1/1/02)

(f) Fees for fax filing are set by the Automated Fax Filing System. Rates are subject to change without notice. (Rev. 1/1/02)

(g) A person who files or serves a document by fax pursuant to this rule represents that the original signed document is in his or her possession and control.

(h) At any time after the filing or service of a signed fax document, any other party may serve a demand for production of the original physically signed document. The demand for production must be served on all other parties but should not be filed with the court.

(i) Notwithstanding any other provision to the contrary, including Evidence Code sections 255 and 260, a signature produced by fax transmission is an original.

(j) Faxed filings may not exceed a total of 25 pages including cover page and any and all attachments, exhibits, and declarations that are part of the original document. The court may reject faxed filings exceeding 25 pages.

(Eff. 7/1/99 unless otherwise noted) (Rev. 1/1/02) (Rev. 7/1/08)

RULE 10.4 SUBSTITUTION AND WITHDRAWAL OF COUNSEL

A document which substitutes (i) one attorney for another, or (ii) an attorney for a pro per party must contain: the name, mailing address, telephone number, and bar number of the new attorney. The document must contain the name of the attorney, not the firm name. The document must be served on all parties.

A document which substitutes a pro per party for an attorney must contain: the name, mailing address, and telephone number of the pro per party. The document must be served on all parties.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 10.5 ATTORNEY FEES

(a) Computation of Attorney's Fees: If the clerk is authorized to enter judgment pursuant to Code of Civil Procedure section 585(a), and one of the two conditions is true:

(1) the obligation sued upon provides that attorney fees will be allowed in the event of an action thereon, or

(2) the action is one in which the plaintiff is entitled, by statute, to recover attorney's fees in addition to money or damages

then the clerk may compute the attorney's fees by adding to the judgment, exclusive of costs, the following amounts (unless a lesser sum is requested):

20 percent of the first $1,000; plus

6 percent of the next $9,000; plus

3 percent of the next $40,000; plus

2 percent of the next $50,000; plus

1 percent of the next $100,000.

(b) Minimum: If the amount of attorney's fees calculated pursuant to section (a) above is less than $250, the clerk will instead add $250 to the judgment for attorney's fees (unless a lesser sum is requested).

(Eff. 11/1/88) (Rev. and renumbered 7/1/99) (Rev. 7/1/08)

RULE 10.6 FAMILY LAW JUDGMENTS

All proposed family law judgments must be accompanied by an extra copy of the face sheet when submitted.

(Eff. 7/1/97) (Rev. and Renumbered 7/1/99) (Rev. 7/1/08)

RULE 10.7 CASE REMOVED TO FEDERAL COURT

In the event a case is removed to federal court, the court will order a date, not earlier than 90 calendar days from the date of removal, by which counsel must file a declaration regarding the status of removed case. If the case has not been remanded to the court by that time, the action will be dismissed without the need to conduct a further hearing.

(Eff. 1/1/92)(Amended 1/1/96) (Rev. and renumbered 7/1/99) (Rev. 7/1/08)

RULE 10.8 ARBITRATION

Code of Civil Procedure sections 1141.10 - 1141.31 and CRC 3.810 - 3.830 apply to all civil cases as stated therein. An arbitrator will be assigned no later than 30 calendar days after submission of a case to arbitration.

(Eff. 9/1/91) (Rev. and renumbered 7/1/99) (Rev. 7/1/08)

RULE 10.9 MEDIATION

Code of Civil Procedure sections 1775 - 1775.15 and CRC 3.870 - 3.878 apply to all civil cases as stated therein.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 10.10 INTERPRETERS

Interpreters will not be provided for civil or small claims matters, unless required by law or ordered by the court. Any civil or small claims party requiring the services of an interpreter must arrange and pay for the services of the interpreter.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 10.11 COURT REPORTING SERVICES

Pursuant to CRC 2.956 - 2.958 and Government Code section 68086, the court hereby adopts the following policy as a local rule.

The court provides services of official court reporters in all criminal and juvenile matters as required by law during regular court hours. Court reporting services are not available during a hearing on law and motion and other trial and non-trial matters in civil cases. However, the court may provide official court reporter services during regular weekly scheduled court calendars if the official court reporter is not required in a criminal or juvenile matter. Each party in a civil case must file a statement before the trial date indicating whether the party requests the presence of an official court reporter. For purposes of this local rule, "civil case" includes all maters other than criminal and juvenile matters.

(Eff. 7/1/99)(Rev. 1/1/02) (Rev. 7/1/08)

CHAPTER 11 - DOMESTIC RELATIONS

RULE 11.1 GENERAL RULES

(a) Types of Actions: The court will hear all non-Title IV-D actions, including orders to show cause, motions, and other requests for relief under the Family Law Act and other domestic relations matters on the family law and motion calendar.

(b) Meet and Confer Requirement: The court will not hear any family law matter unless and until self-represented parties and counsel, with their respective clients either physically present or immediately physically available, have met and conferred in good faith in an effort to resolve all or partial issues. At the meeting, all parties must exchange documents that may be relevant to contested issues or that may be offered into evidence at the outset of the hearing on the matter. Each self-represented party or counsel must represent to the court that there has been compliance with this rule. Non-compliance with this rule may result in (i) the matter being dropped from the calendar or continued, (ii) the rejection of non-exchanged documents into evidence, or (iii) other sanctions as deemed appropriate by the court. (Eff. 2/1/91)

(c) Completion of Forms: Parties must file all Judicial Council forms, including attachments as required by CRC and statute, in a timely manner as prescribed by CRC and statute. All blanks on the forms must be answered with a response or "n/a" designation

(Eff. 7/1/99 and rev. and renumbered 7/1/99 as indicated) (Rev. 7/1/08)

RULE 11.2 FINANCIAL ISSUES

(a) Income and Expense Declaration (Form FL-150) or Financial Statement (Simplified) (Form FL-155): The court will not hear a family law matter with financial issues, including child support, spousal support, payment of debts or attorney fees, unless each party to the action has completed, served, and filed in compliance with CRC 5.118 a current (executed within sixty calendar days of the hearing or trial) and accurate Income and Expense Declaration (Form FL-150) or Financial Statement (Simplified) (Form FL-155). In the event there has been no change within the previous sixty calendar days, a party may file with the court a declaration under penalty of perjury to that effect in lieu of a new Income and Expense Declaration or Financial Statement (Simplified) with current verification of earnings or income attached to the declaration.

(b) Documentation: If the parties have not exchanged current documentation 5 court days before the scheduled hearing, the parties must exchange the following documents: (i) current wage verification for the prior 3 month period and (ii) most recent state and federal income tax returns with W-2 statements. If a party is self-employed, the party must also produce all year-end 1099 forms for the prior year, and a current profit and loss statement and balance sheet of the self-employed party's business entity. The submitting party may strike confidential information.

(c) Public Assistance and Temporary Assistance for Needy Families (TANF): A party receiving public assistance benefits must disclose that fact, including appropriate aid and/or District Attorney identification of file numbers.

(Eff. 2/1/91) (Rev. and renumbered 7/1/99) (Rev. 7/1/08)

RULE 11.3 HEARING DATE

(a) Initially the court will proceed with a calendar call to inquire from each party the estimated hearing time for a pending matter. The court will determine whether to hear the matter at that time, pass until a later time on that date, or specially set the matter.

(b) If a matter exceeds 30 minutes, it will be specially set. A family law judge may calendar special sets. If a matter is already set on the law and motion calendar, the request should be made at that time. The parties may also request a special set through a calendared motion. Local Rule 3.4(d)(3) governs continuances of special sets.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 11.4 MOTIONS AND ORDER TO SHOW CAUSE

Time for service of papers is set forth in California Code of Civil Procedure 1005(b). Hearings of either type will be calendared so that the proper notice is received unless the court grants an order shortening time. If an order shortening time is granted, but there is not sufficient time prior to the hearing to allow preparation, the court may make temporary orders at the initial hearing and continue the matter for further hearing.

(Eff. 2/1/91) (Rev. and renumbered 7/1/99)(Rev. 1/1/02) (Rev. 7/1/08)

RULE 11.5 ORDERS AFTER HEARING

Both parties must complete an order after hearing or stipulation and order to the extent possible before the hearing. The parties must present these documents to the judge at the hearing for final completion and any changes.

(Eff. 2/1/91) (Renumbered 7/1/99) (Rev. 7/1/08)

RULE 11.6 CHILD AND SPOUSAL SUPPORT

(a) Temporary or Permanent Child Support: The court will set temporary or permanent child support pursuant to the Family Code.

(b) Spousal Support: The court will set spousal support pursuant to the Family Code.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 11.7 EX PARTE ORDERS

(a) Application for Ex Parte Orders: All ex parte applications must be in writing and supported by affidavit or declaration as prescribed by CRC 3.1201.

(b) Notice of Application: The moving party must give notice of all ex parte applications to the opposing party prior to submission of the request, except (i) where there is an

agreement between the parties that no notice is required, (ii) where it is impossible to give notice, or (iii) where notice would result in irreparable injury.

(c) Standing Orders, Exceptions to Notice and Declaration Requirements: The court executive officer may issue, on behalf of the court, the following types of ex parte orders without compliance with the requirements set forth in Local Rule 11.7(b):

(1) Ex parte orders directing the parties to mediation.

(2) Mutual ex parte orders restraining removal of the minor child(ren) of the parties from the Greater Bay Area, if the child(ren) are in the Greater Bay Area at the time of the request. The "Greater Bay Area" refers to the following counties: Alameda, Contra Costa, Santa Clara, San Mateo, San Francisco, Marin, Sonoma, Napa, Solano, Monterey, Santa Cruz, and San Benito.

(3) Mutual ex parte orders directing the parties to exchange state and federal tax returns, including any and all supporting documents, for the prior 3 tax years and payroll stubs for the prior 4 months, on a specified date no later than 5 court days prior to the hearing of any motion for support or attorney fees and costs.

(4) Mutual ex parte orders directing any party incurring expenditures, after the date of separation, in the ordinary course of business, or for the necessaries of life, to pay for such expenses from his or her separate property income before using community assets.

(d) Exclusive Use of a Vehicle: The court will not issue an ex parte order for exclusive use of a vehicle unless the declaration demonstrates that the (i) opposing party has suitable transportation available, (ii) the opposing party requires no such transportation, or (iii) other good cause.

(e) Removal From Residence: The court will not issue an ex parte order removing a party from a residence without supporting declarations as required by applicable law.

(f) Modified Orders: If the court modifies any requested orders, the requesting party must incorporate the changes into all copies before filing and service.

(g) Set Aside of Ex Parte Order: If a responding party requests that an ex parte order be set aside prior to the date set for hearing, the responding party must give notice to the moving party. The court may order an earlier hearing date or modify the orders on a proper showing in lieu of setting aside the orders.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 11.8 RESTRAINING ORDERS

Any restraining order that involves personal conduct orders, stay away orders, or residence exclusion orders must be submitted to the court on the CLETS form or other approved Judicial Council form. All such orders must be accompanied by the Law Enforcement Supplement Information Form, which will not become a part of the court file.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 11.9 CHILD CUSTODY AND VISITATION ISSUES

Local Rules 11.10 - 11.14 are adopted in accordance with relevant law and standards of practice for court-connected child custody mediation.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 11.10 APPOINTMENT OF COURT-APPOINTED INVESTIGATOR OR EVALUATOR

(a) Applicability: In any case in which custody or visitation is in dispute, the court may appoint an investigator and order that a child custody/visitation investigation and evaluation be conducted. The court will appoint an investigator in accordance with CRC 5.220(g), Evidence Code section 730, Family Code section 3110 et seq., and Code of Civil Procedure section 2032.010 et seq.

(b) Challenges: The court does not allow peremptory challenges for court-appointed investigators/evaluators.

(c) Withdrawal: A court-appointed investigator/evaluator for purposes of child custody or visitation purposes may withdraw from a case upon filing a petition showing good cause. The court will make the findings after consideration of (i) the petition, (ii) the best interests of the child(ren), and (iii) other relevant factors as determined by the court.

(d) Ex Parte Contact Prohibited: No party or attorney for a party may initiate contact with a court-appointed investigator/evaluator, orally or in writing, to discuss the merits of the case without (i) notice to the other party and (ii) allowing the other party to be present or to receive a copy of a written communications. Nothing in this rule will prohibit the court-appointed investigator/evaluator from contacting either party or attorney.

(e) Contact Between Court-Appointed Investigator/Evaluator and Minor Child(ren): It is the policy of the court to rely on the opinion and judgment of court-appointed investigator/evaluator in making determinations as to whether children will be interviewed. The court-appointed investigator/evaluator will justify his or her determinations in each case, and will determine under what circumstances the interviews will take place. Except in extraordinary circumstances, including potentially dangerous situations for minor child(ren), minor children will be informed that the information they provide may not remain confidential. When a court-appointed investigator/evaluator sees a minor child(ren) with one parent, he or she must also see that minor child(ren) with the other parent. Interviews with siblings, at the discretion of the investigator, may be separate. Unless ordered by the court, an investigation may not be based on an interview with only one parent.

(f) Investigation/Evaluation Report: The court must specify the date on which the court-appointed investigator/evaluator must return his or her report. Generally, the report will be due within 60 court days from initial appointment. The written report will be distributed to the court, parties, and counsel in accordance with Family Code section 3111, and will remain confidential and unavailable to all other persons unless otherwise

ordered by the court. No person who has access to such a report may make copies of the report or disclose its contents to ANY child(ren) whether or not a party to the action.

(g) Grievance Procedure:

(1) Procedure: Anyone raising a grievance in connection with a court-appointed investigator/evaluator must file a written declaration signed under penalty of perjury and addressed to the presiding judge. The declaration must state specifically what alleged issue(s) is the basis for the grievance and what remedy is requested.

(2) Investigation: Upon receipt of the grievance, the presiding judge will review it and solicit a response to the alleged grievance from the court-appointed investigator/evaluator within a reasonable period of time. The presiding judge will complete an investigation within a reasonable period of time, not to exceed 60 calendar days from filing of the grievance. The presiding judge will notify all parties in writing of his or her decision. The grievance and the court's findings must be maintained as a confidential record, and not as part of the file, for a period of 1 year. No one will be permitted to inspect the grievance or findings of the court without prior court order.

(h) Court Rules Regarding Court-Appointed Investigations/Evaluations: When the court orders a investigation or evaluation, the court will give each party a copy of this local rule.

(i) Payment of Investigator's/Evaluator's Fees and Costs: When the court orders an investigation or evaluation, the court will also order the payment of associated fees and costs. In dividing the fees and costs between the parties, the court may consider Family Code sections 271, 2030, and 2032. The party or parties must pay the fees and costs directly to the clerk. Unless otherwise ordered by the court, the court-appointed investigator/evaluator must not commence an investigation without proof of full payment of fees or proof of a court-approved payment plan.

(j) Cross-Examination of Investigators/Evaluators: It is the policy of this court to develop policies and procedures for expeditious and cost-effective cross-examinations of court-appointed investigators/evaluators when necessary. As necessary the court will determine, on a case-by-case basis, whether video and/or telephone conferences or examinations may be used in conducting a cross-examination of a court-appointed investigator/evaluator. All parties must schedule such appearances as directed by the court or as otherwise provided by local rule, statute, or CRC.

(k) List of Qualified Evaluators: The clerk will maintain a list of qualified evaluators, and make this list available to the public upon request.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 11.11 MEDIATION OF VISITATION OR CUSTODY ISSUES

(a) Purpose: The purpose of mediation is to reduce animosity that may exist between the parties, to develop an agreement assuring the child close and continuing contact with both

parents that is in the best interest of the child, and to effect a settlement of the issue of visitation rights that is in the best interest of the child consistent with Family Code sections 3011 and 3020, and CRC.

(b) Policy: Mediation services are available to parties when a case is filed with the court. If there is a disagreement over child custody or visitation in any matter before the court, the parties must attend mediation. No mediation will be scheduled if there is no pending matter before the court.

(c) Referral to Mediation:

(1) By the Court With a Court Hearing: The court will refer parties to mediation at the time of hearing, if, in the court's judgment, the parties are not able to resolve the existing conflict regarding child custody or visitation issues. Parties are highly encouraged to work amongst themselves or with their attorneys prior to any scheduled hearing to resolve conflicts. The court may require each party to demonstrate what previous efforts have been made before referring the case to mediation.

(2) By the Parties With No Court Hearing: Parties with an actual dispute regarding child custody or visitation and an express agreement to enter into mediation may seek mediation services. There must be a complaint or petition already on file with the court, even if no hearing is scheduled. The court may limit the amount of mediation services, if necessary.

(3) Process: So that a mediation may be scheduled, the parties must provide the following information: the case number and number of any related cases (include any domestic violence cases); whether a domestic violence restraining order is in place; the parties' names, current addresses and daytime telephone numbers; names and addresses of the parties' attorneys, if applicable, and any information which might affect the scheduling of a mediation session. Upon receipt, the mediator or designee will schedule an initial mediation and notify the parties. Pager numbers are discouraged as a contact number.

(d) Mediation Process: The mediation service should be consistent and in accordance with CRC and statute. The mediator must provide information about the mediation process required by CRC 5.518(d)(5). The service attempts to resolve custody and visitation problems rather than to provide therapy or counseling. The service does not provide, nor should parties or counsels expect, long-term or on-going counseling regarding child custody, visitation or parenting skills. If the court determines the service provided has gone beyond custody and visitation issues, it may order the parties to reimburse the mediator for the time spent.

The mediator may review the court's file prior to any session. If there is other information or court orders from other jurisdictions that may be helpful to the mediator, the parties should provide copies at the mediation session. Mediation usually requires one or two sessions, with each session lasting about 1 to 2 hours.

Due to the mediator's caseload and the need for completing mediation without unnecessary delay, parties and their attorneys must cooperate and participate in the mediation process. Cancellations are discouraged and a reasonable cancellation fee may

be imposed if a cancellation is found to be unnecessary. Parties should strive to attend their mediation sessions as scheduled to ensure an effective and timely process. Excessive cancellations may result in sanctions or other action, as the court deems appropriate.

At any time during the mediation process:

(1) The mediator may recommend to the court that an investigation/evaluation and report be made pursuant to statute and CRC. The court may make such order as it deems appropriate.

(2) The court may make temporary orders concerning custody and visitation to govern the parties' rights and duties until the mediation process is completed.

(e) Cost of Mediation: There is no initial cost of mediation to the parties for court-provided mediation services. The parties must pay all costs and fees associated with mediation services not provided by the court. The court may contract with mediators who are private practitioners as it deems necessary.

(f) Further Mediation: The mediator may request that the court continue any scheduled court hearing in order to complete mediation. The mediator must also advise the court if, in the mediator's opinion: (i) further mediation would be neither productive nor likely to lead to a settlement, (ii) the mediation cannot be conducted in a safe or appropriately balanced manner, or (iii) any party is unable to participate in an informed manner for any reason, including fear or intimidation.

(g) Mediation Agreement: If the parties reach an agreement during a mediation session, the mediator must type or write the agreement at that time. The mediator must ensure that each party and each attorney who participates in the agreement reviews and approves the agreement. The mediator must ask the parties to sign the agreement prior to leaving the session. The mediator must give each party a copy of the signed agreement before leaving the session. The agreement will be signed by the judge, filed with the clerk, and placed in the court file as a court order.

(h) Non-English Speaking Participants: In the event one or both parties is not fluent in English, the mediation should be conducted by a bilingual mediator or by a mediator with the assistance of an interpreter so the discussion during mediation is satisfactorily understood by both parties. If a party wishes to have an interpreter and is unable to bring his or her own interpreter to the mediation session, he or she should notify the clerk at least 5 court days before the mediation session, and the court will attempt to provide a reference for non-court supplied interpretation services. The requesting party must pay the interpreter costs prior to the mediation services.

(i) Communication: No mediator may accept ex parte communications from counsel or any party. Attorneys and parties must not contact the mediator prior to the release of the final report. The mediator must not divulge final recommendations to either party or his or her attorney separately. Final recommendations will be made available in written form to all parties and their attorneys simultaneously, in open court or otherwise, as directed by the judge.

(j) Sanctions: The court may sanction parties who fail to participate in mediation in good faith.

(k) Emergency Orders: The court may appoint a mediator to act as a master mediator. The master mediator may make any emergency order that he or she determines is in the best interests of the child(ren) without making permanent changes to any existing order.

(l) Separate Mediation in Cases involving Domestic Violence: If there has been a history of domestic violence between the parties or a domestic violence restraining order has been issued, mediation will be scheduled in separate sessions at separate times if ordered by the court or requested under penalty of perjury by the protected party or party who has made an allegation of domestic violence. The time and date of separate mediation sessions are confidential and are not disclosed to the other party. Each party is cautioned not to inform the other party of the time and date set. The mediator must render a written recommendation to the court regarding visitation and custody issues taking into consideration the parameters set by any restraining orders. The protected party may be accompanied by a support person during the mediation session. Until the court adopts the mediator's recommendation, the parties must follow any interim order regarding custody and visitation.

(m) Participation of Children: The mediator may interview the children if, in the mediator's opinion, such an interview is necessary or appropriate. If the mediator interviews a child, the mediator must explain to the child the information set forth in CRC 5.518(d)(6). The parties may not bring the child to any meetings with the mediator unless specific arrangements have been made with the mediator in advance of the meeting.

(m) Grievance and Change Procedure:

(1) Procedure: Anyone raising a grievance in connection with a mediator (including a request to change mediators) must file a written declaration signed under penalty of perjury and addressed to the presiding judge. The declaration must state specifically what alleged issue(s) is the basis for the grievance and what remedy is requested.

(2) Investigation: Upon receipt of the grievance, the presiding judge will review it and solicit a response to the alleged grievance from the mediator within a reasonable period of time. The presiding judge will complete an investigation within a reasonable period of time, not to exceed 60 calendar days from filing of the grievance. The presiding judge will notify all parties in writing of his or her decision. The grievance and the court's findings must be maintained as a confidential record, and not as part of the file, for a period of 1 year. No one will be permitted to inspect the grievance or findings of the court without prior court order.

(Eff. 2/1/99) (Rev. and renumbered 7/1/99) (Rev. 7/1/08)

RULE 11.12 FAMILY LAW FACILITATOR

The office of the family law facilitator was established pursuant to Family Code section 10000 et seq. The family law facilitator must perform the duties outlined in Family Code sections 10004 and the following duties:

(a) Draft stipulations and prepare formal orders consistent with the court's minute orders when parties are unrepresented, as directed by the court.

(b) Prior to a hearing at the request of the court, review the paperwork, examine the documents, prepare support schedules, and advise the judge or commissioner whether or not the case is ready to proceed.

(c) Assist the clerk in maintaining records and the court in research.

(d) Develop information and referral services to other courts, the community, and governmental programs or services that assist unrepresented parties in conjunction with Family Code section 10004.

(e) Develop programs for bar association and community outreach through educational programs, visual aids, audio and videotapes, and other innovative means that will assist litigants in gaining meaningful access to family court.

(f) Perform other services in accordance with statutory and CRC provisions, as may be directed by the court, to further promote equal access and effective judicial process.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 11.13 CHILD SUPPORT COMMISSIONER

The office of the child support commissioner was established pursuant to Family Code section 4251 et seq. The child support commissioner must perform the duties outlined in Family Code sections 4251 et seq. and the following duties:

(a) Whenever a party files a pleading seeking to establish or modify a child support order in which enforcement serves by the District Attorney, Family Support Division, have been requested and a file opened, the matter will be scheduled for hearing before the child support commissioner. Thereafter, the case will be heard by the commissioner or referred to the judge in accordance with Family Code section 4251.

(b) The child support commissioner may hear contested issues of custody, visitation, and restraining orders provided all necessary Title IV-D matters have priority on the calendar and appropriate funding is available.

(Eff. 7/1/99) (Rev. 1/1/02) (Rev. 7/1/08)

RULE 11.14 CO-PARENTING PROGRAM

(a) Purpose of Co-Parenting Program: The purpose of the program is to assist parents to understand better their children's point of view, to learn new ways to help their children through parental separation, to acquire new skills in interacting with their children and the other parent, to reduce acrimony between family members, and to help parents

identify when their children may be in need of further assistance in coping with parental separation.

(b) Requirement to Attend Co-Parenting Program: All parties to a family law proceeding in which there are minor children, including actions for dissolution, legal separation, actions to establish paternity, or actions to establish or modify custody or visitation, must attend and complete the co-parenting program.

For family law cases commenced after the effective date of this rule, the parties must attend prior to mediation or other services provided through family court services, or upon order of the court. All parties to family law cases commenced prior to the effective date of this rule must attend the program when seeking to establish or modify custody or visitation orders. All parties must attend prior to mediation and prior to hearing. A waiver of prior attendance may be obtained by court order.

Nothing in this rule supersedes the right of the parties to seek ex parte relief as provided in these local rules prior to attending the program. The requesting party must give notice of the ex parte request to the opposing party absent a declaration establishing good cause. The declaration must state the basis for the urgency.

(c) Payment of Registration Fees and Services of Forms: The clerk will provide written instructions regarding the attendance, registration, and payment of the fee for the program to any party filing pleadings to commence an action or seeking relief of a nature concerning the subject of this program. The filing party must serve a copy of these written instructions on the opposing party along with the pleadings. The filing party must file proof of service with the court.

The fee will not normally be waived; however, a party may apply to the program for a fee adjustment if the party is receiving public assistance payments.

(d) Failure to Attend and Remedies: Mediation may not be set or commenced until both parties have attended and completed the program. However, if only one party has attended and completed the program, that party may apply to the court for and order or judgment. If the court enters any order or judgment for good cause when one party has not completed the program, the non-complying party may neither seek affirmative relief regarding child custody or visitation nor contest the relief sought by the other until that party has completed the program or has obtained leave of court to proceed upon a showing of good cause.

(e) Domestic Violence or Child Abuse: Due to the complexity of issues in cases in which there are incidents of domestic or child abuse, the court may waive attendance in the program by one or both of the parties. If the court has ordered attendance, the parties should be scheduled to attend separate sessions of the program.

(f) Out of County/State Residents: If a party resides in another county or state, the court may require or allow attendance by a party at an equivalent co-parenting program located in that county or state if attendance at the local co-parenting program is found to be a hardship to that party. The party who requests attendance elsewhere has the burden of providing information regarding the other program to the court as part of his or her application.

(g) Certificate of Attendance: The provider of the program must prepare and file with the clerk a certificate of attendance verifying the completion of the program by each attending party. The provider must also provide verification to each party upon completion of the program.

(h) Non-English Speaking Participants: The court must offer the program in English and in Spanish. A participant who speaks a language other than Spanish or English may arrange at his or her own expense to have an interpreter attend with him or her. The provider must not charge an additional fee for the attendance of an interpreter.

(Eff. 7/1/01) (Rev. 1/1/02) (Rev. 7/1/08)

RULE 11.15 COURT COMMUNICATION PROTOCOL FOR DOMESTIC VIOLENCE AND CHILD CUSTODY ORDERS

(a) Court Communication Regarding Restraining Orders:

(1) All counsel and self represented parties must disclose to the court all known existing restraining, protective, custody, or visitation orders that are in effect anywhere involving the parties or their children.

(2) Any order that permits contact between (i) a party subject to restraining orders or criminal protective orders and (ii) his or her children must contain specific language setting forth the time, day, place, and manner of the transfer of the children, to limit the child's exposure to potential domestic conflict or violence and to ensure the safe exchange of the children. The order may not contain language that conflicts with a criminal protective order. Safety of all parties is the court's primary concern.

(3) Any court issuing any orders involving child custody or visitation will make reasonable efforts to determine whether a criminal court protective order exists that involves any party to the action.

(4) Any court issuing a criminal protective order will make reasonable efforts to determine whether a child custody or visitation order exists that involves any party to the action.

(b) Modification of Criminal Protective Orders: A court that has issued a criminal court protective order may, after consultation with a court that has issued a subsequent child custody or visitation order, modify the criminal court protective order to allow or restrict contact between the person restrained by the order and his or her children.

(Eff. 7/1/08)

CHAPTER 12 - JURY RULES

RULE 12.1 JURY COMMISSIONER

The court hereby appoints the court executive officer as the jury commissioner. He or she must perform the duties of the jury commissioner provided by law and these rules. The court executive officer may delegate some or all of these duties.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 12.2 JUROR SERVICE

Jury service, unless expressly excused by law, is a responsibility of citizenship. It is the court's obligation to employ all necessary and appropriate means to assure that citizens fulfill this vital civic function.

(Eff. 7/1/99)

RULE 12.3 COURT POLICY

The court recognizes that jury duty should not impose an undue hardship. It is the court's policy to allow a prospective juror the opportunity to request a one-time postponement at the time he or she receives the first summons. He or she must submit a written statement, prior to the commencement of his or her service, to the deputy jury commissioner stating specifically the need for the postponement. The requesting juror should indicate a date when he or she would be able to serve; if no date is given, it will be to the deputy jury commissioner's discretion to reschedule, if a postponement is granted. The deputy jury commissioner will consider the request from a totality of the circumstances. The deputy jury commissioner will contact the prospective juror within a reasonable period of time only if the request is denied. The request must be denied if the request is received after the commencement of the prospective juror's summoned period. The deputy jury commissioner may consider inconvenience to a juror or an employer when deciding whether to allow postponement, but the deputy jury commissioner is not obligated to grant postponement on the basis of inconvenience.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 12.4 LENGTH OF JUROR SERVICE

The court operates a one-day/one-trial system as provided in CRC 2.1002. A person summoned for jury duty will be required to serve one day on call or the duration of one trial as defined by CRC 2.1002.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 12.5 FAILURE TO APPEAR FOR JURY DUTY WHEN SUMMONED

The court will immediately re-summon and provide a new appearance date for any prospective juror who fails to appear for jury duty when summoned and who has not been granted a postponement. The court will not grant any postponement. Any prospective juror who has been re-summoned and fails to attend without an excuse from the court, the jury commissioner, or

deputy jury commissioner, may be attached and compelled to attend. The court, following an order to show cause hearing, may find the prospective juror in contempt of court, and punish the prospective juror by means of a fine, incarceration, or both, as provided by law.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 12.6 JURY COMPENSATION

The court will compensate jurors in an amount as provided by law within a reasonable period of time upon completion of service.

(Eff. 1/1/92) (Rev. and renumbered 7/1/99) (Rev. 7/1/08)

RULE 12.7 JURY DEPOSITS

See Local Rule 6.1 for information regarding jury deposits.

(Eff. 7/1/99) (Rev. 7/1/08)

CHAPTER 13 - JUVENILE DEPENDENCY RULES

RULE 13.1 APPLICATION

These local rules are intended to supplement state statutes and CRC 5.500 - 5.830 relating to juvenile dependency matters. To the extent that any of these rules conflict with either state statute or CRC, the local rule is of no legal effect.

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 13.2 PURPOSE AND AUTHORITY

These local rules are established to comply with CRC 5.660(a).

(Eff. 7/1/96) (Renumbered 7/1/99) (Rev. 7/1/08)

RULE 13.3 GENERAL COMPETENCY REQUIREMENT

All attorneys appearing in juvenile dependency proceedings must meet minimum standards of competence as set forth in these local rules. These local rules are applicable to attorneys employed by public agencies, attorneys appointed by the court to represent any party in a juvenile dependency proceeding, and attorneys who are privately retained to represent a party to a juvenile dependency proceeding.

(Eff. 7/1/96) (Renumbered 7/1/99) (Rev. 7/1/08)

RULE 13.4 SCREENING FOR COMPETENCY

(a) Certification of Competency: All attorneys who represent parties in juvenile dependency proceedings must meet the minimum standards of training or experience set forth in these local rules. Any attorney appearing in a dependency matter for the first time must complete and submit a Certification of Competency (as set forth in Appendix A) to the court within 10 court days of his or her first appearance in a dependency matter.

(b) Standards: Attorneys who meet the minimum standards of training or experience as set forth in Local Rule 13.5, as demonstrated by the information contained in the Certification of Competency submitted to the court, will be deemed competent to practice before the juvenile court in dependency cases except as provided in subdivision (c) of this rule.

(c) Prior Conduct or Performance:

(1) Initial Finding. Upon submission of a Certification of Competency, the court may determine that a particular attorney does not meet minimum competency standards based on the conduct or performance of that attorney before the court in a dependency case within the six month period prior to the submission of the certification.

(2) Notice. The court will provide notice of this determination to the attorney. The attorney will have 10 court days after the date of the notice to request a hearing

before the court concerning the court's determination. If the attorney does not request a hearing within that period of time, the court's determination will become final.

(3) Hearing: If the attorney requests a hearing, the hearing will be held as soon as practicable after the attorney's request therefor. The attorney will be given at least 10 court days notice of the hearing. The hearing may be held in chambers. The hearing will not be open to the public. The court may designate a commissioner, referee, judge pro tempore, or any qualified member of the bar to act as hearing officer. At the hearing, the attorney must present arguments to the hearing officer with respect to the court's determination. Within 10 court days after the hearing, the court or hearing officer must issue a written determination upholding, reversing or amending the court's original determination. The hearing decision is the final determination of the court with respect to the matter. A copy of the hearing decision must be provided to the attorney.

(d) Lawyers from Outside San Benito County: In the case of an attorney who maintains his or her principal office outside of San Benito county, proof of certification by the juvenile court of the California county in which the attorney maintains an office will be sufficient evidence of competence to appear in a juvenile proceeding in this court.

(Eff. 7/1/96) (Rev. and renumbered 7/1/99) (Rev. 7/1/08)

RULE 13.5 MINIMUM STANDARDS OF EDUCATION OR TRAINING

(a) Standards: An attorney appearing in a dependency matter before the juvenile court must not seek Certification of Competency and will not be certified by the court as competent until the attorney has completed the following minimum training or experience requirements. Prior to the certification, the attorney must have either:

(1) Participated in at least eight hours of training or education in juvenile dependency law, which training or education must have included information on the applicable case law and statutes, the rules of court, Judicial Council forms, motions, trial techniques and skills, writs and appeals, child development, child abuse and neglect, family reunification and preservation, or

(2) At least six months of experience in dependency proceedings in which the attorney has demonstrated competence in the attorney's representation of his or her clients. In determining whether the attorney has demonstrated competence, the court must consider whether the attorney's performance has substantially complied with the requirements of these rules.

(b) Renewal: In order to retain his or her certification to practice before the juvenile court, each attorney who has been previously certified by the court must submit a new Certification of Competency to the court on or before January 31st of the third year after the year in which the attorney is first certified and then every third year thereafter. The attorney must attach the renewal Certification of Competency as evidence that he or she has completed at least eight hours of continuing training or education directly related to dependency proceedings since the attorney was last certified. Evidence of completion of

the required number of hours of training or education may include a copy of (i) a certificate of attendance issued by a California MCLE provider; (ii) a certificate of attendance issued by a professional organization which provides training or education for its members, whether or not it is a MCLE provider; (iii) the training or educational program schedule together with evidence of attendance at a program; or (iv) other documentation as may reasonably be considered to demonstrate the attorney's attendance at a program. Attendance at a court-sponsored or approved program will also count toward the required training hours.

(c) Continuing Training: The attorney's continuing training or education must be in the areas set forth in subdivision (1)(a) of this local rule, or in other areas related to juvenile dependency practice including substance abuse, domestic violence, restraining orders, special education, mental health, health care, immigration issues, the rules of evidence, adoption practice and parentage issues, the Uniform Child Custody Jurisdiction Act, the Parental Kidnapping Prevention Act, state and federal public assistance programs, the Indian Child Welfare Act, client interviewing and counseling techniques, case investigation and settlement negotiations, mediation, basic motion practice, and the rules of civil procedure. (Rev. 1/1/02)

(d) Decertification: When a certified attorney fails to submit evidence that he or she has competed at least the minimum required training and education to the court by the due date, the court will notify the attorney that he or she will be decertified. The attorney will have 20 court days from the date of the mailing of the notice to submit evidence of his or her completion of the required training or education. If the attorney fails to submit the required evidence or fails to complete the required minimum hours of continuing training or education, the court must order that certified counsel be substituted for the attorney who fails to complete the required training, except in cases where a party is represented by retained counsel. In the case of retained counsel, the court will notify the party that his or her counsel has failed to meet the minimum standards required by these rules. The determination whether to obtain substitute counsel will be solely within the discretion of the party so notified.

(Eff. 7/1/96) (Renumbered 7/1/99) (Rev. 7/1/08)

RULE 13.6 STANDARDS OF REPRESENTATION

All attorneys appearing in dependency proceedings must meet the following minimum standard of representation:

(a) Investigation: The attorney must thoroughly and completely investigate the accuracy of the allegations of the petition or other moving papers and the court reports filed in support thereof. The investigation must include (i) conducting a comprehensive interview with the client to ascertain his or her knowledge or involvement in the matters alleged or reported; (ii) contacting social workers and other professionals associated with the case to ascertain if the allegations or reports are supported by accurate facts and reliable information; (iii) consulting with and, if necessary, seeking the appointment of experts to advise the attorney or the court with respect to matter which are beyond the expertise of the attorney or the court; and (iv) obtaining any other facts, evidence or information as may be necessary to effectively present the client's position to the court.

(b) Client's Interest: The attorney must determine the client's interest and the position the client wishes to take in the matter. Except in those cases in which the client's whereabouts is unknown, the attorney must complete a comprehensive interview with the client. If the client is a minor child who is placed out of home, in addition to interviewing the child, the attorney must also interview the child's caretaker. The attorney or the attorney's agent must make at least one visit to the child at the child's placement prior to the jurisdiction hearing. Thereafter, the attorney or attorney's agent should make at least one visit to the child at the child's placement prior to each review hearing.

(c) Advice: The attorney must advise the client of the possible courses of action and of the risks and benefits of each. This includes advising the client of the risks and benefits of resolving disputed matters without the necessity for adhering to court mandated time limits.

(d) Vigorous Representation: The attorney must vigorously represent the child within applicable legal and ethical boundaries. This includes the duty to work cooperatively with other counsel and the court, to explore ways to resolve disputed matters without hearing if it is possible to do so in a way which is consistent with the client's interest, and to comply with local rules and procedures and statutorily-mandated timelines.

(e) Caseload: Attorney caseload must be in accordance with CRC 5.660(d)(6) allowing the attorney to perform the required duties.

(Eff. 7/1/96) (Renumbered 7/1/99) (rev. 1/1/02) (Rev. 7/1/08)

RULE 13.7 PROCEDURES FOR REVIEWING AND RESOLVING COMPLAINTS

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

(b) Notice of Procedures: Each appointed attorney must give written notice to his or her adult client of the procedure for lodging complaints with the court concerning the performance of an appointed attorney. The notice must be given to the client within 10 court days of the attorney's appointment to represent the client. Evidence that a copy of the notice was given or mailed to the client must be provided to the court within 10 court days of a request therefor from the court. In the case of a minor client, the notice must be mailed or given to the current caretaker of the child. If the minor is 12 years of age or older, a copy of the notice must also be sent or given to the minor.

(c) Review of Complaint: The court must review a complaint within 10 court days of receipt. If the court determines that the complaint presents reasonable cause to believe that the attorney may have failed to act competently or has violated local rules, the court must notify the attorney in question of the complaint, provide the attorney with a copy of the complaint, and give the attorney 20 court days from the date of the notice to respond to the complaint in writing.

(d) Review of Response: After the attorney has filed a response or the time for a submission of a response has passed, the court must review the complaint and the response, if any, to

determine whether the attorney failed to act competently or violated local rules. The court may ask the complainant or the attorney for additional information prior to making a determination on the complaint.

(e) Finding that Court Rules Were Violated: If, after reviewing the complaint, the response, and any additional information, the court finds that the attorney acted contrary to the rules of the court, the court may reprove the attorney, either privately or publicly. In cases of willful or egregious violations of local rules, that court may issue reasonable monetary sanctions against the attorney.

(f) Finding that Attorney Acted Incompetently: If, after reviewing the complaint, the response, and any additional information, the court finds that the attorney acted incompetently, the court may order (i) that the attorney must practice under the supervision of a mentor attorney for a period of at least six months, (ii) that the attorney must complete a specified number of hours of training or education in the area in which the attorney's conduct was incompetent, or (iii) both. In cases in which the attorney's conduct caused actual harm to his or her client, the court must order that competent counsel be substituted for the attorney found to have been incompetent and may, in the court's discretion, refer the matter to the State Bar of California for further action.

(g) Notice of Determination: The court must notify the attorney and the complaining party in writing of its determination of the complaint. If the court makes a finding under subdivision (e) or (f), the attorney will have 10 court days after the date of the notice to request a hearing before the court concerning the court's proposed action. If the attorney does not request a hearing within that period of time, the court's determination will become final.

(h) Appeal: If the attorney requests a hearing, the attorney must serve a copy of the request on the complaining party. The hearing will be held as soon as practicable after the attorney's request therefor, but in no case will it be held more than 30 calendar days after it has been requested except by stipulation of the parties. The complainant and the attorney will each be given at least 10 court days notice of the hearing. The hearing may be held in chambers. The hearing will not be open to the public. The court may designate a commissioner, referee, judge pro tempore, or any qualified member of the bar to act as hearing officer.

(i) Hearing and Final Determination: At the hearing, each party has the right to present arguments to the hearing officer with respect to the court's determination. Such arguments must be based on the evidence before the court at the time the determination was made. No new evidence may be presented unless the party offering such evidence can show that it was not reasonably available to the party at the time that the court made its initial determination with respect to the complaint. Within 10 court days after the hearing, the court or hearing officer must issue a written determination upholding, reversing or amending the court's original determination. The hearing decision is the final determination of the court with respect to the matter. A copy of the hearing decision must be provided to both the complainant and the attorney.

(Eff. 7/1/96) (Renumbered 7/1/99) (Rev. 7/1/08)

RULE 13.8 PROCEDURES FOR INFORMING THE COURT OF THE INTERESTS OF A DEPENDENT CHILD

(a) Parties Who Make Notice: At any time during the pendency of a dependency proceeding, any interested person may notify the court that the minor who is the subject of the proceeding may have an interest or right which needs to be protected or pursued in another judicial or administrative forum. If counsel for the minor becomes aware that the minor may have a right or interest which needs to be protected or pursued in another judicial or administrative forum, counsel for the minor must notify the court of such right or interest as soon as it is reasonably possible for counsel to do so.

(b) Form and Content of Notice: Notice to the court may be given by the filing of Judicial Council forms JV-100 or JV-180. The person giving notice must set forth (i) the nature of the interest or right which needs to be protected or pursued, (ii) the name and address, if known, of the administrative agency or judicial forum in which the right or interest may be affected, and (iii) the nature of the proceedings being contemplated or conducted there. (rev. 1/1/02)

(c) Notice by Child's Counsel: If the person filing the notice is the counsel for the minor, the notice must state (i) what action on the child's behalf the attorney believes is necessary, (ii) whether the attorney is willing or able to pursue the matter on the child's behalf, (iii) whether the association of counsel specializing in practice before the agency or court may be necessary or appropriate, (iv) whether the appointment of a guardian ad litem may be necessary to initiate or pursue the proposed action, (v) whether joinder of an administrative agency to the juvenile court proceedings pursuant to Welfare and Institutions Code section 362 may be appropriate or necessary to protect or pursue the child's interests, and (vi) whether further investigation may be necessary.

(d) Service: If the person filing the notice is not the attorney for the child, a copy of the notice must be served on the attorney for the child, or, if the child is unrepresented, the notice must so state.

(e) Hearing: The court may set a hearing on the notice if the court deems it necessary in order to determine the nature of the child's right or interest or whether the right or interest should be protected or pursued.

(f) Possible Actions: If the court determines that further action on behalf of the child is required, the court must do one or more of the following:

(1) Authorize the minor's attorney to pursue the matter of the child's behalf;

(2) Appoint an attorney for the child if the child is unrepresented;

(3) Notice a joinder hearing pursuant to Welfare and Institutions Code section 362 compelling the responsible agency to report to the court whether it has carried out its statutory duties with respect to the child;

(4) Appoint a guardian ad litem for the child for the purposes of initiating or pursuing appropriate action in the other forum(s); and

(5) Take any other action the court may deem necessary or appropriate to protect the welfare and rights of the child.

(Eff. 7/1/96) (Renumbered 7/1/99) (Rev. 1/1/02) (Rev. 7/1/08)

RULE 13.9 TIMELINES

Attorneys for parties must adhere to the statutory timelines for all hearings. The court will accept time waivers and grant continuances only on a showing of exceptional circumstances. Timelines for hearing are:

(a) Detention Hearings: Detention hearings must be heard no later than the end of the next court day after a petition has been filed. (See Welfare and Institutions Code section 315; CRC 5.670(d).)

(b) Jurisdiction Hearing: If the child is detained, the hearing on disposition must begin within 10 court days from the date the petition was sustained. If the child is not detained, the disposition hearing must begin no later that 30 calendar days after jurisdiction is found. (See Welfare and Institutions Code section 334; CRC 5.680.)

(c) Disposition Hearing: If the child is detained, the hearing on disposition must begin within 10 court days from the date the petition was sustained. If the child is not detained, the disposition hearing will begin no later than 30 calendar days after jurisdiction is found. (See Welfare and Institutions Code section 358; CRC 5.686.)

(d) Six Month Review Hearing: The court is required to review the status of every dependent child within six months of the declaration of dependency and at least every six months thereafter. (See Welfare and Institutions Code sections 364, 366, and 366.21; CRC 5.710.)

(e) Twelve Month Review: The court is required to review the status of every child who has been removed from the custody of a parent or guardian within twelve months of the declaration of dependency. (See Welfare and Institutions Code section 366.21; CRC 5.715.)

(f) Eighteen Month Review: If the child is not returned at the twelve month review, the court must conduct a review no later than eighteen months from the date of the original detention. (See Welfare and Institutions Code section 366.21; CRC 5.720.)

(g) Notice of Intent to file Writ Petition: A notice of intent to file a petition for extraordinary writ must be filed within 7 calendar days of the date of the order setting a hearing under Welfare and Institutions Code section 366.26, with an extension of 5 calendar days if the party received notice of the order only by mail. (See CRC 8.450(e)(4).)

(h) Petition for Writ: A petition seeking writ review of orders setting a hearing under the Welfare and Institutions Code must be served and filed within 10 calendar days after the filing of the record in the reviewing court. (See CRC 8.452(c)(1).)

(i) Response to Writ Petition: Any response to a writ petition must be served and filed within 10 calendar days after the filing of the writ of petition or within 10 calendar days or receiving a request for a response from the reviewing court. (See CRC 8.452(c)(2).)

(j) Selection Hearing: The selection hearing for permanent placement will begin within 120 calendar days of the review at which reunification services are terminated and a hearing

under Welfare and Institutions Code section 336.26 ordered. (See Welfare and Institutions Code section 366.3; CRC 5.710, 5.715, and 5.720.)

(k) Notice of Appeal: A notice of appeal must be filed within 60 calendar days after the rendition of the judgment. (See CRC 5.585(f).)

(Eff. 7/1/99) (Rev. 7/1/08)

RULE 13.10 GUARDIANS AD LITEM

(a) For Minors:

(1) All minors who are the subject of juvenile court proceedings will have a guardian ad litem appointed to represent them.

(2) In most cases the child's attorney will be the guardian ad litem.

(3) In the case of a conflict of interest, the court may appoint a different adult as guardian ad litem for the minor.

(b) For Parents:

The court must appoint a guardian ad litem to represent any incompetent parent or guardian whose child is before the juvenile court pursuant to a dependency petition. (See Welfare and Institutions Code section 300 et seq.) The determination of incompetency may be made by the court at any time in the proceeding based upon evidence received from any interested party.

(c) Notice to Guardian ad Litem, Access to Records, Right to Appear:

(1) In all proceedings the guardian ad litem must be given the same notice as any party.

(2) The guardian ad litem will have the same access to all records relating to the case as would any party.

(3) The guardian ad litem will have the right to appear at all hearings.

(Eff. 1/1/02) (Rev. 7/1/08)

RULE 13.11 COURT APPOINTED SPECIAL ADVOCATES (CASA)

(a) Advocates' Functions: Advocates serve at the pleasure of the court having jurisdiction over the proceeding in which the advocate has been appointed. In general, an advocate's functions are as follows:

(1) To support the child throughout the court proceedings;

(2) To establish a relationship with the child to better understand his or her particular needs and desires;

(3) To communicate the child's needs and desires to the court in written reports and recommendations;

(4) To identify and explore potential resources which will facilitate early family reunification or alternative permanency planning;

(5) To provide continuous attention to the child's situation to ensure that the court's plans for the child are being implemented;

(6) To the fullest extent possible, to communicate and coordinate efforts with the case manager/social worker; and

(7) To investigate the interests of the child in other judicial or administrative proceedings outside juvenile court; report to the juvenile court concerning these proceedings; and, with the approval of the court, offer his or her services on behalf of the child to such other courts or tribunals.

(b) Sworn Officer of the Court: An advocate is an officer of the court and is bound by these rules. Each advocate will be sworn in by a judicial officer before beginning his or her duties.

(c) Specific Duties: The court may, in its initial order of appointment and in any subsequent order, specifically delineate the advocate's duties in each case, which may include independently investigating the circumstances of the case, interviewing and observing the child and other appropriate individuals, reviewing appropriate records and reports, considering of visitation rights for the child's grandparents and other relatives, and reporting back directly to the court as indicated. If no specific duties are outlined by court order, the advocate must discharge his or her obligation to the child and the court in accordance with the general duties set forth above.

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

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

(f) Report of Child Abuse: An advocate is a mandated child abuse reporter with respect to the case to which the advocate is appointed.

(g) Communication with Others: There will be ongoing, regular communication concerning the child's best interests, current status, and significant case developments, maintained

among the advocate, case manager, child's attorney, attorneys for parents, relatives, foster parents, and any therapist for the child.

(h) Right to Notice: In any motion concerning the child for whom the advocate has been appointed, the moving party must provide the advocate timely notice.

(i) Calendar Priority: In light of the fact that advocates are rendering volunteer services to children and the court, matters on which they appear should be granted priority on court's calendar, whenever possible.

(j) Visitation: An advocate must visit the child regularly until the child is secure in a permanent placement. Thereafter, the advocate must monitor the case as appropriate until dependency is dismissed or the advocate is relieved from appointment.

(k) Family Law Advocate: If the juvenile court dismisses dependency and creates a family law order pursuant to Welfare and Institutions Code section 362.4, the advocate's appointment may be continued in the family law proceedings, in which case the juvenile court orders will set forth the nature, extent and duration of the advocate's duties in the family law proceeding.

(l) Right to Appear: An advocate will have the right to be heard at all court hearings, and will not be subject to exclusion by virtue of the fact that the advocate may be called to testify at some point in the proceedings. The court, in its discretion, has the authority to grant the advocate amicus curiae status, which includes the right to appear with counsel.

(m) Distribution of CASA Reports: The advocate must submit his or her report to the court at least 5 court days prior to the hearing. The advocate must serve a copy of the report on the parties to the case at least 2 court days prior to the hearing. For purposes of this rule, the parties to the case include (as applicable): county counsel; attending case social worker; child's attorney; parents' attorney(s); child (via foster family agency); Indian Child Welfare Act representative; and de facto parents.

(Eff. 7/1/08)

Appendix A - Certification of Competency

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BENITO
JUVENILE DIVISION

CERTIFICATION OF COMPETENCY

I, _____
Name office address telephone number

am an attorney at law licensed to practice in the State of California. My State Bar Number is _____. I hereby certify that I meet the minimum standards for practice before a juvenile court set forth in California Rules of Court, rule 5.660, and Local Rule 13, and that I have completed the minimum requirements for training, education and/or experience as set forth below.

Training and Education: (Attach copies of MCLE certificates or other documentation of attendance)

Course Title	Date Completed	Hours	Provider

Juvenile Dependency Experience: (Initial certification only)

Case #	Contested Hearings	Date of Last Appearance	Party Represented

_____ _____
Dated Signature

Index

A

ADR (Alternative Dispute Resolution) 1, 7
Applications 1, 13, 14, 21, 29, 33
Arbitration 7, 18
At-Issue Memorandum 8, 9
Automated Fax Filing System 16

C

CASA (Court Appointed Special Advocates) 40, 42
Case Management Conferences 6
Case Management Statement 5, 6
Certification Fee 16
Certification of Competency 33, 34, 43
Certified Copies 16
Child Abuse 29, 34, 41
Child Support 20, 21, 28
Child Support Commissioner 28
Child Support Order 28
CLETS (California Law Enforcement Telecommunication System 1, 22
CMC (Case Management Conference) 1, 5, 6, 7, 8, 9, 12
Commissioner 28, 31, 32, 34, 37
Complaint 4, 5, 8, 25, 36, 37
Complex Litigation 12
Consolidation 16
Continuances 6, 13, 21, 39
Co-Parenting Program 28, 29
Court Executive Officer 2, 22, 31
Court Files 3
Court Reporters 19
Court-Appointed Investigator 23, 24
CRC (California Rules of Court).. 1, 2, 3, 6, 7, 8, 9, 11, 12, 13, 14, 16, 18, 20, 21, 23, 24, 25, 26, 27, 28, 31, 33, 36, 39, 40
Custody 4, 23, 24, 25, 26, 27, 28, 29, 30, 35, 39

D

Decertification 35
Declaration of Dependency 39
Detention 39
Dissolution 29
Docket Number 16
Domestic Violence 4, 25, 27, 29, 30, 35
Duty to Notify Court of Settlement 10

E

ECT (Expedited Civil Track) 1, 4, 6, 7, 8, 12
Emancipation of Minors 13
Emergency Order 27
Ex Parte Communications 26
Ex Parte Orders 21, 22
Exclusive Use of a Vehicle 22

F

Family Law Act 20

Family Law Facilitator 27, 28
Faxed Filings 17
Federal Court 18
Format 13
Foster Parent 36, 42

G

General Civil Cases 4
Greater Bay Area 22
Grievance 24, 27
Guardian Ad Litem 13, 38, 40

H

Hearing Date 6, 21, 22
Holiday 2, 16
Hours 2, 13, 16, 19, 25, 34, 35, 37, 43

I

Indian Child Welfare Act 35, 42
Interpreters 18
Investigation/Evaluation Report 23

J

Judge Pro Tempore 34, 37
Judicial Arbitration 5, 7
Judicial Council of California 1
Jurors 10, 32
Jury Commissioner 31
Jury Demand 11
Jury Deposits 11, 32
Jury Fees 10, 11
Jury Instructions 11

L

Law and Motion Calendar 7, 9, 13, 20, 21
Law Enforcement Supplement Information Form 22

M

Mandatory Settlement Conference 7
MCLE (Minimum Continuing Legal Education) 1, 35, 43
Mediation 18, 22, 23, 24, 25, 26, 27, 29, 35
Meet and Confer 5, 6, 20
Modified Orders 22
Motions In-Limine 10, 11
Municipal Court 1

N

Non-ECT Civil Case Management 8
Notice of Inclusion 5, 6

O

One-day/One-trial 31
Order Shortening Time 21

P

Pager 25
Peremptory Challenges 23
Petitions for Changes of Name 13
Presiding Judge 2, 24, 27
Proposed Orders 14
Public Assistance 20, 29, 35

R

Recoverable Cost 16
Referee 34, 37
Relief from Local Rules 14
Relief from Time Limits 7
Removal 18, 22
Restraining Order 22, 25, 27, 28, 30, 35

S

Sanctions 10, 14, 20, 26, 27, 37
Saturday 2, 16
Settlement Conference Statement 9
Settlement Conferences 5, 9
Social Worker 35, 36, 41, 42
Special Master 12
Spousal Support 20, 21
State Bar 37, 43
Substitution and Withdrawal of Counsel 17
Summary Adjudication of Issues 14
Summary Judgment 14
Sunday 2, 16

T

Telephone Conferences 24
Temporary Assistance for Needy Families (TANF) 20
Temporary Orders 21, 26
Title IV-D 20, 28
Trial Court Delay Reduction Act 4

U

Unlawful Detainer 4, 11

V

Visitation 23, 24, 25, 26, 27, 28, 29, 30, 41, 42
Visiting Judge 13

W

Waiver of Trial by Jury 11
Written Notice of Settlement 10