



Superior Court
of the State of California
In and For
The County of San Benito

**Proposed Changes to the Local Rules of Court
Effective January 1, 2011**

~~Example~~ = proposed deletion

Example = proposed addition/change

RULE 1.5 TRIAL BRIEFS (JURY TRIALS, LONG CAUSE BENCH TRIALS, FAMILY LAW TRIALS)

(a) Contents of Trial Brief: A trial brief must contain the following:

- (1) an expected exhibit list;
- (2) an expected witness list;
- (3) a list of any witness problems that may interfere with the timely conduct of the trial;
- (4) any other issues that will have to be dealt with by the trial judge;
- (5) for jury trials, proposed voir dire questions;
- (6) for jury trials, proposed jury instructions; and
- (7) for criminal cases, a disclosure of maximum criminal exposure.

(b) Criminal Trials: In a criminal jury trial or a long cause criminal bench trial, each party must file with the court and serve on the other party or parties:

- (1) a trial brief; and
- (2) all motions in limine, along with supporting points and authorities.

In addition, the prosecution must file with the court and serve on the defendant(s) a proposed verdict form. These items must be filed and served at least four (4) court days prior to the trial date or at such other time as the court may order. Any opposition to a motion in limine must be filed with the court and served on the other party or parties at least two (2) court days prior to the trial date or at such other time as the court may order.

(c) Civil Trials: In all civil jury trials and long cause civil bench trials, each party must file with the court and serve on the other party or parties:

- (1) a trial brief; and
- (2) all motions in limine, along with supporting points and authorities.

In addition, the plaintiff must file with the court and serve on the defendant(s) a proposed verdict form. These items must be filed and served at least four (4) court days prior to the trial date or at such other time as the court may order. Any opposition to a motion in limine must be filed with the court and served on the other party or parties at least two (2) court days prior to the trial date or at such other time as the court may order.

(d) Family Law Trials: In all family law trials, each party must file with the court and serve on the other party or parties:

- (1) a trial brief; and
- (2) all motions in limine, along with supporting points and authorities.

These items must be filed and served at least four (4) court days prior to the trial date or at such other time as the court may order. Any opposition to a motion in limine must be filed with the court and served on the other party or parties at least two (2) court days prior to the trial date or at such other time as the court may order.

(e) Submission Format: All items required to be filed pursuant to this rule must be submitted to the court BOTH (i) on paper during normal court hours AND (ii) electronically in a Microsoft Word or PDF file. Microsoft Word or PDF files must be emailed to the court using the following email address: clerk@sanbenito.courts.ca.gov.

(f) Sanctions: Failure to timely file the required items may result in the trial being vacated, the imposition of monetary sanctions including payment of costs and fees, or in trial sanctions precluding the litigation of issues or the exclusion of evidence. The court has authority to impose these sanctions on its own motion. The sanctions may also be requested by an adverse party on noticed motion.

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 **Department of**

Child Support Services ~~District Attorney~~ identification of file numbers.

(Eff. 2/1/91) (Rev. and renumbered 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 **services** ~~services~~ by the **Department of Child Support Services** ~~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 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 completed 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.~~