

7.00.00 CIVIL PROCEEDINGS

(Effective January 1, 1994)

7.00.01 - 7.00.04 RESERVED FOR FUTURE USE

(Revised January 1, 2005)

7.01.00 - 7.08.00 RESERVED FOR FUTURE USE

(Effective January 1, 1994)

7.09.00 FACSIMILE TRANSMISSION AND SERVICE OF DOCUMENTS

(Effective January 1, 1994)

7.09.01 DEFINITIONS

Except as the context may otherwise require, the following terms shall have the meanings ascribed thereto for the purposes of this rule:

A. **FAX** shall mean and refer to the facsimile transmission of documents over telephone lines, or other means of electronic transmission of documents.

B. **ORIGINAL DOCUMENT** shall mean and refer to a document prepared in accordance with the provisions of California Rules of Court, rules 2.100 through 2.119.

C. **HARD COPY** shall mean and refer to a legible and durable copy of an Original Document.

(Revised January 1, 2007)

7.09.02 FILING OF DOCUMENTS BY FAX

No documents, except for criminal complaints, may be filed by FAX with the clerk of the court, unless the filing is by a FAX filing agency as provided in Rule 7.09.03.

(Effective January 1, 1994)

7.09.03 FILING THROUGH FAX FILING AGENCY

A. A party may transmit a document by FAX to a FAX filing agency for filing with the Court. The agency acts as the agent of the filing party and not as an agent of the Court.

B. The FAX filing agency that receives a document for filing shall:

(1) Prepare the document so that it complies with California Rules of Court, rules 2.100 through 2.119 and any other requirements for filing with the Court;

(2) Physically transport the document to the Court;

- (3) File the document with the Court;
- (4) Keep all documents transmitted to it confidential;
- (5) Place the phrase "by FAX" on each document filed by the agency directly below the title of that document; and
- (6) Conform to the provisions of California Rules of Court, Rule 2005, and other applicable law.

C. A FAX filing agency, by filing a document with the Court, certifies that it has complied with these Rules and the California Rules of Court and that the document filed is the full and unaltered facsimile-produced document received by it. No additional certification shall be required of the agency.

(Revised January 1, 2007)

7.09.04 SERVICE BY FAX

A. Any attorney who is willing to receive service of papers by FAX transmission shall place the attorney's FAX telephone number, as well as the office telephone number, on all pleadings filed with the Court.

B. Service upon an attorney who is willing to accept service by FAX may be made by FAX transmission on Monday through Friday, inclusive, excluding any court holiday, between the hours of 9:00 AM and 5:00 PM.

C. On the same date that service is made by FAX transmission, the party making such service shall also serve a hard copy of the document in the manner provided by Code of Civil Procedure, section 1011.

D. If an attorney, or a party not represented by an attorney, has not indicated a willingness to be served by FAX, that attorney or party may be served by personal delivery of a FAX copy of a document, provided that a hard copy is served upon the attorney or party in the manner provided in Code of Civil Procedure, section 1011.

E. FAX service (where permitted by these Rules) shall be deemed personal service for the purposes of Code of Civil Procedure, sections 1004, 1011, and 1013.

(Revised, January 1, 1994)

7.10.00 LAW AND MOTION CALENDAR

(Effective January 1, 1994)

7.10.01 SCOPE OF LAW AND MOTION RULES

These Rules supplement the Uniform Law and Motion Rules set forth in the Title 3, Division 11 of the California Rules of Court, and orders and proceedings thereon.

(Revised January 1, 2007)

7.10.02 MOTIONS: IN GENERAL

A. All civil law and motion calendar dates will be assigned by the Court Clerk, upon the filing of the appropriate papers. Civil law and motion matters will be heard at a time set by the Court.

B. The responsive papers in opposition to a calendared motion must be filed with the Clerk by 3:00 p.m. no later than nine(9) court days prior to the date of hearing (not counting the day of the hearing). Any reply papers to the opposition must be filed by the moving party no later than at least five(5) court days prior to the designated hearing date (not counting the day of the hearing). These requirements do not apply to Orders Shortening Time or Ex Parte applications [see rule 7.10.10] and do not affect the timing requirements of the Summary Adjudication Statute, Code of Civil Procedure, section 437c.

If opposition papers are not timely filed, the Court in its discretion may deem it a waiver of any objections and treat it as an admission that the motion or other application is meritorious. The Court, in its discretion, may grant the Motion. In that case, a party desiring to further oppose the Motion will be required to bring a properly noticed Motion for Reconsideration, Motion for New Trial, or other appropriate Motion, and comply with any specific requirements of the Motion so brought.

C. Failure to timely serve and file a paper or file a proof of service may, in the Court's discretion, constitute a sufficient basis for denial of the Motion or application or to disregard the untimely filed document. This subsection is not intended to limit the Court's authority to exercise discretion in any other appropriate manner, including, but not limited to, the granting of continuances or the imposition of sanctions.

D. Any Motion which seeks exclusively to advance or continue a civil cause for trial or arbitration, or which pertains exclusively to calendaring the matter and which seeks no other form of relief, shall be noticed and calendared for hearing in the department of the judge assigned to hear the matter.

E. Papers and materials lodged with the Clerk shall be accompanied by an addressed return envelope with sufficient postage.

F. Each exhibit submitted in support of or in opposition to a motion or other application must be identified as an exhibit, attached to a declaration, and made a part thereof by reference.

All exhibits submitted in support of or in opposition to a motion to be heard on the Law and Motion Calendar shall be separately tabbed, either numerically by the plaintiff or alphabetically by defendant. All references to an exhibit in the Memorandum of Points and Authorities shall identify the exhibit referred to and state the page and line numbers of the exhibit to which reference is made.

In accordance with California Rules of Court, rule 3.110(f), each exhibit shall be separated by an 8-1/2 x 11 sheet with hard paper or plastic tabs extending below the bottom of the page and bearing the exhibit designation. An index to exhibits shall be provided. Exhibits written in a foreign language shall be accompanied by an English translation, certified under oath by a qualified interpreter.

G. Memoranda of Points and Authorities shall be submitted in accordance with California Rules of Court, rule 3.113. Citations to authority shall be to the Official Reporter only.

If authority from jurisdictions other than California is relied upon and cited, a copy of that authority shall be attached to the Memorandum.

If a California Administrative Regulation, Administrative Decision, or Opinion of the Attorney General is relied upon and cited, a copy of that authority shall be attached to the Memorandum.

H. All declarations under penalty of perjury submitted in support of or in opposition to a motion or other application to the Court for an order shall state the date and place of execution of the Declaration, and shall otherwise comply with Code of Civil Procedure, section 2015.5.

Unless a statute authorizes a declaration on information and belief, the Declaration shall set forth statements of evidentiary facts to which the declarant could testify if called as a witness, and shall include a declaration by the declarant under penalty of perjury to that fact. If a statute authorizes a statement on information and belief and such a statement is made by the declarant, the facts upon which the declarant bases such information and belief shall be included.

I. Evidence at a hearing on a Law and Motion matter shall be in conformity with California Rules of Court, rule 323.
(Revised January 1, 2009)

7.10.03 PLEADINGS

A. The heading for each separate cause of action shall set forth the theory of the cause of action and the parties against whom it is brought; e.g., "First Cause of Action against defendants John Doe, Richard Roe, and Does I through III for Negligence" [see California Rules of Court, rule 2.112)]. The Court, in its discretion, may strike pleadings for non-compliance with this Rule.

B. Amendment of pleadings shall be in compliance with the California Rules of Court. In addition, the following principles shall apply:

- (1) Amendment to designate a party wrongly named by the correct name does not require an Order following Noticed Motion, and may be obtained by an ex parte order, unless the Court determines that the substantial rights of the party to be designated are adversely affected thereby.
- (2) An amended pleading is required instead of an amendment to a pleading in all other cases. The Court shall deem a motion to file an amendment to be a motion to file an amended pleading, and shall require that the entire prior pleading, together with the proposed amendments that have been approved by the Court and incorporated into the prior pleading, be filed

and served.

- (3) In addition to attaching a copy of the proposed Pleading (e.g. “proposed first Amended Complaint”) to the moving papers, the party seeking leave to amend a pleading shall bring the original of the proposed amended pleading to the hearing on the motion. The original shall not include the word “proposed” on its face and, if the motion is granted, will in the ordinary case be ordered filed and served forthwith.

C. Motions to strike shall comply with California Rules of Court, Rule 3.1322. The Court will exercise its inherent power to strike an unauthorized pleading or a pleading filed in violation of a court order.
(Revised January 1, 2007)

7.10.04 CONTINUANCES

A. Litigants may request a change of date for a Law and Motion matter one time only; no other continuances will be allowed.

B. Notification of stipulated continuances of motions calendared on the Law and Motion Calendar, and any other stipulations in Law and Motion matters, shall be made through the Calendar Clerk no later than twenty-six (26) hours before the hearing or two (2) hours before the Tentative Decision is published, whichever is earlier. By calling and representing that the continuance is by stipulation, counsel, or the moving party if appearing in pro per, is representing to the Court that all parties affected by the motion have agreed to the continuance. The continuance shall be to a date certain, and shall be confirmed promptly by letter to the Clerk. The continuance shall be reflected in the court file. The moving party is responsible for giving notice to all parties of the date to which a Law and Motion matter has been continued.

All other continuances shall be deemed discretionary continuances and may be granted by a judge or commissioner only for good cause shown. If a continuance is granted, interim orders on all or certain issues are favored and any remaining issues shall be continued on the Law and Motion Calendar or referred to the Calendar Clerk for setting as a long cause matter.

C. Failure to comply with this rule may result in the calendared matter being heard and ruled upon by the Court on the date the matter was originally set for hearing.
(Effective January 1, 1994)

7.10.05 TENTATIVE RULING SYSTEM FOR WESTERN SLOPE AND SOUTH LAKE TAHOE

A. GENERAL

The Superior Court for El Dorado County has adopted the following Tentative Ruling System pursuant to California Rule of Court 3.1308(a)(1) for all matters set on the regularly scheduled Law and Motion Calendars of both the Western Slope and South Lake Tahoe Branches. The Tentative Rulings can be obtained in two ways:

(1) On Line

The tentative rulings and complete written rationale for each tentative ruling will be posted on the El Dorado County Superior Court web site at www.eldoradocourt.org by no later than 2 P.M. on the court day preceding the date the matter is set on the Law and Motion Calendar. The tentative ruling and the rationale can be viewed on the web site by clicking on the “Tentative Rulings” link. The tentative rulings are listed by Department and Calendar date. Simply click on the tentative rulings for the assigned Department and then click on the date you wish to view.

(2) By Telephone

The Tentative Rulings providing the disposition of the matter only, without the rationale, can also be obtained by calling (530) 621-6551 (Western Slope Branch) or (530) 573-3042 (South Lake Tahoe Branch) beginning at 2 P.M. on the court day preceding the date the matter is set on the Law and Motion Calendar.

B. TENTATIVE RULING PROCEDURE

(1) Acceptance of Tentative Ruling

If you wish to accept the Tentative Ruling which has been issued, or do not wish to oppose it, you do not need to do anything. If no notice of intent to appear and request oral argument is received from any party to the matter by 4 P.M. on the day the Tentative Ruling is issued, the Tentative Ruling will automatically become the final order of the Court pursuant to California Rules of Court (C.R.C.) 3.1308(a)(1).

(2) If you do not wish to accept the Tentative Ruling in its entirety, you must give notice of your intent to appear and request oral argument as to the specific aspects of the Tentative Ruling you wish to challenge to both the Court and all parties to the action through the procedures listed below by 4 P.M. on the day the Tentative Ruling is issued. If you do not give such notice and request oral argument by 4 P.M., the Tentative Ruling will become the final order of the Court as provided in C.R.C. 3.1308(a)(1).

(3) Notice of Intent to Appear and Request Oral Argument

(a) A notice of intent to appear and request oral argument must be transmitted to the Court either electronically through the Court’s website, or via telephone call by 4 P.M. on the day the Tentative Ruling is issued.

(b) Electronic requests must be sent directly from the Tentative Rulings link of the Court’s web site by clicking on the “Request

for Oral Argument” button on the home page.

- (c) Phone requests must be placed to the Western Slope Branch at (530) 621-5867 or the South Lake Tahoe Branch at (530) 573-3076 and must provide all of the information required on the request form found on the Court’s web site.
- (d) Notice to all parties of your intent to appear must be made by telephone or in person pursuant to C.R.C. 3.1308(a)(1).

(4) Scheduling of Oral Argument

- (a) Upon timely receipt of a request for oral argument, a hearing date will be scheduled by the Court to be held within ten (10) court days of such receipt.
- (b) Matters in which the parties’ total time estimate for argument is fifteen (15) minutes or less will automatically be set for hearing on the Law and Motion Calendar on the court day following the issuance of the tentative ruling unless otherwise notified by the Court. The fifteen minute time limit for argument heard on the Law and Motion Calendar will be strictly enforced. All other long cause oral argument requests will be set for hearing within ten court days of the issuance of the Tentative Ruling.
- (c) Notification of the selected Hearing Date for matters not automatically set for oral argument on the next day’s Law and Motion Calendar will be provided to the requesting party by 5 P.M. on the date the Tentative Ruling is issued.
- (d) Notification to all other parties of the hearing date for matters not automatically set for oral argument on the next day’s Law and Motion Calendar is the sole responsibility of the requesting party.

(5) Appearances

- (a) Except where the Tentative Ruling states that “appearances are required” or, having received a request for oral argument of fifteen (15) minutes or less, the matter has been automatically scheduled for hearing on the next day’s Law and Motion Calendar, no other appearances will be required nor permitted at the Law and Motion Calendar on the day following the issuance of the Tentative Ruling.
- (b) Unless otherwise indicated in the Tentative Ruling, appearances for oral argument may be made either in person or telephonically through Court Call.

(Revised January 1, 2010)

7.10.06 LENGTH OF HEARING; LONG CAUSE MATTERS

A. Matters on the Law and Motion Calendar are set for no more than a total of fifteen (15) minutes for argument. When a matter is called on the Law and Motion Calendar and it appears that argument will exceed a total of fifteen (15) minutes, it shall be deemed a long-cause matter. The Court, in its discretion, may reset the matter at a date and time convenient to the Court for long-cause hearing.

B. If counsel believe that a matter will take more than fifteen (15) minutes to argue, that matter should not be placed on the regularly scheduled Law and Motion Calendar. In such a case, counsel should contact the Calendar Clerk and request that the matter be scheduled as a long cause hearing.

C. In Superior Court, there shall be a court reporter fee as set in the Clerk's Fee Schedule for any matter longer than one hour, payable at the time the Motion or request for hearing is filed with the Clerk. If such a matter is set for hearing, the court reporter fee shall be paid no later than two judicial days prior to the hearing.

If the court reporter fee is not timely deposited pursuant to the provisions of this Rule, the hearing shall be removed from the court's calendar.

(Effective January 1, 1994)

7.10.07 DEFAULTS OR UNCONTESTED MATTERS; PROVE-UPS

A. No defaults or uncontested matters shall be set for hearing by the Clerk unless and until the judgment and all pleadings and documents necessary for hearing and disposition of the matter are on file in the Clerk's Office.

- B. (1) In all cases of a request for entry of a default judgment, whether the request is for a clerk's judgment, court judgment, or the matter is set for prove up, it is this Court's general policy to require evidence in support thereof shall be provided in written form, unless prohibited by law [CCP § 585(c)]. It is the policy of this Court to require an evidentiary declaration from the plaintiff or plaintiff's agent in all cases of default.
- (2) Affidavits and declarations presented in support of a prove-up application shall comply with the requirements of CCP §§ 585 and 585.5.
- (3) At a default prove-up, allegations in the Complaint or Cross-Complaint, if applicable, are not deemed proved because of the failure of the adverse party to answer. In all cases, proof must be presented by competent evidence on each and all essential elements of the causes of action sought to be proved; conclusions, whether legal or factual, are insufficient. Affidavits and Declarations must affirmatively show that the affiant or declarant is competent to testify to the statements made therein. In general, the Court will use the same standards for assessing the quality and sufficiency of the evidence as would be applied in a contested proceeding [CCP ' 585(d); see Harris v. Cavasso (1977) 68 Cal App.3d

723; Devlin v. Kearny Mesa AMC (1984) 155 Cal. App.3d 381].

C. In actions on promissory notes and contracts providing for the payment of attorney's fees, whenever a prevailing party is entitled to the recovery of reasonable attorney's fees, the following schedule shall be considered by the Court, in its discretion, in awarding such fees:

- 25% of the first \$1,000;
- 20% of the next \$4,000;
- 15% of the next \$5,000;
- 10% of the next \$10,000;
- 5% of the next \$30,000; and
- 2% of the amount over \$50,000.

(Revised January 1, 2000)

7.10.08 MOTIONS TO BE RELIEVED AS COUNSEL

A. All motions to be relieved as counsel shall be in the form and format prescribed by California Rules of Court, rule 3.1362.

B. The Court relieving counsel as attorney of record will be effective as of the date of filing proof of service of the formal, signed order on the client.

(Revised January 1, 2007)

7.10.09 ARBITRATION

A. Upon stipulation of the parties, or election of the plaintiff, if the matter in controversy is less than \$50,000, a case may be referred to arbitration. The Arbitration Program shall be administered in accordance with the provisions of the Code of Civil Procedure, section 1141.11 et seq., and California Rules of Court 3.810 et seq.

B. When a case has been assigned to arbitration, Notice of Assignment to Arbitration shall be sent to all parties by the court.

(Revised, January 1, 2008)

7.10.10 EX PARTE MOTIONS AND APPLICATIONS; ORDERS SHORTENING TIME

A. All ex parte motions and other ex parte applications shall be lodged with the Clerk. The Clerk will check the papers submitted for signatures, verifications, form, missing exhibits and compliance with the California Rules of Court, before submitting them to a bench officer.

B. Except as to an adverse party in default, Ex parte Motions and other applications shall comply with the notice to opposing parties' requirement of California Rules of Court, rules 3.1200 through 3.1207. In construing exceptional circumstances for purposes of California Rules of Court, rule 3.1204(c), the Court will require no less than four (4) hours notice to opposing parties in the case of an ex parte application for a temporary restraining order regarding harassment. Failure to comply with all applicable provisions of this local rule or California Rules

of Court, Rule 379, will ordinarily result in the motion or application being denied without prejudice to renewal upon compliance with these rules.

C. All Ex Parte Motions or applications for Orders Shortening Time shall be supported by a declaration showing good cause.

D. In cases where an Order Shortening Time has been granted, the moving papers shall be personally served on the office of opposing counsel, or on an opposing pro per party, no less than two (2) court days preceding the hearing, unless otherwise ordered by the Court.

E. Where application has been made for an ex parte writ of attachment, the Affidavits or Declarations shall also comply with Code of Civil Procedure section 482.040, as modified by Code of Civil Procedure sections 485.210(d) and 484.510(b). Failure to comply will ordinarily result in denial of the application; in that event, the applicant must proceed by a noticed hearing. Where the applicant relies in whole or in part on a verified complaint, a separate statement shall accompany the application, setting forth the evidentiary facts relied upon.

F. Where application is made for an ex parte writ of attachment, a memorandum shall also be submitted stating why the party has elected to proceed by ex parte application, instead of making a noticed motion for a temporary protective order pursuant to the provisions of Code of Civil Procedure section 486.030. Any evidentiary statements relied on in this memorandum must appear in the supporting declarations.

G. All declarations or affidavits in support of applications for issuance of a writ of possession shall comply with the provisions of Code of Civil Procedure section 516.030. The applicant shall additionally set forth by declaration facts to aid the Court in its determination of the amount of undertaking pursuant to Code of Civil Procedure section 515.010.

H. When an ex parte motion has been made and refused in whole or in part, or granted conditionally or on terms, and a subsequent application is made for the same or a similar order to the same or a different judge, whether upon an alleged different state of facts or otherwise, it shall be shown by declaration what motion was previously made, when, to what judge the application was made, what order or decision was made thereon, and what new facts, if any, are claimed to be shown.

I. No ex parte stay of execution of a judgment will be made by a judge other than the Trial Judge. In the absence of the Trial Judge, application may be made to the Judge hearing the Law and Motion Calendar.

J. Unless a stipulation which authorizes the rendering and entry of judgment or termination of a stay of execution upon failure to perform specified conditions includes an express waiver of notice, application for rendering or entry of judgment or to vacate or terminate a stay upon failure to perform must be made on noticed motion. Whether ex parte or on notice, the applicant must submit a declaration setting forth any payments made or other compliance by the defendant, specific facts concerning the alleged failure to perform, and the substance of the order that is requested.

(Revised January 1, 2007)

7.10.11 APPEAL FROM DECISION OF LABOR COMMISSIONER PURSUANT TO LABOR CODE SECTION 98.2

A. Any party filing a Notice of Appeal of the order, decision or award of the Labor Commissioner pursuant to Labor Code section 98.2 shall file with the Clerk of the Court:

- (1) A copy of the Complaint and any answer filed with the Labor Commissioner; and
- (2) A complete copy of the Order, Decision, or Award of the Labor Commissioner, which shall include a summary of the hearing and the reasons for the decision if provided by the Labor Commissioner; and
- (3) A declaration of proof of service of a copy of the Notice of Appeal upon the Labor Commissioner.

B. The Clerk shall only set the matter for hearing de novo upon the filing of the papers prescribed in subsection (a) of this Rule.

C. The Notice of Appeal filed pursuant to Labor Code section 98.2 shall be treated as the first paper for the purpose of determining the filing fee.
(Effective January 1, 1994)

7.10.12 SUMMARY JUDGMENT

When any motion for summary judgment or summary adjudication is filed with the Court, or any response filed to such a motion, the supporting papers shall comply with the requirements of Code of Civil Procedure, section 437c and California Rules of Court, rules 3.1350, 3.1352, and 3.1354.
(Revised January 1, 2007)

7.10.13 COMPROMISE OF CLAIM OF MINOR OR INCOMPETENT PERSON

A. A petition for court approval of a compromise pursuant to Code of Civil Procedure section 372, Probate Code section 2504, or in Superior Court only, Probate Code section 3500, shall be verified by the Petitioner and in addition to the matters required by California Rules of Court 7.950 through 7.995, shall contain:

- (1) The name and birth date of the minor or incompetent person;
- (2) The nature and extent of the injury giving rise to the claim with sufficient particularity to inform the Court whether the injury is permanent or temporary;
- (3) The original or a photocopy of all doctor's reports containing a diagnosis or prognosis of the injury, and a current report of the person's present condition;

- (4) A copy of any existing accident investigation report of any law enforcement agency;
- (5) A full disclosure of all information concerning the reasonableness of the proposed compromise including the amounts, if any, paid or to be paid to any other claimants;
- (6) The original or a photocopy of each bill which, if paid, shall disclose the date of payment, the amount paid, and the name of the payer;
- (7) If the money is to be deposited in an account subject to withdrawal only upon order of the Court, the name and address of the depository; and
- (8) The amount of attorney's fees requested. Pursuant to Probate Code § 3602, the Court will, in its discretion, approve a reasonable attorney's fee.

Factors to be taken into account include the nature of the litigation and its difficulty; the amount of money involved in the litigation; the skill required and employed in handling the litigation; the attention given to the case; the attorney's success, learning, age and experience in the particular type of work demanded; the intricacy and importance of the litigation; the labor and necessity for skilled legal training and ability in trying the case; and the amount of time spent on the case [*Niederer v. Ferreira* (1989) 189 Cal.App.3d 1485, 1507].

In the ordinary case, the Court will use as a guideline an attorney's fee in the amount of 25% of the net settlement amount. The "net settlement amount" generally represents the amount remaining after all costs are deducted from the gross settlement amount.

In an extraordinary case, where counsel is requesting attorney's fees in excess of the Court's guideline, a separate declaration setting forth facts warranting the request for an extraordinary fee shall be filed with the petition. The Court will consider counsel's declaration in determining the amount of the attorney's fee to be awarded.

In all cases, the award of an attorney's fee remains in the sole discretion of the Court. The Court will exercise its discretion to assure that the amount of the award to the minor is in all cases an amount adequate to compensate the minor for his or her damages.

In the case of a compromise of a minor's claim, counsel are reminded of the provisions of Family Code § 6602, which states, "A contract for attorney's fees for services in litigation, made by or on behalf of a minor, is void unless the contract is approved, on petition by an interested person, by the court in which the litigation is pending or by the court having jurisdiction of the guardianship estate of the minor. If the contract is not

approved and a judgment is recovered by or on behalf of the minor, the attorney's fees chargeable against the minor shall be fixed by the court rendering the judgment."

B. When the Court orders the money to be received by the minor or incompetent person to be deposited in a bank, trust company, or savings and loan association, the Order approving the compromise shall contain the following language:

- (1) A certified or endorsed copy of this order shall be delivered to the manager of said bank (or savings and loan association), together with said sum to be deposited, and that there shall be a receipt of said bank (or savings and loan association) filed with the clerk acknowledging receipt.
- (2) If there is a finding in the order approving compromise of a minor's claim that the minor will attain the age of eighteen or majority on a definite date, the order requiring deposit shall provide for withdrawal after that date without further order of the Court.

C. Requests for withdrawal of funds deposited for minors will be allowed only upon filing a verified petition, which shall include a designation of the depository, a showing of the amounts previously withdrawn, the balance on deposit at the time of the filing of the petition, and an adequate justification for the requested withdrawal. Except as otherwise ordered by the Court for good cause shown, if the attorney for the petitioner was awarded fees at the time the settlement was approved, no further attorney fees in connection with a petition for withdrawal of funds shall be awarded.

D. The presence of the petitioner and the minor or incompetent person shall be required, unless, in advance of the hearing, good cause is shown to the court by letter request seeking to excuse that person's presence. In considering whether to excuse a personal appearance on letter request, the court shall consider, without limitation, the following factors:

- (1) The amount of the settlement;
- (2) Policy limits;
- (3) Extent of injury and need for future medical care related to the injury;
- (4) Extent of residual conditions, including cosmetic and psychological factors;
- (5) Liability;
- (6) Travel distance for the minor and guardian including consideration of any disability causing difficulties in traveling;
- (7) Interruption of education. Generally, where petitioner is not represented by counsel, an appearance will be required.

(Revised January 1, 2007)

7.10.14 COURT ORDERS

A. In all instances in which an Order or Judgment is required to be submitted to the Court, whether after hearing as a Law and Motion matter, special hearing, proceeding, trial, or otherwise, the Order or Judgment shall be prepared and submitted by the prevailing party, and mailed or delivered to the other party or parties for approval as conforming to the court's order, within five (5) court days of the date of the hearing.

B. Within five (5) court days after mailing or delivery, the other party or parties shall notify the prevailing party as to whether or not the proposed order is so approved. The opposing party or parties shall state any reasons for disapproval. Failure to notify the prevailing party within the time required shall be deemed an approval. Code of Civil Procedure, section 1013, relating to service of papers by mail, does not apply to this rule.

C. The prevailing party shall transmit the proposed order to the Court within fifteen (15) court days of the hearing together with a copy of any responses received from the other parties or a statement that no response was received.

D. If the prevailing party fails to prepare and submit a proposed order as required, any other party may do so.

E. This rule shall not apply if the motion was unopposed and only the prevailing party appeared at the hearing, unless otherwise ordered by the Court.

F. This rule shall apply to all civil, probate, and family law proceedings. Failure to comply with this rule may, in the discretion of the Court, result in the imposition of sanctions.

(Revised July 1, 2000)

7.11.00 EXHIBIT STORAGE AND DISPOSITION: CIVIL CASES

(Effective January 1, 1994)

7.11.01 POLICY

It is the policy of the El Dorado County Courts that evidence admitted in any case before the courts:

A. Shall be only those items required in the case;

B. Shall not pose a security or storage problem nor a risk to health or safety;

C. Shall not be retained by the Courts beyond the minimum time required by law, unless good cause is shown.

(Revised, January 1, 1994)

7.11.02 RECEIPT OF EXHIBITS

A. No exhibits shall be accepted by the exhibit's custodian unless:

- (1) All containers of liquid substances shall be clearly marked as to the type of liquid and the amount;
- (2) All containers of controlled substances shall be clearly marked identifying the substance and its weight, and are sealed;
- (3) All cash, whether individually or packaged, shall be specifically identified as to the total amount of cash and the number of bills of each denomination;
- (4) All firearms shall be secured by means of a nylon tie or trigger guard;
- (5) All hypodermic needles shall be placed in containers that safeguard personnel handling the exhibit from accidental injury.

B. All exhibits must be individually tagged with the appropriate exhibit tag. Each exhibit tag must be properly completed and securely attached to the exhibit.

C. No exhibit shall be received by the Courts if it poses a security or storage problem or a risk to health or safety. Unidentified liquids, containers, or suspect substances shall be returned to the party who offered the exhibit. Types of exhibits which will not be received include, but are not limited to, the following:

- (1) Any type of explosive powder;
- (2) Explosive chemicals, including toluene and ethane;
- (3) Explosive devices, including grenades and pipe bombs
- (4) Flammable liquids, including gasoline, kerosene, lighter fluid, paint thinner, and ethyl ether;
- (5) Canisters containing tear-gas, mace, or similar substances;
- (6) Rags that have been soaked in flammable liquids;
- (7) Liquid drugs, including phencyclidine (PCP); methamphetamine, corrosive liquids, pyrrolidine, morpholine, and piperidine;
- (8) Samples of blood, urine other bodily fluids, and any substance requiring refrigeration or humidity-controlled storage.

D. Exhibits toxic by their nature that pose a health hazard to humans shall be introduced to the court in the form of a photographic record and a written chemical analysis certified by competent authority. Where the court finds that good cause exists to depart from this

procedure, toxic exhibits may be brought into the courtroom and introduced. Upon conclusion of a trial, exhibits containing toxic or hazardous materials, including but not limited to bodily fluids, controlled substances (including marijuana), weapons, and any other exhibit the Court determines may present a hazard shall be returned to the originating agency for storage pending appeal.

E. Any exhibit that is improperly tagged, marked, weighed, or otherwise improperly identified, will not be accepted by the Court.

F. The Court, in its discretion, may admit any exhibit in the interests of justice.

G. Original photographs shall be substituted for any photographically enlarged exhibits.

H. The Court, in its discretion, may order a photograph substituted for large or bulky exhibits that pose a storage problem.

(Revised, January 1, 2008)

7.11.03 RETENTION, DESTRUCTION, AND RETURN OF EXHIBITS

A. The Clerk shall retain custody of any exhibit introduced into evidence in a civil proceeding, until the final determination or dismissal of the action or proceeding.

B. Once a judgment has become final and any appellate proceedings in the matter have been terminated, exhibits retained from a case shall be promptly destroyed or otherwise disposed of by the Court Clerk in accordance with current law or rule of court. Parties who wish to retain their exhibits shall sign and file with the clerk a request for return of exhibits prior to the end of the hearing or trial of the matter.

C. The Court, on its own motion, may order exhibits destroyed or otherwise disposed of, or may order that exhibits be returned to the attorney for the party introducing those exhibits, sixty (60) days after the expiration of the time for filing a Notice of Appeal.

(Effective January 1, 2000)

7.11.04 VIEWING EXHIBITS

A. As long as a case is active, only the attorneys of record and court personnel may view the exhibits. Any other person interested in viewing an exhibit must first obtain an order of court permitting a view.

B. Viewing of exhibits shall take place in the presence of the exhibit's custodian. Exhibits may not be altered or taken apart, except upon order of court. Special viewing equipment shall not be permitted except upon prior order of the Court.

(Effective January 1, 1994)

7.12.00 TRIAL COURT CASE MANAGEMENT RULES

(Effective July 1, 2002)

7.12.01 APPLICATION

A. **Application.** These rules apply to all general civil cases pending in the Superior Court, regardless of when the case was originally filed or whether the case was transferred from another court.

B. **Exclusions.** Excluded from the application of these rules are probate, guardianship, conservatorship, family law (including proceedings under the Family Law Act, Uniform Parentage Act, Uniform Child Custody Jurisdiction Act, proceedings for freedom from parental custody and control, and proceedings for adoption) juvenile court proceedings, small claims appeals, and "other civil petitions" including petitions for writs of prohibition or mandate, temporary restraining orders, harassment restraining orders, domestic violence restraining orders, writs of possession, appointment of receiver, release of property from lien, and change of name. Excluded also are unlawful detainers and cases which are the subject of a petition for coordination.

C. **Collection Cases.** Excluded also from the application of these rules are collection cases as defined in California Rule of Court, Rule 3.740(a). Collection cases shall be processed as set forth in CRC, Rule 3.740. In addition, the following rules shall apply.

- (1) In all new filings, the clerk shall check the Civil Case Cover Sheet (form CM-010) and, if the case type box for Collections Cases is checked, the clerk shall set a check-date in the clerk's calendar 180 days after the filing of the complaint.
- (2) On the 180 day check-date, if proofs of service for all defendants are not filed or the plaintiff has not obtained an order for publication of the summons, the clerk shall prepare an order to show cause why reasonable sanctions shall not be imposed against plaintiff and present the order to show cause to the judge for signature.
- (3) On the 180 days check-date, if proofs of service are filed or service by publication is made and an answer or other responsive pleading is not filed, the clerk shall set a check-date in the clerk's calendar within 360 days after the filing of the complaint.
- (4) On the 360 days check-date, if defendant has not filed a responsive pleading and plaintiff has not obtained a judgment, the clerk shall prepare an order to show cause why reasonable sanctions shall not be imposed against plaintiff and present the order to show cause to the judge for signature.
- (5) If, at any time, an answer or other responsive pleading is filed, the clerk shall set a Case Management Conference within the next 30 days.

(Revised January 1, 2008)

7.12.02 POLICY

A. It is the policy of the Superior Court to manage all cases subject to these rules in order to insure proper preparation and timely disposition. The goal for timely disposition is to conclude 90% of the subject cases within 12 months after filing the Complaint, 98% within 18 months, and 100% within 24 months.

B. It is also the policy of the Superior Court that the subject cases be assigned to one judge for all purposes; provided, however, that the judge to whom a case is assigned may delegate pretrial case management to a temporary judge.

C. It is also the policy of the Superior Court that once a date has been set in the management of a case, the date may not be changed without a clear showing of good cause. Nothing in these rules, however, shall prevent the Court from exempting a case from the processes of these rules based upon a specific showing that the interests of justice are served thereby.

(Revised July 1, 2001)

7.12.03 ASSIGNMENT OF CASES AND CHALLENGES TO ASSIGNED JUDGE

A. Upon filing the Complaint, the Clerk shall assign a subject case to a single judge and shall notify the parties of the assignment. Nothing in these rules shall prevent the Court from reassigning a subject case to a different judge, in which case the Court shall notify the parties of the assignment.

B. A challenge to the assigned judge pursuant to Code of Civil Procedure section 170.6 shall be made within 15 court days after notice of the assignment. Upon the acceptance of such a challenge, the Court shall reassign the case to a different judge and notify counsel of the reassignment.

(Revised July 1, 2002)

7.12.03A DELEGATION TO TEMPORARY JUDGE AND CHALLENGES

If the judge to whom the case is assigned delegates pretrial management of the case to a temporary judge and the parties do not agree to the delegation, the parties shall object within 30 days after notice of the delegation. If the parties do not object within 30 days, they will be deemed to have agreed to the delegation.

(Effective July 1, 2001)

7.12.04 SETTING THE CASE MANAGEMENT CONFERENCE DATE AND CASE MANAGEMENT DOCUMENTS

Upon filing the Complaint, the Clerk shall assign a case management conference date as provided in Local Rule 7.12.09 and deliver to the plaintiff an issued Summons, a "Filed" endorsed copy of the Complaint and the following case management documents:

1. A Notice of Case Management Conference;
2. A blank Case Management Statement;
3. A Notice to Litigants; and
4. An ADR Information Pamphlet.

The term “case management documents” also includes any case management order issued in the case.

(Revised July 1, 2002)

7.12.05 SERVICE OF COMPLAINT & CASE MANAGEMENT DOCUMENTS

A. Service of Complaint. Within 60 days after filing a complaint, the plaintiff shall serve the summons and complaint and case management documents on all defendants and file a proof of service with the court. Within 30 days after amending a complaint to add a defendant, the plaintiff shall serve the added defendant and file a proof of service with the court.

B. Service of Cross-Complaint. Within the time permitted by law, the cross-complainant shall file and serve a cross-complaint against a party who has appeared in the action together with a proof of service. If the cross-complaint adds new parties, the cross-complainant shall serve the cross-complaint and the case management documents on the new parties and file a proof of service with the court within 30 days after filing the cross-complaint.

C. Modifying Time for Service. On its own motion or on application of a party, the court may modify the time for service. An application for an order modifying the time for service must be filed before the time for service has expired and must be accompanied by a declaration (1) showing why service has not been affected, (2) documenting the efforts that have been made to effect service, and (3) specifying the date by which service is proposed to be affected.

D. Failure to Serve. The failure timely to serve the summons and complaint or cross-complaint and the case management documents and file a proof of service may result in sanctions pursuant to Local Rule 7.12.12.

(Revised July 1, 2002)

7.12.06 RESPONSIVE PLEADINGS

A. Timing of Responsive Pleadings. The parties shall file and serve responsive pleadings within the time permitted by law; provided, however, that the parties may stipulate without leave of court to one 15-day extension of the time for filing responsive pleadings.

B. Modifying Timing of Responsive Pleadings. On its own motion or on application of a party in writing for good cause shown, the court may modify the time for filing a responsive pleading.

(Revised July 1, 2002)

7.12.07 OBLIGATION TO TAKE DEFAULT AND OBTAIN JUDGMENT

A. Obligation to take Default. If a responsive pleading has not been filed within the time for response provided for in Local Rule 7.12.06, the plaintiff or cross-complainant must file a request for entry of default within 10 days after the time for response has elapsed.

B. Obligation to Obtain Judgment. Except as set forth in subdivision C of this rule,

after a default is entered, the party requesting the default must obtain a default judgment against the defaulting party within 45 days after the entry of default, unless the court has granted an extension of time.

C. Defaults Judgment in Multi-defendant Cases. Default Judgments in multi-defendant cases need not be pursued until the entire action against all responding defendants has been concluded.

D. Failure to take Default or Obtain Judgment. The failure to take default or obtain a default judgment within the time set forth in this rule may result in sanctions pursuant to Local Rule 7.12.12.

(Revised July 1, 2002)

7.12.08 UNINSURED MOTORIST CASES

A. Upon determining that an action is to proceed as an uninsured motorist (UM) case, the plaintiff shall promptly, and in no event later than the first Case Management Conference, file a declaration under penalty of perjury setting forth the information upon which the determination was made. The declaration shall include (1) a statement that coverage exists under a UM insurance policy; (2) the name of the UM insurance carrier and the limits of coverage under the policy; and (3) a statement that plaintiff intends diligently to proceed under the UM policy and, upon completion of the proceeding under the UM policy, dismiss the case.

B. Upon review of the declaration, the Court may designate the action as an UM case, which designation suspends the time requirements of these Rules for 180 days from the date of designation. The Court shall review the case by setting a Case Management Conference at the end of the suspension period.

C. If the proceeding under the UM policy is not completed by the review Case Management Conference, the plaintiff may file a supplemental declaration requesting a further suspension and setting forth specific facts showing the necessity thereof. Upon completion of the proceeding under the UM policy, the plaintiff shall dismiss the case.

(Revised July 1, 2002)

7.12.09 THE CASE MANAGEMENT CONFERENCE

A. **Original Complaints:** For all cases subject to these rules, upon filing an original Complaint, the Clerk shall schedule a Case Management Conference within 120 days, but not less than 90 days, after the Complaint is filed. On its own motion or at the request of a party or parties, the court may hold other Case Management Conferences at any time.

B. **Transfer Cases:** If a subject case is transferred from another jurisdiction after a responsive pleading has been filed, the Clerk shall schedule the Case Management Conference within 45 days, but not less than 30 days, after the Order of Transfer. If a responsive pleading has not been filed, the Clerk shall set the Case Management Conference within 90 days, but not less than 60 days, after the Order of Transfer.

C. **The Case Management Statement:** The plaintiff and each party who has been served or who has appeared in the action shall file and serve a completed Case Management Statement at least 15 court days prior to the Case Management Conference.

D. **The Case Management Conference Hearing:** The plaintiff and each party who has been served or who has appeared in the action or counsel shall attend the Case Management Conference, shall be familiar with the case, and shall be prepared to discuss all matters enumerated in this subparagraph. The parties or counsel may appear by telephone as set forth in Local Rule 7.12.15. Parties or counsel failing to attend or to be prepared may be subject to sanctions as provided for in Local Rule 7.12.12. At the Case Management Conference, the Superior court shall make all appropriate pretrial orders to ensure the proper preparation and timely disposition of the case including the following:

- (1) Service and Default. The Court may set dates or otherwise address the methods by which service is to be accomplished or default taken.
- (2) Dismiss defendants, except for DOE defendants. The Court may dismiss defendants, except DOE defendants, who have not appeared and who have not been defaulted, unless the court, for good cause shown, sets dates by which such defendants shall be served or defaulted.
- (3) Bifurcation, Severance, Consolidation. The Court may consolidate separately filed cases, for all or for limited purposes; or may order bifurcation, or severance of issues, causes of action or parties in a single case.
- (4) Case Plans and Limited Civil Actions. The Court may classify or re-classify cases to an appropriate Case Management Plan and may assign or reassign cases as Limited Civil Actions or Unlimited Civil Actions.
- (5) Mandatory Settlement Conferences, Issues Conferences and Trial Dates. The Court may schedule a Mandatory Settlement Conference, an Issues Conference, and the Trial date. The Court may schedule additional Settlement Conferences at the request of the parties or on its own motion.
- (6) Alternative Dispute Resolution. The Court has initiated an Alternative Dispute Resolution (ADR) Program which applies to all civil cases which are subject to these rules; provided, however, that on the joint request of the parties or on its own motion, the Court may order that the program apply to any civil case.

Unless the parties agree to another form of ADR, they will be ordered to participate in a Dispute Resolution Conference (DRC). The DRC shall take place within 60 days of the Case Management Conference, unless the Court otherwise orders for good cause shown. The DRC will be conducted by two attorney temporary judges representing the plaintiff and defense bars, if the case involves personal injury, and one attorney temporary judge for other civil cases. The DRC will be conducted as a Mandatory

Settlement Conference pursuant to California Rules of Court, rule 3.1380, and the parties and counsel are directed to comply with the terms thereof.

Within 7 to 10 days after the Case Management Conference, the court will notify the parties of the DRC temporary judges assigned to the case. It is the responsibility of the plaintiff to contact the temporary judges and arrange for a time and place for the DRC convenient to them and all parties.

At least 5 court days prior to the DRC, each party is to submit to the temporary judges and the other parties a Dispute Resolution Conference Statement which meets the requirements of California Rules of Court, rule 3.1380, and any special requirements set forth below.

Prior to the DRC, the parties are to exchange documents and records pertinent to settlement and shall provide copies of these to the DRC temporary judges.

With leave of court and in lieu of participation in a DRC, the parties may participate in binding arbitration, judicial arbitration, or mediation. The parties may select the neutral from the Court's panel or a private neutral of their choice. The Court will pay the first \$200 in fees for any neutral selected from the Court's panel. The parties will be responsible for any other fees. The Court's panel of neutrals may be obtained from the Clerk.

- (7) Discovery. The Court may establish a plan regulating the timing and scope of discovery and the discovery proceedings. The Court may also establish a plan for managing documents, which are the product of discovery. The Court may also appoint a Discovery Officer to supervise discovery and to make such orders related to discovery as may be required to ensure the proper preparation and timely disposition of the case.
- (8) Expert Witnesses. The Court may schedule the exchange of information relating to expert witnesses required pursuant to Code of Civil Procedure, section 2034, and the examination of expert witnesses.
- (9) Law and Motion. The Court may schedule dates by which Law and Motion matters must be concluded.

E. **Rules for Special Dispute Resolution Conferences:** This subsection provides special procedures for the following cases:

- (1) **Personal Injury Actions.** At least 5 court days prior to the DRC in personal injury actions, the parties shall exchange relevant photographs, accident reports, medical bills and reports, and statements of lost income and shall provide copies of these to the DRC temporary judges.

If there are claims or liens, which may affect the settlement, the affected party shall initiate negotiations with claimants or lien holders prior to the DRC. If a claim or lien is not resolved, counsel shall request the holder in writing to attend the DRC. This subsection authorizes counsel to request collateral source providers to attend the DRC on behalf of the Court, pursuant to Government Code section 985(c).

- (2) **Building and Construction Cases.** Within 30 days after the first Status Conference in building and construction cases, the party complaining of defective construction shall serve on all other parties a Statement of Damages including a Scope of Damages which sets forth with particularity the defects complained of and a Cost of Repair which itemizes the cost of repairing the defects.

Within 30 days thereafter, the other parties may inspect the premises; provided, however, that any such inspection shall be conducted only after the parties have met and conferred and shall be scheduled to minimize inconvenience for the owner of the premises.

Within 45 days after service of the Statement of Damages, the other parties shall serve on all parties a Response to Statement of Damages, which responds with particularity to the Scope of Damages and the Cost of Repair.

The DRC shall be scheduled after the Statement of Damages and the Response have been completed and the parties shall provide copies to the DRC temporary judges.

- (3) **Business/Partnership Dissolution and Accounting Cases.**

In any case which requires the taking of accounts, the Court may appoint an Accounting Officer, whose fees shall be divided equally among the parties. Within 10 days after the appointment, the Accounting Officer may serve on the parties a Request for Documents requesting with particularity the documents he or she believes are necessary for the accounting. Within

10 days thereafter, any party may object to the Request, which objection will be heard, together with any response thereto, by the Court within 20 days. The objecting party shall contact the Court's ADR Department for a hearing date. Documents requested by the Accounting Officer shall be produced within 30 days of the request; provided, however, that if there is an objection, documents shall be produced only as the Court may direct. Within 30 days after he or she has received requested documents, or such other time as the Court, for good cause shown, may direct, the Accounting Officer shall file with the Court and serve on all parties a Statement of Account.

The DRC shall be scheduled after the Statement of Account has been filed and served and the parties shall provide copies of the Statement of Account to the DRC temporary judges. It is the plaintiff's responsibility to schedule the DRC.

(Revised January 1, 2007)

7.12.10 MANDATORY SETTLEMENT AND READINESS CONFERENCE

A. The Settlement Conference. Approximately 4 weeks prior to the trial date, a Mandatory Settlement and Readiness Conference (MSRC) shall be held in all cases. At the MSRC, all matters that need to be resolved prior to trial, including the matters set out in Rules 7.12.09D and E, shall be before the Court.

B. Persons Attending and Authority. Trial counsel, the parties, and all persons whose consent is necessary for a settlement must attend the MSRC in person; provided, however, that for good cause shown, the Court may excuse the personal attendance of any person. All persons required to attend must have full authority to settle the case.

C. The Settlement Conference Statement. No later than 5 court days before the MSRC, each party shall file and serve on the other parties an MSRC Statement. The MSRC Statement shall contain for each plaintiff a good faith settlement demand and an itemization of economic and non-economic damages and for each defendant a good faith offer of settlement. In addition, the MSRC Statement shall address the following.

- (1) **Statement of the Case.** A statement of the facts and law of the case and the respective contentions of the parties regarding liability and damages.
- (2) **Witnesses.** A list identifying all lay witness and expert witnesses the party intends to call at trial.
- (3) **Exhibits.** A list identifying all exhibits the party intends to offer at trial.
- (4) **Jury Instructions.** A checklist identifying proposed jury instructions and general and special verdicts.
- (5) **Photographs and Reports.** Each party shall attach to the MSRC Statement copies of relevant documents, which may assist the Court in settlement including photographs, diagrams, reports, bills, and contracts.

D. **Motions in Limine.**

- (1) No later than 3 court days before the MSRC, each party shall file and serve on the other parties all motions in limine.

Motions in limine declarative of existing law (e.g., to exclude mention of liability insurance pursuant to Evidence Code § 1155 or reference to settlement negotiations pursuant to Evidence Code § 1152) are

unnecessary and should not be made.

Motions to exclude evidence must be supported with a declaration or other evidentiary predicate specifying with particularity the evidence sought to be excluded [*Kelly v. New West Federal Savings* (1996) 49 Cal.App.4th 659].

- (2) Placerville Session. All Motions in Limine must be in writing and are to be filed with the Judicial Assistant in Department 9, located at 3321 Cameron Park Drive, Cameron Park, California and served as provided in paragraph D(1) of this rule. (Revised July 1, 2006)
- (3) South Lake Tahoe Session. All Motions in Limine must be in writing and are to be filed and served as provided in paragraph D(1) of this rule. Motions in Limine will ordinarily be heard on the Law and Motion calendar on the Friday preceding the trial date.
- (4) Any party opposing a Motion in Limine shall file and serve that party's response no later than seven (7) court days after the Mandatory Settlement and Readiness Conference. Motions in limine concerning the admission or exclusion of proposed evidence shall be accompanied by a declaration stating the specific evidence sought to be admitted or excluded.

E. **Good Faith Participation and Sanctions.** Counsel, the parties and all persons attending the MSRC, shall participate fully and in good faith. The Court may impose sanctions on any person required to attend who fails to attend, to participate fully and in good faith, or to file the required documents as set forth in Local Rule 7.12.12. In addition to such sanctions, the Court may vacate the trial date.

F. **Settlement of the Action.** If a case is settled, (1) the parties shall place the settlement on the record or reduce it to writing, as the Court may direct, (2) the court shall vacate all pending court dates and (3) the plaintiff shall dismiss the action within 45 days; provided, however, that if the conditions for dismissal in the settlement cannot be completed within 45 days, the plaintiff shall specify the date of dismissal. If the plaintiff does not dismiss the case within 45 days of the date of dismissal, the court shall dismiss the case unless good cause is shown why the case should not be dismissed.
(Revised July 1, 2004)

7.12.11 ISSUES CONFERENCE

At a date to be set at the MSRC, an Issues Conference (IC) shall be held in all cases. Trial counsel shall attend and the following rules shall apply.
(Revised July 1, 2002)

A. **Meet and Confer and the Issues Conference Statement.** Prior to the IC, the parties shall meet and confer and, no later than one court day prior to the IC file and serve IC Statements

setting forth (1) the legal and factual issues of the case, (2) the proposed sequence of trial, and (3) legal points and authorities as appropriate.

B. Joint Statement of the Case and Jury Voir Dire Questions. At the meet and confer, the parties shall prepare a joint statement of the case to read to the jury, and, in so far as possible, jury voir dire questions. They are to present the joint statement and the voir dire questions to the Court at the IC.

C. Jury Instructions and General and Special Verdicts. At the meet and confer, the parties are also to prepare a joint set of jury instructions including all instructions to be offered by either party. They are to tab instruction on which they cannot agree and present the joint set to the court at the IC. The parties are also to prepare joint sets of general and special verdicts, tab the items on which they cannot agree, and present the joint sets to the Court at the IC.

D. Joint Set of Exhibits and Exhibit List. Further, at the meet and confer, the parties are to exchange all exhibits and prepare a joint set of exhibits, numbered in sequence, tabbed, and placed in three-ring binders. They are to prepare a separate set of binders for the Court, discuss the admissibility of exhibits and prepare a joint list of exhibits indicating the exhibit number, the identity of the exhibit, the proponent and whether the exhibit will be admitted by stipulation. They are to present the joint list and the exhibits binders to the Court at the IC.

E. Evidence Code Section 402 Hearings. Further, at the meet and confer, the parties are to discuss the necessity of motions to establish the existence of preliminary facts under Section 402 of the Evidence Code and are to inform the Court of such necessity at the IC.
(Revised July 1, 2004)

7.12.12 SANCTIONS

The failure of any person to comply with these Rules or any order of the Court shall constitute an unlawful interference with the proceedings of the Court. For any such interference, the Court may impose upon the offending person sanctions which may include, but are not limited to, continuing a conference and requiring the filing of appropriate documents, awarding monetary sanctions, attorney's fees, expenses and costs, striking pleadings and entering the default of any party, dismissing the action, and contempt.
(Revised July 1, 2002)

7.12.13 RESERVED FOR FUTURE USE (Revised January 1, 2006)

7.12.14 PLAINTIFF'S DUTY IF CASE SETTLES, VACATION OF DATES, AND THE DISMISSAL HEARING.

A. Plaintiff's Duty to Notify of Settlement. Whenever a case settles, the plaintiff shall notify the court in writing with copies to all parties, arbitrators or other ADR neutrals and dismiss the case. If any scheduled event, including a hearing, conference or trial, is imminent, the plaintiff shall also notify the court, arbitrator or other ADR neutral orally or by telephone.

B. Conditional Settlement. If a condition of the settlement cannot be completed

within 45 days of the Notice of Settlement, hereinafter a "Conditional Settlement," the notice shall state the date upon which the condition is to be completed and the dismissal filed.

C. Vacation of Dates and the Dismissal Hearing. Upon notification of a settlement, the Court shall vacate all scheduled events and notify the parties that the Court will dismiss the case at a hearing to take place 45 days after the notice of settlement, unless the parties show good cause why the case should not be dismissed. If the settlement is a Conditional Settlement, the dismissal hearing shall take place 45 days after the date for dismissal stated in the Notice of Settlement.

D. The Order to Show Cause shall be vacated if a dismissal has been filed, together with proof of service of the dismissal on all parties at least 24 hours prior to the date set for the hearing. At the hearing the Court will dismiss the action unless plaintiff's counsel personally appears and shows good cause why the case should not be dismissed. Telephonic appearances will not be allowed at the hearing unless prior leave of court has been obtained.

E. Sanctions. Failure to follow the procedures set forth in this rule and California Rules of Court, rule 3.1385, may result in the imposition of sanctions. If no dismissal has been filed prior to the hearing and counsel fail to appear at the hearing, the Court will dismiss the action and set the matter for an Order re: Sanctions as to plaintiff or plaintiff's counsel.

(Revised January 1, 2007)

7.12.15 TELECONFERENCING IN SUPERIOR COURT

A. Program Procedure

- (1) The CourtCall Telephonic Appearance Program ("CourtCall") organizes a procedure for telephonic appearance by attorneys as a reasonable alternative to personal appearances in appropriate cases and situations. CourtCall is fully voluntary and no attorney is required to utilize CourtCall. Rather, CourtCall is available at a reasonable fixed fee to use when circumstances are appropriate.
- (2) Designated courts conduct hearings on calendar in the usual manner, with the only difference being that hearing order preference is given to cases with CourtCall appearances, unless the court exercises its discretion to call cases in a different order.
- (3) Hearings are conducted in open court or in private as the Court may designate. All attorneys making CourtCall appearances call a designated toll free teleconference number a few minutes before the calendar is scheduled, to check in with the clerk. Attorneys remain on the court's speakerphone-telephone line and hear the same business that those present in the court may be hearing. Attorneys not participating telephonically appear in person. The court calls cases for hearing. All attorneys on a case participate in the hearing. All present in the courtroom hear the discourse of those making CourtCall Appearances.

- (4) CourtCall Appearances are scheduled, in writing, in advance, by counsel serving on all other counsel and pro-se parties and delivering (via fax, mail, or personal delivery) to CourtCall, LLC, not less than 5 court days prior to the hearing date, a Request for CourtCall Appearance form and by paying the stated fee for each CourtCall Appearance.
- (5) **DO NOT CALL THE COURT.** To make arrangements to appear telephonically, please call the Program Administrator, CourtCall, at (310) 572-4670 or (888) 882-6878 at least 5 court days prior to the hearing.

B. Participation in CourtCall Appearances

(1) Courts

- (a) Judges and Commissioners may volunteer to participate in CourtCall. Each participating court shall give calendar hearing order preference to cases, which include attorneys making CourtCall Appearances, except under unusual circumstances as determined by the court.
- (b) Subject to the court's right to amend this list, the following matters are currently deemed unsuitable for CourtCall Appearances.
 - (i) Judgment Debtor Examinations
 - (ii) Mandatory Settlement Conferences
 - (iii) Ex Parte Applications
 - (iv) Hearings at which oral testimony may be presented
 - (v) Hearings in which oral argument is anticipated to exceed 15 minutes
 - (vi) Orders to Show Cause
 - (vii) Case Management Conferences (complex litigation only)
- (c) The Court reserves the right, at any time, to reject any Request for CourtCall Appearance. When the Court rejects a request, it shall order a refund of deposited telephonic appearance fees and notify CourtCall, LLC.
- (d) The court shall also reserve the right to halt the telephonic hearing on any matter and order the attorneys to personally appear at a later date and time, in which case, no refund is permitted.
- (e) If a matter is continued prior to the actual hearing date, the prior filing of a Request for CourtCall Appearance form shall remain valid for the continued date of hearing.
- (f) Existing rules and procedures regarding the making of the record by a court reporter or electronic device or obtaining a transcript after the hearing shall apply to hearings at which CourtCall Appearances are made. No recordings may be made of telephonic

appearances except in compliance with California Rules of Court, rules 7.950 through 7.995.

(2) Attorneys

- (a) Attorneys electing to make a CourtCall Appearance shall serve on all other parties in the case the Request for CourtCall Appearance form, fax a copy of the form to CourtCall, LLC, and pay the CourtCall Appearance Fee in the method prescribed, not less than five (5) court days before the hearing date.
- (b) When the Request for CourtCall Appearance is made at the same time as the filing of the hearing document or response, in addition to the Request for CourtCall Appearance form, the words “CourtCall Appearance Requested” shall be printed below the department, date, and time of the hearing on the first page of the papers filed with the Court.

C. Appearance Procedure

- (1) An attorney making a CourtCall Appearance shall:
 - (a) Eliminate to the greatest extent possible all ambient noise from the attorney’s location;
 - (b) Be required, during the attorney’s appearance, to speak directly into a telephone handset;
 - (c) Not call in with cellular or cordless telephone devices or through a personal computer.
- (2) An attorney making a CourtCall Appearance shall call the court’s designated toll free teleconference line, approximately 5 minutes prior to the scheduled hearing time and check-in with the clerk. An attorney calling after the check-in period shall be considered to be late for the hearing and shall be treated by the Court in the same manner as if the attorney had personally appeared late for the hearing.
- (3) An attorney appearing telephonically shall state his or her name for the record each time the attorney speaks and shall participate in the appearance with the same degree of courtesy and courtroom etiquette as is required for a personal appearance. An attorney shall not utilize the “hold” button, as it is not within the policy of the court to wait for an attorney to rejoin the line.

(Revised January 1, 2007)

The trial date, any hearing date, and case management dates may be modified only on a noticed motion, for good cause shown and with the consent of the Judge to whom the case has been assigned; provided, however, that if case management authority has been delegated to a Judge Pro Tem, case management dates, but not the trial date, may be modified by the Judge Pro Tem on an ex parte showing of good cause in writing with 24 hours notice to all parties.

This rule does not apply to hearings set on the law and motion calendar as provided in Local Rules 7.10.00 et seq.

Ex parte applications to modify case management dates, to change a mandatory settlement conference date, or to change the ADR completion date are considered motions and will be charged a motion fee.

(Revised January 1, 2009)

7.12.17 CONFLICTS AMONG THE RULES

In the event of any conflict between these Case Management Rules and any other Local Rules, which may apply, the Case Management Rules shall control.

(Revised July 1, 2002)

7.12.18 FORMS

The Superior Court will provide the following forms, which are to be used when required by these Rules:

- A. Case Management Statement;
- B. Request for ConferenceCallService Appearance.

(Revised July 1, 2002)

7.12.19 ELECTRONIC RECORDINGS OFFERED INTO EVIDENCE – CIVIL CASES

Unless otherwise ordered by the Court, a party offering into evidence an electronic sound or sound-and-video recording shall tender to the Court and to opposing parties a typewritten transcript of the electronic recording no later than 15 days prior to the trial or hearing.

(Effective July 1, 1999)

7.13.00 ACCESS TO CERTAIN CIVIL FILES

- A. Adoption and Related Files [CC § 7017, CC § 232, Prob. Code § 1500].

(1) The attorney of record may have access to the file and may make copies of documents therein without a court order.

(2) A party to an adoption may, on written request, receive a "Certificate of Adoption" from the Court Clerk. There is no fee for this service. If a party to an adoption wishes to obtain information from the file other than a Certificate of Adoption, he or she must first obtain a court order

authorizing release of the information.

- (3) A party desiring to access the original birth certificate must petition the Superior Court of the county in which the Petitioner resides pursuant to Health and Safety Code § 10439. The Clerk will send a copy of the Petition to the Department of Social Services, which will provide such information as it may possess. Upon receipt of the information from DSS, the Petition will be set for hearing and the Petitioner will be notified of the date and time set for hearing.
- (4) Any person, other than a party, requesting information from a sealed adoption file must petition the court, setting forth a detailed factual showing sufficient to establish good cause. For the purposes of this Rule, the "good cause" required to be shown shall be tantamount to necessity. After the Petition has been filed, the matter shall be set for hearing.

B. Lanterman-Petris-Short Act Conservatorship File [Welfare and Institutions Code §5540]. A qualified professional, the attorney for the patient, a county patient's rights advocate, or a person designated by the patient may inspect and copy confidential client information and records when specifically authorized by the client or the guardian ad litem. The authorization shall be in writing and shall be kept with the file.

C. Paternity Files and Complaints to Establish Paternity. Only the parties to the action or their attorneys of record may inspect the file. Copies of documents in the file may be released to the party or the attorney upon the presentation of proof of identification.

The Final Judgment is a public record. All other documents are confidential. A person, other than a party or the attorney of record for a party, seeking copies of other documents in the file must file a noticed motion setting forth a detailed factual showing constituting good cause. (Effective January 1, 1994)

7.14.00 ORAL ARGUMENT BEFORE THE APPELLATE DEPARTMENT OF THE SUPERIOR COURT

A party in pro per or counsel where a party is represented may request oral argument by notifying the Court in writing no later than 5 court days prior to the date set for hearing the appeal as designated in the Notice of Time and Place of hearing on appeal and Time for filing of Briefs. If the Court does not receive a timely request for hearing, the Court will take the matter under submission without oral argument and render a decision in due course. Notification of a request for oral argument shall be made to the Appeals Clerk at the Placerville Courthouse, 495 Main Street, Placerville, California 95667. (Effective July 1, 1998)

7.15.00 FICTITIOUS BUSINESS NAMES – SMALL CLAIMS

Code of Civil Procedure § 116.430 requires any plaintiff in a small claims action who operates or does business under a fictitious business name and the claim relates tot hat business

to file a declaration stating that the plaintiff has complied with the fictitious business name laws by executing, filing, and publishing a fictitious business name statement as required. The form of the declaration is prescribed in California Rules of Court, rule 3.2100.

Any defendant in a small claims action who files a cross-claim which relates to the operation or transaction of business under a fictitious business name shall also be required to file a declaration as prescribed by Code of Civil Procedure § 116.430 and California Rules of Court, rule 3.2100.

(Revised January 1, 2007)

7.16.00 RULES FOR ACTIONS ARISING UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT – PUBLIC RESOURCES CODE SECTION 21000 ET SEQ.

A. (1) Where filed.

Actions in the nature of mandate challenging an agency decision under the California Environmental Quality Act (Public Resources Code § 21000 et seq.) shall be filed in the Civil Section of the Clerk’s Office and the case shall be thereafter assigned for all purposes to a judge designated by the Presiding Judge.

(2) Record Status Conference.

(a) Request for Status Conference. At the time that a petition is filed in accordance with these Rules, the petitioner shall request the Court set a Record Status Conference before the judge assigned to the case within thirty (30) days of the date of filing of the petition, and serve notice of the date of the Record Status Conference on the respondent.

(b) Certification of the Record. The Court will set a tentative hearing date for a hearing to certify the administrative record. The parties shall provide the Court at the Record Status conference a joint list of documents proposed to be included in the record that the parties consider to be the principal documents defining the issues presented by the petition and the response thereto.

Each party may supplement the joint document list with a list of additional documents the party considers to be of particular importance to its position. Each document shall be designated by both the page number in the record and by the document’s title.

The parties shall also give the Court a preliminary indication of any disputes concerning the accuracy or scope of the record, with specific references to document page and title.

- (c) Briefing Schedule and Hearing on the Petition. The Court shall also set a tentative date for a hearing on the petition and set a tentative briefing schedule at the Record Status conference. The hearing date and the briefing schedule may be advanced or continued by the Court on its own motion or on noticed motion of a party for good cause shown. Memoranda of Points and Authorities shall be in accordance with California Rules of Court, rule 3.1113. The briefs shall contain specific references to the administrative record, by record page number and the document title, in support of any factual contentions asserted by a party in its brief. A reference to the “the whole file” is not a specific reference. Each brief shall have a separate appendix page that lists the page number of each page of the administrative record cited in the brief.

B. Ordering the Administrative Record

In accordance with Public Resources Code, § 21167.6, within 10 business days after the action is filed, petitioners shall personally serve on the appropriate public agency their request for preparation of the administrative record or their notice of election to prepare the administrative record themselves.

C. Mediation

In accordance with Government Code, § 66031, within 5 days after the deadline for respondent to file a response to the action, petitioners shall prepare and lodge with the Civil Clerk a notice form for the Court’s signature inviting mediation. The clerk shall then mail the notice of invitation to the parties.

D. Preparation of the Administrative Record

- (1) **Preparation of the Record by the Public Agency.** Within 20 calendar days after receipt of a request to prepare the administrative record, the public agency responsible for the preparation shall personally serve on petitioners a preliminary notification of the estimated cost of preparation, including the agency’s normal cost per page, any other reasonable costs the agency may anticipate, and an estimate of the probable number of pages. The preliminary notification shall also state, to the extent that the information is known to the agency, the location of documents that are anticipated to be incorporated into the administrative record; the contact person or persons responsible for identifying individuals having custody of those documents, whether agency personnel or other persons; and a list of dates and times specifying when, during normal business hours, those documents will be made available to petitioners or other parties for inspection. The agency shall supplement the preliminary notification from time to time as additional documents are located or are determined to be appropriate for inclusion in the record.
- (2) **Election by Petitioners.**

- (a) Upon receipt of the preliminary notification, petitioners may elect to prepare the record themselves provided that they notify the agency within 5 calendar days of receipt. Within 40 calendar days of service of the notice of the request to prepare the administrative record, petitioners shall prepare and serve on all parties a detailed index listing the documents proposed by petitioners to constitute the record. Within 7 calendar days of service of petitioners' proposed document index, the agency and any other party shall prepare and serve on petitioners a notice specifying any documents or items that the agency or party contends should be added to or deleted from the record as proposed by petitioners.

The agency shall promptly notify petitioners of any required photocopying procedures or other conditions with which petitioners must comply to prepare the record.

- (b) If petitioners do not elect to prepare the record themselves, then within 40 calendar days after service of the request to prepare the administrative record, the agency shall prepare and serve on all parties a detailed index listing the documents proposed by the agency to constitute the record together with a supplemental estimated cost of preparation. Within 7 calendar days after service of the agency's proposed document index, petitioners and any other parties shall prepare and serve the agency and all parties with a notice specifying any documents or items that a party contends should be added to or deleted from the record.

- (3) **Preparation of the Record by Petitioners.** Within 20 calendar days after receipt of petitioners' notice of election to prepare the record themselves, the public agency responsible for certification of the record shall personally serve on petitioners a preliminary notification designating the location of documents that are anticipated to be incorporated into the administrative record; the contact person or persons responsible for identifying individuals having custody of those documents, whether agency personnel or other persons; and a list of dates and times specifying when, during normal business hours, those documents will be made available to petitioners or other parties for inspection and copying. The preliminary notification from the agency shall also notify petitioners of any required photocopying procedure or other conditions with which petitioners must comply to prepare the record. The agency shall supplement the preliminary notification from time to time as additional documents are located or are determined to be appropriate for inclusion in the record.

Within 40 calendar days after service of petitioners' notice of election to prepare the administrative record, petitioners shall prepare and serve on all

parties a detailed index listing the documents proposed by petitioners to constitute the record. Within 7 calendar days of service of petitioners' proposed document index, the agency and any other party shall prepare and serve on petitioners a notice specifying any documents or items that the agency or party contends should be added to or deleted from the record as proposed by petitioners.

E. Format of Administrative Record

- (1) **Type of Paper.** The Administrative Record shall be prepared on white or unbleached paper, preferably recycled, of standard quality not less than 20-pound weight, 8½ by 11 inches in size, using a photocopying process that will produce clear and permanent copies legible to printing. Only one side of the paper shall be used and the margin shall not be less than 1¼ inches on the left side of the page. The original of an environmental document may be lodged as part of the administrative record provided that exact copies of the original are provided to all parties in the action. The pages of the administrative record shall be numbered consecutively and three-hole punched in the left margin.
- (2) **Volume Designation.** The Administrative Record shall be lodged in one or more volumes of loose-leaf binder, tabbed by document number and prominently titled "ADMINISTRATIVE RECORD VOL. 1", etc Each volume shall consist of not more than three hundred (300) pages and shall be numerically tabbed by the document number in the volume. Each volume shall have a cover-page listing each document in the volume by the number of the tab which it appears, the full title of the document, and the page number of the record of the first page of the document.
- (3) **Organization.** Prior to certification and lodging, the Administrative Record shall be organized with the documents in the following order:
 - (a) The Notice of Determination;
 - (b) The Resolution(s) or Ordinance(s) adopted by the lead agency approving the project, including any resolution(s) or ordinance(s) adopted in compliance with Public Resources Code, §§ 21081 and 21081.6;
 - (c) The Draft or revised Draft Environmental Impact Report and initial study;
 - (d) The comments received on and the responses to those comments prepared for the Draft Environmental Impact Report or Negative Declaration, including any modifications to the environmental documents and project made after the comment period;

- (e) The remainder of the Final Environmental Impact Report (e.g, the Technical Appendices and other technical materials);
- (f) The staff reports prepared for the approval bodies of the lead agency;
- (g) Transcripts and/or minutes of hearings;
- (h) The remainder of the administrative record, in chronological order if possible.

The above table of organization if not intended to dictate the content of the record but rather to describe a uniform order for those documents typically contained in an administrative record. Documents to be included in the record are specified in Public Resources Code, § 21167.6(e).

F. Certifying and Lodging the Record

Upon completion and preparation of the record, it must be certified by the agency before being filed with the court. If the agency has prepared the record, it shall make the required certification and shall personally serve the record and lodge it with the court no later than 60 days after the request. If the petitioners have elected to prepare the record, the petitioners must transmit it to the agency for certification. After certification, petitioners shall then personally serve the record and lodge it with the Court no later than sixty (60) days after service of the notice of election to prepare the record. Any extension of the 60-day period may be requested by filing a stipulation signed by all parties and obtaining court approval of the extension(s) prior to the expiration of the 60-day period. Alternatively, an extension may be requested on noticed motion prior to the expiration of the 60-day period.

If the agency refuses to make a complete certification, it shall make a partial certification, specifying the alleged defects in the record and stating reasons for refusing to certify portions of it.

G. Disputes Regarding the Contents of the Administrative Record

Once the Administrative Record has been lodged with the Court, any disputes about its accuracy or scope shall be resolved on noticed motion. For example, if the agency has prepared the Administrative Record, petitioners may contend that the record as prepared omits relevant documents or contains inappropriate documents; if petitioners have prepared the record, the agency may have similar contentions. Objections to documents contained within the record shall be specific as to document number, full title, record page number, and the portion(s) to which the objection pertains.

A motion to supplement the Administrative Record with additional documents and/or to object to certain documents may be noticed by any party after obtaining a hearing date from the Clerk of the Court. The hearing to supplement the record or to object to documents shall be separate from and heard on a date prior to the hearing on the writ. Notice shall be given in accordance with Code of Civil Procedure, § 1005.

H. Hearing to Certify the Administrative Record

The date of the hearing to certify the Administrative Record will normally be set by the Court at the Record Status conference and may be advanced or continued by the Court or on noticed motion of a party for good cause shown.

At the hearing to certify the record, the parties shall provide the Court with an agreed statement of the issues that will be presented to the Court at the hearing on the petition. Each party may supplement the agreed statement of issues with additional issues that a party intends to raise. The Court will confirm or revise the tentative briefing schedule and hearing date that were set at the Record Status Conference.

I. Settlement Meeting

The notice of settlement meeting required by Public Resources Code, § 21167.8(a) shall provide that, if the parties agree, the first settlement meeting shall be continued so as to take place no later than 35 days after the Administrative Record has been served. If the parties do not so agree, the first settlement meeting shall take place in conformity Public Resources Code, § 21167.8. In the event there is no agreement for a continuance of the first settlement meeting, a second settlement meeting shall take place within 5 days after the Administrative Record is served. The parties shall agree to the time and place of any settlement meeting(s); failure to agree may result in the imposition of sanctions pursuant to Public Resources Code, § 21167.8(e). Other settlement meetings may be scheduled by the parties.

The Statement of Issues required by Public Resources Code, § 21167.8(f) shall identify, by document number, full document title, and record page number, those portions of the Administrative Record that are directly related the contentions and issues remaining in the controversy. While the Statement of Issues will be utilized by the Court in focusing on the legal and factual contentions and issues raised by the parties, those contentions and issues must be consistent with the pleadings to be properly resolved by the Court.

J. Trial Notebook

Petitioners shall prepare a trial notebook in a three-ring binder that shall be filed with the Court no later than 15 days prior to the date of the hearing. The trial notebook shall contain the Petition, the answer(s) the Memoranda of Points and Authorities, any motions set to be heard at the trial of the action, the Statement of Issues, and any other document(s) agreed upon by the parties. Each document in the trial notebook shall be separately tabbed with a table of contents at the front of the notebook. The notebook shall also contain an index to evidence cited in the briefs by document title, record page number, and the volume and tab number in the Administrative Record.

(Revised January 1, 2007)