

8.00.00 FAMILY LAW RULES - GENERAL PROVISIONS

(Effective January 1, 1994)

8.00.01 DEFINITION OF FAMILY LAW MATTERS

As used in this Rule, the term "Family Law Matters" includes all matters under the Family Law Act, Uniform Parentage Act, Emergency Protective Orders, the Domestic Violence Prevention Act, the Uniform Child Custody Jurisdiction Act, the Revised Uniform Reciprocal Enforcement of Support Act, Petitions for Writ of Habeas Corpus or Warrant in Lieu thereof, (involving child custody), non-business Orders Prohibiting Harassment, and Guardianships, and any other matter involving child support, spousal support or child custody and visitation.

(Effective January 1, 1994)

8.00.02 APPLICATION OF RULES

Except as inconsistent with this Rule, Family Law Matters shall be subject to the rules governing civil cases generally.

(Effective January 1, 1994)

8.00.03 FAMILY AND JUVENILE COURT MANAGEMENT OF CHILD ABUSE CASES

It is the policy of the Superior Court to identify and coordinate custody proceedings involving the same child which may appear in multiple legal settings. It is further the policy of the Superior Court to coordinate the efforts of the different court systems so that the child's needs are served and the resources of the family and the Court are not wasted. To these ends, the Superior Court and the agencies serving the court shall cooperate to increase the exchange of information and to determine the most appropriate forum for resolution of the issues related to the child.

A. Report Pursuant to Penal Code, § 11166

If during the pendency of a family law proceeding a child abuse allegation against one or more of the child's parents comes to the attention of a Family Court Judge, Commissioner, or other mediator or evaluator, any of these persons shall first determine whether the allegation must be reported to a child protection agency, pursuant to Penal Code, § 11166. If that person determines the allegation does not fall within the description of section 11166, he/she need not make a report.

B. Child Abuse Investigation

When the El Dorado County Social Services Department, Child Protective Services (CPS), receives a report of suspected child abuse during the pendency of a family law proceeding, it shall investigate the matter immediately or within 3 or 10 days pursuant to DSS Regulations 30-132. CPS shall coordinate its investigation with the reporting policy agency. CPS shall inform the Family Court Judge or Commissioner of any decisions it makes concerning the child abuse investigation. It shall contact the investigating agency immediately so that all

investigative efforts can be coordinated.

C. Welfare and Institutions Code, § 329 Application

If CPS decides not to intervene or fails to report to the reporting party within 10 days, any person may apply to the social worker to commence proceedings in the Juvenile Court, pursuant to Welfare and Institutions Code, § 329. In that application, the affiant shall give notice and identifying information of any pending family law proceeding. A copy of the application shall be sent to the Family Court Judge or Commissioner by the moving party. The social worker shall respond in writing to the application as soon as possible or within three weeks after submission of the application. (Welfare and Institutions Code, § 329.) The social worker shall send a copy of the written response to the Family Court.

D. Suspension of Family Court Proceedings

(1) CPS Report

After a report of suspected child abuse has been made to a child protection agency, custody and visitation proceedings in the Family Court are suspended, except that the Family court shall have the power to make temporary protective orders to ensure the safety of the child. The suspension shall remain for eighteen calendar days from the report or until CPS indicates in writing that it will take no action in the matter, whichever occurs first.

(2) Welfare and Institutions Code, § 300 Petition – Juvenile Court

If a petition pursuant to Welfare and Institutions Code, § 300 is filed in the Juvenile Court, all custody and visitation proceedings in the Family court are suspended. Thereafter, custody and visitation issues shall be determined by the Juvenile Court. The Family Court shall resume custody or visitation litigation only after written authorization is received from the Juvenile Court.

E. Review of the Decision of the CPS Social Worker Not to Initiate Dependency Proceedings

If the Probation Officer or CPS Social Worker decides not to initiate dependency proceedings, any person who has applied for the commencement of dependency proceedings pursuant to Welfare and Institutions Code, § 329 within one (1) month of that application, may apply to the Juvenile Court to review that decision pursuant to Welfare and Institutions Code, § 331. The application shall include a copy of any application made to pursuant to Welfare and Institutions Code, § 329. The Juvenile Court shall rule on the application as soon as possible and in no event later than 30 days after receipt of the application.

F. Informal Supervision Agreement

If, during the Probation Officer's or CPS Social Worker's investigation, one or both parents reach an informal supervision agreement pursuant to Welfare and Institutions Code, § 301, a copy of that agreement shall be sent immediately to CPS, to Family Court Services and to each parent or their counsel.

G. Family Code, § 3150 Appointment of Counsel

During family law proceedings in which allegations of child abuse have been made, the Family Court Judge or Commissioner may appoint counsel for the child (Family Code, § 3150.) to protect the child's interests and/or expedite the policy stated herein and carry out the terms of this protocol.

H. Coordination of Cases

At any time during the process described herein, the Judges, Commissioners, and Referees assigned to hear Family Court and Juvenile Court matters are encouraged to discuss problems relating to the coordination of cases involving child abuse allegations.
(Effective July 1, 2000)

8.00.04 FAMILY COURT ORDERS ISSUED IN JUVENILE COURT

A. Petition for Dismissal of a Dependency Proceeding in the Juvenile Court

Whenever any interested party believes that juvenile court intervention on behalf of a child is no longer necessary, application may be made to the Juvenile Court pursuant to Welfare and Institutions Code § 388 or at any regularly scheduled hearing to have the case dismissed. If dismissed, any future litigation relating to custody, visitation and control of the child shall be heard in the Family Court or other appropriate Superior Court Civil Department.

B. Juvenile Court Custodial Order

If the Juvenile Court determines that jurisdiction of the Juvenile Court is no longer necessary for the protection of the child, the Court may create a custodial order consistent with the needs of the child and thereafter dismiss the juvenile petition and case. (Welfare and Institutions Code, §§ 361.2 and 362.4.)

C. Maintenance of Orders in Court Files

(1) Juvenile Court

The original court order shall be filed in the Family Court or civil file and endorsed copies shall be filed in the Juvenile Court file. A copy of the endorsed-filed order shall be mailed to all attorneys and parties.

(2) Superior Court

If no court file exists in the Family Court or other Superior Court division or in any other jurisdiction, the Clerk of the Superior Court shall create a file under the names of the child's parents. The file shall contain a copy of the Juvenile Court order. There shall be no filing fee. (Welfare and Institutions Code, § 362.4.)

(Effective July 1, 2000)

8.00.05 PROCEDURES FOR AIDS TESTING OF MINORS

A. **Policy.** The Juvenile Court finds it necessary to engage in early intervention and to provide treatment for dependent children who are infected with the human immunodeficiency virus (HIV), the probable causative agent of acquired immune deficiency syndrome (AIDS). Therefore, it is ordered that certain high-risk infants who are taken into temporary custody pursuant to Welfare and Institutions Code sections 306(a)(2) and 309(b) and who may have been exposed to HIV, be tested for the presence of HIV pursuant to the limitations in this order.

B. **Subject to Testing.** Children who meet all of the following criteria may be tested:

- (1) Child is age 0-18 months as of the date the consent form is signed.
- (2) Child has been or will be placed in out-of-home care.
- (3) Child's parent(s)/legal guardian(s) have refused to provide consent or their whereabouts is unknown.
- (4) A parent of the child has one or more of the following risk behaviors: history of prostitution; intravenous drug use; hypodermic needle sharing; and/or multiple sex partners whose personal histories are either unknown or known to include one or more of the above-cited risk behaviors.
- (5) Child is a victim of sexual abuse, the nature of which has placed the child at risk of exposure to HIV.

Pursuant to Welfare and Institutions Code section 369(a) and Health and Safety Code section 199.27 and the order of the Presiding Judge, the Director of the El Dorado Department of Social Services or the Director's designee, is authorized to consent to the child's evaluation for the presence of infection by the human immunodeficiency virus and to receive the results of such testing and any diagnosis(es) derived therefrom.

Further, the Department of Social Services is authorized to disclose the results of the HIV test(s) and any diagnosis(es) derived therefrom to the child's attorney, out-of-home care providers, parents (unless their parental rights have been terminated), legal guardian, prospective adoptive parents, dentist or mental health practitioner who is currently providing professional services to the child, the nature of which creates a legal need to know the child's HIV status.

The Department of Social Services shall not disclose the test results and any

diagnosis(es) derived therefrom to any other parties, but may petition the Presiding Judge of the Juvenile Court for such disclosure, upon a showing of good cause.

The Department of Social Services is directed to report to the Presiding Judge of the Juvenile Court, on a quarterly basis, the names and case numbers of the children who have been tested pursuant to this rule.
(Effective July 1, 2002)

8.01.00 MEET AND CONFER REQUIREMENT
(Effective January 1, 1994)

8.01.01 REQUIREMENT

No Family Law matter (including a motion, order to show cause, or trial) shall be heard until counsel, with their respective clients either physically present or immediately physically available, have met and conferred in a good faith effort to resolve all issues.
(Effective January 1, 1994)

8.02.00 CONTINUANCES
(Effective January 1, 1994)

8.02.01 CONTINUANCE DISFAVORED

Continuances of motions or orders to show cause in Family Law Matters are disfavored.
(Effective January 1, 1994)

8.02.02 ONE CONTINUANCE LIMITATION

No more than one continuance at the request of either party shall be allowed except in unusual circumstances.
(Effective January 1, 1994)

8.02.03 CONTINUANCE FOR MEDIATION

A continuance necessary to allow for mediation shall not be counted as a continuance requested by either party.
(Effective January 1, 1994)

8.02.04 OTHER CONTINUANCES

Other continuances shall be granted only if the party requesting the continuance meets the standards set forth in Section 9 of the Judicial Administration Standard.
(Effective January 1, 1994)

8.02.05 CONTINUANCE BY STIPULATION ON LAW AND MOTION MATTERS

If both parties and their attorneys agree to a continuance, neither party need appear in court provided at least one party contacts the Court Clerk by 3:00 P.M. the day before the hearing to advise the court and further confirm the continuance in writing by a stipulation signed by both attorneys. Said stipulation shall confirm that the attorneys are authorized by their clients to continue said matters and the basis of the continuance. The attorneys shall either contact the Court Calendar Clerk for available dates or provide their unavailable dates to the calendar clerk.

For hearings in which a client/party must appear, requests for continuances must be signed by each party and by each attorney. Filings made by facsimile transmission not later than 5:00 P.M. on the court day before the scheduled hearing are acceptable. If a continuance is required because of the absence of a report from a mediator, the court may grant one continuance without the required signatures.

(Revised January 1, 2001)

8.03.00 INCOME AND EXPENSE DECLARATIONS

(Effective January 1, 1994)

8.03.01 WHEN REQUIRED

An Income and Expense Declaration is required in all Family Law matters where support or attorney's fees are requested.

(Effective January 1, 1994)

8.03.02 PREPARATION INSTRUCTIONS

The Income and Expense Declaration shall be completely filled out.

A. All applicable questions on Page 1 shall be answered.

B. Income and Expense Declaration shall be dated and signed.

(1) A Declaration that is not dated and/or signed shall not be considered in evidence by the Court, except insofar as it may constitute an admission against interest of the party.

(2) If a party is present at the hearing and has not dated or signed the Declaration, the party shall be permitted to amend the Declaration by interlineation to insert the date of signing or to sign the same.

C. Documents supporting each party's wages, income and other matters set forth in the Income and Expense Declaration, such as a copy of the most recent pay stub(s) representing at least one full month's wages and deductions or a W-2 form, shall be attached to the Income and Expense Declaration.

(Effective January 1, 1994)

8.03.03 ADDITIONAL INFORMATION TO BE PROVIDED

Each party shall exchange the following documentation at least five days prior to any scheduled hearing involving support or attorney's fees and/or costs:

- A. Copies of the three most recent paychecks or stubs.
- B. Complete Federal and State income tax returns for the last two years; including all schedules.
- C. Copies of any current W-2 and 1099 forms.
- D. Business entity's Federal and State income tax returns and profit and loss statements for the past two years, if any part of the business was operated prior to the date of separation. A business entity is defined as any business, including but not limited to, a sole proprietorship, partnership, joint venture, or corporation in which a party has any right of management and/or control.
- E. Any other documentation requested by the opposing party, provided such request is made in writing at least ten days prior to the scheduled hearing. The party requested to produce such additional documentation, however, may raise any objection to the production of said documentation, provided that such objection is conveyed to the requesting party prior to the date of the scheduled hearing and provided, further, that the objecting party brings the subject documentation to the scheduled hearing. The court shall resolve any objection at the hearing. Failure to object as herein provided shall be deemed a waiver of any objection to the production of the requested documentation.
(Effective January 1, 1994)

8.03.04 SANCTIONS

If a party fails to comply with this rule, upon request of a party or upon the court's own motion, the court may take any of the following actions at the scheduled hearing.

- A. Continue the hearing.
- B. Set a hearing for imposition of sanctions pursuant to Code of Civil Procedure Section 128.5 and/or Family Code Section 274.
- C. Assess reasonable attorney fees against the non-complying party.
- D. Strike all or part of the non-complying party's motion response, as the case may be.
- E. Make other orders as the court may deem appropriate.
(Effective January 1, 1994)

8.03.05 INFORMATION PRIVILEGED

All documentation identified in Rule 8.03.03, which is received by a party and/or their attorney of record, shall not be disclosed to any third party. Disclosure shall result in the imposition of sanctions pursuant to Code of Civil Procedure Section 128.5 and/or Family Code Section 274.

(Effective January 1, 1994)

8.04.00 CHILDREN IN COURTROOM

While children who are the subject of litigation may appear at the courthouse, it is the policy of the Court not to have any subject child in the courtroom without the Court's prior knowledge and consent. Children shall remain in the hallway or elsewhere in the care of a responsible person who is not a party.

(Effective January 1, 1994)

8.05.00 ORDERS TO SHOW CAUSE AND NOTICES OF MOTION

(Effective January 1, 1994)

8.05.01 DATE, TIME, AND PLACE OF HEARING

The date, time, and place of hearing on any Family Law Motion or Order to Show Cause shall be scheduled through the Calendar Clerk.

(Effective January 1, 1994)

8.05.02 FACE SHEET TO SHOW ISSUES TO BE HEARD

All orders to show cause, notices of motion, and responsive declarations set for hearing on the family law calendar shall state on the face sheet immediately below the title of the document the issues to be heard. The Court will not consider matters not set forth in the face sheet.

(Effective January 1, 1994)

8.05.03 MOVING AND RESPONSIVE PAPERS

All moving and responsive papers shall be timely served in compliance with Code of Civil Procedure § 1005(b) and California Rules of Court, rule 5118. A proof of proper service must be attached to all responsive pleadings.

(Revised July 1, 2009)

8.05.04 FORMAT OF ORDERS TO SHOW CAUSE AND NOTICES OF MOTION

The provisions of Rule 4.00.01A shall apply to Orders to Show Cause and Notices of Motion in Family Law matters. A copy of any document in the Court's file which is to be affected by the relief sought in the Order to Show Cause or Notice of Motion shall be attached to

the duplicate copy of the document delivered to the Clerk for the use of the Court.
(Effective January 1, 1998)

8.06.00 CONDUCT OF HEARING

(Effective January 1, 1994)

8.06.01 TIME LIMITATIONS

Hearings on the Law and Motion calendar are limited to 10 minutes and are subject to further time limitations to accommodate the Court's calendar. In the event either party in good faith believes that the matter cannot be completed in 10 minutes, he or she shall, at the time the matter is called, so inform the Court.

The Court may then set the matter or make such other order as may be appropriate under the circumstances. Matters, which can not be completed in a half-day, shall be referred to Master Calendar for setting.

(Effective January 1, 1994)

8.06.02 PRESENTATION OF EVIDENCE

Evidentiary Hearings on Motions and Orders to Show Cause in Family Law matters are within the discretion of the Court and are not a matter of right.

A. Matters set for which an Evidentiary Hearing is to be sought should be placed on the regular Family Law and Motion calendar, with the request for an Evidentiary Hearing contained in the moving or responding papers. The Court will not permit an Evidentiary Hearing to become a "fishing expedition" or a substitute for a deposition.

B. The party seeking the Evidentiary Hearing shall be required at the hearing on the Law and Motion calendar to make an offer of proof as to what the party expects to establish at the Evidentiary Hearing and the evidence that the party will introduce.

(Effective January 1, 1994)

8.06.03 EXCEPTIONS

Evidentiary Hearings are a matter of right on contempt proceedings, harassment, and domestic violence matters. If the matter will take longer than ten (10) minutes to present, a special setting may be required; however, the parties shall be prepared to proceed on the date originally scheduled.

(Effective January 1, 1994)

8.06.04 LACK OF APPEARANCE

Any matter in which there is no appearance at the time of calendar call shall be ordered off calendar unless the Courtroom Clerk has been notified that there will be a late appearance or that the matter has been continued.

(Effective January 1, 1994)

8.06.05 MATTERS TAKEN OFF CALENDAR

If a matter is to be taken off calendar, the moving party shall notify the Calendar Clerk and all parties who were served with the moving papers.
(Effective January 1, 1994)

8.06.06 PREPARATION OF ORDER AFTER HEARING

Unless otherwise ordered by the Court, the moving party shall prepare a written order following hearing on the Law and Motion Calendar under the legend, "Approved as conforming to Court Order." Opposing counsel shall have ten (10) calendar days from receipt in which to approve the Order. If not so approved, the preparing party shall submit the prepared order to the Trial Judge with a cover letter explaining why it was submitted without such approval and showing that a copy of said correspondence has been sent to opposing counsel.
(Revised July 1, 2009)

8.07.00 EX PARTE ORDERS AND ORDERS SHORTENING TIME

(Effective January 1, 1994)

8.07.01 DECLARATIONS REQUIRED

Specific declarations must support requests for ex parte orders.
(Effective January 1, 1994)

8.07.02 NOTICE

Before submitting an ex parte order for a Judge's signature, parties must comply with all applicable Family Code, Civil Procedure Code provisions and California Rules of Court, rule 397(b), including all requirements for declarations explaining that notice to the other party or attorney has been given, or the reason notice has not been given.
(Revised January 1, 2001)

8.07.03 OPPONENT REPRESENTATION

The party requesting ex parte orders must inform the Judge in a Declaration re: Notice of Ex Parte Application if the opposing party is represented by an attorney or is non-represented stating the name, address, and telephone number of the attorney or non-represented party, and the date and time notice has been given so the attorney or non-represented party may have an opportunity to oppose the application within four (4) hours.
(Effective January 1, 1994)

8.07.04 NOTICE EXCUSED

Notice may be excused if, following a good faith attempt, the giving of notice is not possible or if the opposing attorney, or non-represented party, does not object to the ex parte orders sought.
(Effective January 1, 1994)

8.07.05 SERVICE OF PAPERS

Unless a declaration stating reasons why notice should not be required has been filed with the court, and absent a showing of exceptional circumstances, moving papers in support of an ex parte application shall be filed and served by 10:00 A.M. the court day preceding the ex parte application in accordance with California Rules of Court, rule 379(b). The moving papers shall be served by facsimile transmission where possible.

(Revised January 1, 2001)

8.07.06 NOTICE WAIVED

Notice may be waived if the giving of such notice would frustrate the very purpose of the order and lead the applicant to suffer immediate and irreparable injury. The Declaration re: Notice of Ex Parte Application shall set forth detailed facts to show the grounds for waiver. The Application and Declaration for the orders requested might be considered by the Court in determining whether a waiver should be granted.

If a responding party requests an ex parte order be set aside prior to the date set for hearing, notice shall be given to the moving party. The Court may order an earlier hearing date or modify the orders on a proper showing in lieu of setting aside the orders.

(Effective January 1, 1994)

8.08.00 CONDITIONS FOR ISSUANCE OF ORDERS SHORTENING TIME

(Effective January 1, 1994)

8.08.01 AFFIDAVIT

If an Order Shortening Time is requested, the supporting Affidavit or Declaration shall state, pursuant to Rule 379, California Rules of Court, whether the opposing party is represented by counsel and whether that party has been contacted and has agreed to the requested Order Shortening Time.

(Effective January 1, 1994)

8.08.02 NOTICE

Notice shall be given to the opposing party in accordance with the requirements of California Rules of Court, rule 379(b).

(Revised January 1, 2001)

8.08.03 REASON TO BE STATED

If the opposing party has not been contacted or agreed to the Order Shortening Time, the supporting Affidavit or Declaration shall demonstrate why the hearing should be set on the proposed date without the consent of the opposing party.

As a general rule, an Affidavit or Declaration in support of an Order Shortening Time must show emergency circumstances unless it is solely to enable a responding party to obtain affirmative relief on a hearing date previously set by the opposing party.

(Effective January 1, 1994)

8.09.00 CHILD AND SPOUSAL SUPPORT

(Effective January 1, 1994)

8.09.01 GOVERNING LAWS

Child support is governed in all cases by the provisions of California Family Code Sections 4051 - 4068, and shall be based upon the information provided in the moving and responding papers.

(Effective January 1, 1994)

8.09.02 SPOUSAL SUPPORT

(Effective January 1, 1994)

8.09.03 TEMPORARY SPOUSAL SUPPORT

In the typical case, spousal support for temporary awards is calculated at 40% of the supporting spouses' net income and subject to reduction by 50% of the supported spouse's net income.

If child support is paid by one supporting parent for children of the relationship, the spousal support for temporary awards shall be calculated according to the formula adopted by Alameda County, as amended. These guidelines will be applied only to determine temporary spousal support awards.

(Revised January 1, 2001)

8.09.04 NO LIMITATION ON COURT DISCRETION

These guidelines are not intended to limit the Court's discretion except as otherwise provided by the Family Law Act or other applicable law. The Court will take all circumstances into consideration to the extent permitted by law.

(Revised January 1, 2001)

8.09.05 PERMANENT SPOUSAL SUPPORT

Permanent spousal support shall be determined pursuant to Family Code Sections 3651, 3653, 3654, 4320, 4330 - 4339, in accordance with applicable law.

(Effective January 1, 1994)

8.10.00 CHILD CUSTODY, VISITATION AND MEDIATION - GENERAL PROVISIONS

(Effective January 1, 1994)

8.10.01 REFERRAL TO MEDIATION

All contested custody and visitation matters including the legal terms used to define the parties' relationship with the child or children must be scheduled for mediation. However, if a

A. A curriculum vitae; and

B. The names of at least three attorneys who have worked with the proposed mediator/evaluator in connection with previous mediation-evaluations or professionals who are familiar with the work of the proposed mediator/evaluator.
(Effective January 1, 1994)

8.10.07 EX PARTE CONTACT PROHIBITED

No party or attorney for a party shall initiate contact with a mediator/evaluator, orally or in writing, to discuss the merits of the case without notice to the other party and an opportunity to be present or to receive a copy of a written communication.

A. The Court shall advise all mediators/evaluators, attorneys, and parties of this prohibition at the time the order for mediation/evaluation is made.

B. Nothing in this rule shall prohibit the mediator or evaluator from contacting either party or attorney provided that the other party or attorney is advised of such communication. Ex parte questions regarding the completed report (mediation recommendation and evaluation) will be allowed; however, the mediator/evaluator has the discretion to request concurrent contact.
(Effective January 1, 1994)

8.10.08 PARTICIPATION OF CHILDREN

The mediator/evaluator shall have discretion as to whether the lack of confidentiality shall be disclosed to the child(ren). The mediator/evaluator need only address this question after a specific inquiry by the child(ren).

A. Child(ren)10 years of age or older shall be brought to mediation. At the mediator's discretion, children under 10 years of age can be interviewed.

B. A child seen with one parent must also be seen with the other parent, except for good cause.

C. Interviews with siblings can be separate at the discretion of the mediator/evaluator.
(Revised January 1, 2002)

8.10.9 BOTH PARENTS TO BE INTERVIEWED

If one party fails to appear for the mediation appointment, mediation shall proceed as if both parties are in attendance. If both parties fail to appear for the mediation appointment, the appointment shall be dropped and the court notified of the failure to attend.
(Revised January 1, 2002)

8.11.00 CHALLENGES TO MEDIATORS/EVALUATORS

(Effective January 1, 1994)

8.11.01 ONE CHALLENGE PER PARTY

Each party is allowed one preemptory challenge at the time of initiation of mediation or evaluation.

(Effective January 1, 1994)

8.11.02 NO FURTHER CHALLENGES

After an initial preemptory challenge, parties will be required to accept the next mediator/evaluator available. A mediator/evaluator will not be replaced after an initial challenge unless a written document is submitted proving, to the satisfaction of the Court, a clear conflict of interest (inability to be objective).

(Effective January 1, 1994)

8.11.03 SUBSEQUENT MEDIATION SESSIONS

Cases returning to mediation within six months of a report being completed, or the last court date - whichever is the latest, will be reassigned to the same individual that completed the most recent report. (In other words, there will be no additional preemptory challenges allowed on cases returning within a six- month period).

(Effective January 1, 1994)

8.11.04 NO PEREMPTORY CHALLENGE AFTER FIRST INTERVIEW

A mediator/evaluator will not be replaced after the initial interview with the parties, except for good cause. The request for replacement shall be heard on the regular court calendar by Notice of Motion.

(Revised January 1, 2002)

8.12.00 PAYMENT OF MEDIATOR'S/EVALUATOR'S FEES

If the court orders a mediation/evaluation, and if any fees or costs will be charged for mediation and/or evaluation, the cost shall be apportioned equally among the parties. Either party can file a notice of motion to have the fees reallocated.

(Revised January 1, 2002)

8.13.00 GRIEVANCE PROCEDURE

All grievances raised in connection with the evaluation procedure shall be submitted in writing to the Court.

A person having a complaint regarding the professional conduct of and/or procedures employed by a mediator shall make the complaint in writing to the Court Executive Officer. The Court Executive Officer or his/her designee will conduct an investigation of the matter, which may include consultation with the mediator. Within 30 days of receipt, the complainant will be informed in writing of the results of the investigation.

(Revised January 1, 2009)

8.14.00 MEDIATION PROCESS

(Effective January 1, 1994)

8.14.01 SUPPORT PERSONS

A mediator may exclude a support person from, including a domestic violence support person pursuant to Family Code § 6303, from a mediation session if the support person participates in the mediation session, acts as an advocate, or the presence of a particular support person is disruptive or disrupts the process of mediation.

(Revised July 1, 2007)

8.14.02 CONDUCT OF MEDIATION

In order to facilitate an agreement of the parties, the mediator may meet with the parties together or separately. The mediator may contact, meet with, or interview such other persons as the mediator deems appropriate, including but not limited to the children, relatives, friends, employers, or attorneys.

(Effective January 1, 1994)

8.14.03 MEDIATION AGREEMENT

If the mediator reports an agreement to the Court, the Clerk shall direct the mediator's letter to a judge or commissioner.

(Revised January 1, 2002)

8.14.04 MEDIATOR RECOMMENDATIONS

If the parties do not reach a complete agreement, the mediator is required to submit recommendations regarding custody and visitation to the Court.

If the mediator reports a recommendation to the clerk, the clerk shall file the recommendation in the action. The mediator shall issue a report of the mediation outcome no later than seven calendar days prior to the scheduled hearing date.

(Revised January 1, 2002)

8.14.05 COPY TO BE PROVIDED

A copy of the agreement or recommendation shall be provided to the Court, to all counsel, and to non-represented adult parties.

(Effective January 1, 1994)

8.14.06 RECOMMENDATION OF MEDIATOR

If the parties cannot reach an agreement and the mediator reports a recommendation to the Court, the recommendation shall be reviewed at the next calendared hearing date.

(Revised January 1, 2002)

8.14.07 MEDIATION WITHOUT PENDING PROCEEDING

Parties who do not have a pending family law action before the Superior Court may request mediation by filing a Joint Mediation Petition. The parties must fill out a Joint Mediation Petition on the form prescribed by the Court.
(Effective January 1, 1994)

8.14.08 PRIVATE MEDIATION

The parties may stipulate to have a private mediator attempt to resolve their disputes regarding custody and visitation. The parties must fill out an order for private mediation and submit that form to the court.
(Revised January 1, 2002)

8.15.00 EVALUATION

(Effective January 1, 1994)

8.15.01 EVALUATION UNDER FAMILY CODE SECTION 3110

A. Any case in which custody or visitation remains in dispute after completion of mediation, may, in the discretion of the Court, be referred for evaluation.

B. The case shall not be referred to the person who conducted the mediation for evaluation, unless the parties so stipulate.

C. As an alternative to a court evaluation and subject to the Court's approval, the parties by stipulation may nominate a private evaluator to perform an evaluation of the pending matter and to render a written report and recommendation to the Court under Family Code section 3110.

(Effective January 1, 1994)

8.15.02 EVALUATION REPORT

If an evaluation is ordered, the Court shall establish a specific return date to court, and the Order shall state the date the evaluator shall return the report. The date may be extended by order of the court or written agreement of the parties. The report shall be in writing and shall be distributed to the court, to all counsel, and to non-represented adult parties. The report, and information contained in the report, shall only be used in a legal proceeding and for no other purpose.

(Revised January 1, 2002)

8.15.03 TESTIMONY OF EVALUATOR

The mediator/evaluator must receive a subpoena at least five (5) calendar days prior to the hearing or trial, unless good cause is shown.

(Revised July 1, 2009)

8.16.00 AWARD OF ATTORNEY'S FEES, COSTS AND SANCTIONS
(Effective January 1, 1994)

8.16.01 GOVERNING LAW

Attorneys' fees and costs shall be awarded as authorized by statute or case law.
(Effective January 1, 1994)

8.16.02 FACTORS TO BE CONSIDERED IN SETTING FEES AND COSTS

The party requesting fees and costs should expect to present evidence in his or her moving papers on the following issues:

- A. The nature of the litigation;
- B. Its complexity;
- C. The amounts involved;
- D. The financial circumstances of the parties ("need" and "ability to pay");
- E. The skill required; and
- F. The professional standing and reputation of the attorneys.

The conscientious efforts of counsel to resolve as many areas of disagreement as possible without judicial intervention is entitled to serious consideration in awarding attorneys fees pursuant to Family Code section 274.
(Effective January 1, 1994)

8.16.03 DOCUMENTATION IN SUPPORT OF AWARD OF FEES OR COSTS

Rules 8.16.04 and 8.16.05 apply whether the request for an award is noticed or without notice:
(Effective January 1, 1994)

8.16.04 INCOME AND EXPENSE DECLARATION

Fees and costs will not be awarded unless an Income and Expense Declaration (Form 1285.50) is submitted with each item fully and accurately completed.

If a party intends to rely on a previously filed Income and Expense Declaration, this must be stated in a declaration under penalty of perjury, stating that there are no changes from the Declaration filed by the party, giving the date the previously filed Declaration was filed.
(Effective January 1, 1994)

8.16.05 DECLARATION TESTIMONY AND BILLINGS

Declaration testimony of experts in support of prospective cost awards will be allowed. Where an expert submits a report that has been attached to a Statement of Issues, a billing based on that service may be admitted at any hearing where the report itself may be received.
(Effective January 1, 1994)

8.17.00 SANCTIONS

(Effective January 1, 1994)

8.17.01 ATTORNEYS FEES

In addition to the foregoing factors, the various factors of Code of Civil Procedure Sections 128.5 and Family Code Section 274 may bear on the award of attorneys fees to either side, including the resistance of a request for an award on the basis that the services were not "reasonably necessary" to the prosecution of the proceeding.
(Effective January 1, 1994)

8.17.02 OTHER SANCTIONS

In the event that any party or attorney fails at any stage of the proceedings to substantially comply with the requirements of the current guidelines, Local Rules or California Rules of Court, the Court may order the case off calendar, proceed to hear the matter on a default basis, proceed under any condition the Court finds proper, award attorney fees or impose other appropriate sanctions.
(Effective January 1, 1994)

8.18.00 STATUS/TRIAL SETTING CONFERENCE

(Effective January 1, 1994)

8.18.01 DATE, TIME, AND PLACE OF CONFERENCE

Upon the filing of a Request for Status/Trial Setting Conference pursuant to Rule 8.20.01, the Court shall set the time, date and place of the conference.

As nearly as possible, such Status/Trial Setting Conference shall be held within 30 days of filing of the request.
(Revised January 1, 2001)

8.18.02 CONTINUANCES BECAUSE OF CONFLICT

In the event any counsel has a conflict with a date specified for Status/Trial Setting Counsel, said counsel must notify the Courts in writing within fifteen (15) calendar days of the date of mailing of notice of Status/Trial Setting Conference by the Clerk.

In the event any counsel fails to do so and thereafter request a continuance because of calendar conflict, said counsel must file a Notice Motion, unless otherwise ordered by the Courts.

(Revised January 1, 2001)

8.18.03 ATTENDANCE

Each attorney attending the Status/Trial Setting Conference shall have a thorough knowledge of the evidence and shall be prepared to discuss the facts and law pertaining to all issues then pending and to be resolved at trial. The attorney attending the status conference shall also be the attorney scheduled to try the matter.

8.18.04 RESOLUTION OF ISSUES

The parties are expected to resolve all or as many issues as possible at the time of the Status/Trial Setting conference. Bifurcation of issues is to be recognized as an expedient manner in which to accomplish this goal. At the conclusion of the conference each party shall submit an Issues for Trial form approved by the Court.

(Revised January 1, 2001)

8.18.05 PARTIES' ATTENDANCE

Parties are expected to attend the status/setting conference unless specifically directed not to do so by the Court.

The Court may exempt a party whose residence is more than 100 miles from El Dorado County from appearing if the party is available on telephone standby and the court and the opposing party have been previously notified by letter.

(Revised January 1, 2001)

8.18.06 SANCTIONS

Sanctions for failure of attorneys or parties to attend the status conference shall be pursuant to Rule 7.12.12.

(Effective January 1, 1994)

8.18.07 ALLOTTED TIME

The calendar allows 20 minutes for discussion with the Judge.

(Revised January 1, 2001)

8.19.00 STATEMENT OF ISSUES, CONTENTIONS, AND PROPOSED

DISPOSITION OF THE CASE

(Effective January 1, 1994)

8.19.01 FILING DATE

Where a matter is set for contested trial, both parties shall file and serve a "Statement of Issues, Contentions and Proposed Disposition of the Case" no later than 10 days prior to the settlement conference or 10 days prior to the trial date, whichever is greater. If both parties fail to file a Statement pursuant to this part, the matter shall be dropped from the trial calendar unless the Statement is waived by both parties and the Court at the Status/Trial Setting Conference. Failure by one party will allow the complying party to continue the cause and may result in the imposition of sanctions. The purpose of the Statement is to assist the trial judge, and the time for filing of a Statement may not be extended by stipulation.

(Revised January 1, 2001)

8.19.02 CONTENTS

Statements under this rule shall include a full and complete statement of property, income, and expenses. Information contained in a filed Final Disclosure Statement as required by Family Code § 2105 may be incorporated by reference, with a copy of the Statement to be attached. The Statement shall set forth the following information in the following order, as it applies to the party filing, except as hereafter provided:

- A. Caption: The caption shall contain the date and time of the trial.
- B. Statistical Information: The length of the marriage, the names and dates of birth of the minor children and any unusual facts shall be stated.
- C. Agreements, Stipulations and Orders: Each party shall set out the terms of all pre-trial agreements and stipulations entered into by the parties, and all orders currently in effect.
- D. Custody and Visitation: Each party shall set forth specific proposals for custody and visitation of the minor children. The mediation recommendation or custody evaluation report, if any, shall be attached. If the recommendation/evaluation report is not available, the status of any mediation or evaluation shall be stated.
- E. Separate Property: List each item of separate property, the date it was acquired, the basis upon which it is claimed as separate rather than community property, the current market value, the nature, extent, and terms of payment of any encumbrance against the property, the manner in which title thereto is presently vested, and the record title data.
- F. Community Property: List each item of community property, the date it was acquired, the basis upon which it is claimed as community rather than separate property, the current market value, the nature, extent, and terms of payment of any encumbrance against the property, the manner in which title thereto is presently vested, and the record title data. Each party shall propose disposition of community assets in the following format:

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The values shall be totaled and copies of any appraisals shall be attached. The appraisal shall be admitted into evidence subject to cross-examination and motions to strike, unless an objection is filed with the Court prior to the trial date. The proposal for the division of

community property shall contain a statement of the party's position and the facts supporting it.

G. Debts: Separately list all debts and obligations of the parties which are liabilities of the community and, so far as known, debts and obligations which are alleged to be the separate liabilities of the respective spouses.

Specify the identity of the creditor, the purpose for which the debt was incurred, the date upon which the debt was incurred, the balance currently due thereon, the terms of payment, and the security, if any, held by the creditor. The obligations shall be listed in the following format:

<u>CREDITOR</u>	<u>DATE OF SEP.</u> <u>BALANCE</u>	<u>CURRENT</u> <u>BALANCE</u>	<u>DATE/AND</u> <u>CURRENT</u> <u>PAID BY W</u>	<u>DATE/AND</u> <u>CURRENT</u> <u>PAID BY H</u>
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H. Funds Held by Others: To the extent that either separate property or community property consists of funds held by others, such as insurance policies, pensions, profit sharing, or other trust or retirement funds, the statement shall fully identify the policy or fund, including policy, serial or account numbers, the present values and basis for calculation, and all terms or conditions imposed upon withdrawal of such funds. If any loans exist against any of these funds, the details regarding those loans should be set forth.

I. Tracing: If a segregation of community property and separate property interests in a single asset is to be an issue in the case, the statement shall set forth in detail, with dates, values, and dollar amounts, the transactions relevant to the tracing issue, as well as the basis for computation or proration.

J. Proposal For Property Division: Set forth a proposed equal division of community property of the parties, giving due consideration to the liabilities, costs, and attorney's fees.

K. Reimbursement Credits: All issues of reimbursement shall include a discussion of the applicable law.

L. Current Income and Expenses: Specify and set forth current income and expenses by completing and filing an Income and Expense Declaration in the form prescribed by Rule 1285.50 of the California Rules of Court.

Previously filed Income and Expense Declarations shall not be considered as compliance with this requirement.

M. Child Support: Each party shall set forth a proposal for child support in conformity with Family Code sections 4051 - 4068 and local guidelines along with the computations upon which the party relies.

N. Spousal Support: Any proposal for spousal support shall include a statement of the appropriate tax consequences, if any, to be considered; a proposal for the duration of support; and a statement of the factors under Civil Code sections 3651, 3653, 3654, 4320, 4330 - 4339

upon which the party relies to support his or her request.

O. Attorney Fees: The party requesting an award of attorney fees shall submit a statement of the time spent, amount charged, amount already paid, and the source of funds.

P. Sanctions: A party requesting attorney fees and sanctions pursuant to Code of Civil Procedure section 128.5 and/or Family Code section 274 shall indicate the extent to which that conduct frustrates the policy to promote settlement and reduce the cost of litigation by encouraging cooperation.

(Revised January 1, 2001)

8.19.03 MANDATORY SETTLEMENT CONFERENCES IN FAMILY LAW CASES

A. Three to four weeks prior to the date set for trial, a mandatory settlement conference may be held in all long cause matters.

B. Other Mandatory Settlement Conferences may be held on the joint request of the parties or on order of the Court.

C. Trial counsel, the parties, and all persons with full authority to settle the case shall personally attend the conference, unless excused by the Court for good cause. If any consent to settle is required for any reason, the person with that consensual authority must be personally present at the conference, unless excused by the Court for good cause.

D. No later than 10 court days before the date set for the settlement conference, each party shall file an original and two copies of a Statement of Issues, Contentions, and Proposed Disposition of the Case as required by Local Rule 8.19.00 with the Court. The opposing party shall also be served no later than 10 court days prior to the settlement conference. The Statement shall set forth a good faith proposal for the disposition of the case.

E. Counsel and the parties must be fully prepared to participate in the conference and must do so in good faith. The Court may impose sanctions for the failure to comply with this rule as provided by statute and the rules of court.

(Effective January 1, 2001)

8.20.00 CONTESTED TRIALS

(Effective January 1, 1994)

8.20.01 TRIAL SETTING

A. A Request for Status/Trial Setting Conference shall be filed with the Court along with a proof of service to the opposing counsel/party before any contested case may be set for trial.

B. When a trial date has been set in a contested dissolution proceeding, counsel may not substitute out as counsel of record without leave of court, on noticed motion, and for good cause shown.

(Revised July 1, 2002)

8.20.02 POST-TRIAL JUDGMENT

After a contested trial of one day or less, at which no Statement of Decision is requested, the party directed by the Court shall prepare the Judgment in accordance with the Court's decision, and shall submit it to opposing counsel for signature under the legend, "Approved as conforming to Court Order." Opposing counsel shall have 10 calendar days from receipt in which to approve the Judgment. If not so approved, the preparing party may submit the prepared judgment to the Trial Judge with a cover letter explaining why it was submitted without such approval and showing that a copy of said correspondence has been sent to opposing counsel. (Effective January 1, 1994)

8.20.03 TRIAL EXHIBITS

A. Counsel¹ shall meet and confer at least 10 days prior to the start of trial and shall present all intended exhibits to be introduced at the trial.

B. Exhibits shall be listed, with Petitioner's exhibits to be listed serially by number, and Respondent's exhibits serially by letter.

- (1) Exhibits shall be marked with appropriate stickers to be obtained from the Clerk.
- (2) On the Exhibit Lists, the opposing party shall indicate by his INITIALS in the appropriate box if he stipulates to the admission of the exhibit or if he stipulates that the exhibit does not need a foundation established.
- (3) The original of the Exhibit List, and a copy for the Judge, shall be delivered to the Clerk before the first witness is sworn.

C. Copies of all exhibits shall be presented to the other party.

D. If there are more than 10 exhibits, the originals shall all be placed in one standard 1.5" binder on the witness stand. Exhibits shall be separated by tabbed separators, numbered for Petitioner's exhibits and lettered for Respondent's exhibits. A party desiring to refer to an exhibit shall refer the witness to the tab number or letter of that exhibit. A duplicate copy of this binder shall be provided for the use of the judge during the trial. If there are 10 or less exhibits, the marked exhibits shall be delivered to the Clerk, together with copies for the Judge.

E. Counsel are advised that if exhibits are tendered at trial that were not pre-marked and otherwise handled as set forth above, they must be prepared to show good reason why this was not done. Sanctions may be imposed.

F. For purposes of the retention, destruction, and return of exhibits, exhibits in

¹ Unrepresented parties shall perform the duties of counsel as set forth herein.

Family Law cases shall be treated as exhibits in all civil cases. Please refer to Local Rule 7.11.03.

(Revised January 1, 2000)

8.21.00 DEFAULT OR UNCONTESTED JUDGMENT

(Effective January 1, 1994)

8.21.01 HEARING

Where a Judgment of Dissolution is to be obtained by written agreement of the parties after a response has been filed (uncontested) or by default, judgments should be obtained by declaration without the necessity of a hearing. However, a hearing may be set upon request of a party or by court order.

(Effective January 1, 1994)

8.21.02 FORMAT OF JUDGMENT

The Judgment shall be prepared on Judicial Council Form No. 1287, and shall comply with the following provisions:

A. The original of the proposed Judgment, including any Marital Settlement Agreement, shall be submitted to the Court Clerk.

B. All orders concerning child custody, visitation, child support, spousal support, attorneys fees, the division of community property and confirmation of separate property may be set forth either in the body of the Judgment, or in an attached agreement incorporated in the Judgment by reference.

C. No award of child support, spousal support or attorney's fees shall be granted unless there is either an attached written agreement between the parties settling those issues, or there is sufficient information on which a court may base such an award, including an executed and fully completed Income and Expense Declaration (with information concerning both parties where available) attached to and served with the Request to Enter Default.

D. Signature of Judge - The signature of the Judge shall not follow any attached agreement of the parties, but shall be set forth on the Judgment following the orders of the Court.

E. Signature of Parties and Counsel on Marital Settlement Agreement - All parties and their attorneys of record must sign the Marital Settlement Agreement.

A party's signature must only be acknowledged if not represented by counsel. The same notary can acknowledge the signature of both parties. If only one party is represented by counsel, the attorney for that party must sign the agreement and the other party must sign a statement in agreement or a declaration or affidavit that the party has been advised to consult an attorney regarding the agreement, but declined to do so.

F. The requirement of acknowledgment by parties not represented by counsel does not apply to Stipulated Judgments prepared and submitted by the Department of Child Support Services.

(Revised July 1, 2009)

8.22.00 CONTENTS OF JUDGMENT

(Effective January 1, 1994)

8.22.01 CUSTODY AND VISITATION

Where the Judgment is taken by default, and there is no attached written agreement of the parties concerning custody and visitation, an attached factual declaration shall set forth the following:

A. Where the party is seeking joint custody, what contact with the child the defaulting party shall have.

B. Where the party is seeking to deny visitation between the child and the defaulting party, the reasons why visitation should not be ordered.

C. In preparing the Declaration, the party shall inform the Court when the parties were separated, who has been the primary caretaker of the child during the immediate past six (6) months, and the extent of contact between the child and the non-caretaker parent during that time.

(Effective January 1, 1994)

8.22.02 CHILD SUPPORT

Where judgment is obtained by default, and there is no attached written agreement concerning child support:

A. An attached declaration shall state the effective date of the order sought, the amount of support sought per child and in total, the net incomes of each party, the name and birth date of each child, the percentage of time each party has physical custody of the child(ren), the amount of support as determined in the case of each child by Family Code Section 4051 - 4068..

B. Where a support order is sought and the party to whom support is to be paid is receiving public assistance, that fact shall be set out in the Judgment and support shall be ordered payable to the District Attorney Trust.

C. Any written agreement regarding child support shall comply with the provisions of Family Code Section 4063.

(Effective January 1, 1994)

8.22.03 SPOUSAL SUPPORT

The issue of spousal support for each party must be addressed. A support amount may be requested, support may be terminated, or the issue of support may be reserved. If a request for support is by default, the party shall attach a declaration stating the effective date of the order sought, the amount of support sought, and the net incomes of each party.

(Effective January 1, 1994)

8.22.04 RESTRAINING ORDERS

All restraining orders in a judgment issued pursuant to Family Code Section 2045 must be followed by the date of expiration of such order; good cause for granting such order(s) shall be set forth in attached declaration(s).

(Revised July 1, 2001)

8.22.05 DIVISION OF COMMUNITY PROPERTY

No division of community property (assets or obligations), or confirmation of separate property, will be ordered unless there is either an attached written agreement between the parties settling those issues, or there is a completed Property Declaration attached to and served with the Request to Enter Default.

(Effective January 1, 1994)

8.23.00 APPOINTMENT OF COUNSEL FOR CHILD(REN)

(Effective January 1, 1994)

8.23.01 EDUCATION AND EXPERIENCE REQUIREMENTS

A. Purpose: This rule is established to insure that attorneys appointed to represent the best interests of a child in a family law custody and visitation proceeding meet the appointment requirements of California Rules of Court, Rule 5.242.

B. Education Requirements: Prior to being appointed as counsel to represent the best interests of a child in a custody or visitation proceeding under Family Code § 3150, counsel must demonstrate that he or she is an active member of the State Bar of California, have professional liability insurance or demonstrate to the Court that he or she is adequately self-insured, and complete at least 12 hours of education and training, including all of the following:

- (1). Statutes, case law and court rules relating to child custody and visitation;
- (2). Representation of a child in custody and visitation proceedings;
- (1). Special issues in representing a child, including stages of child development; communication with a child at different stages of development and presenting the child's view; recognizing, evaluating, and understanding evidence of child abuse and neglect, family violence and substance abuse, cultural and ethnic diversity, and gender-specific issues; the effects of domestic violence and child abuse and neglect on children;

and working effectively with multidisciplinary experts.

C. Annual Recertification: To remain eligible for appointment, counsel must annually complete a minimum of eight (8) hours of training in the subjects listed above.

D. Demonstration of Compliance with Requirements: No later than ten (10) days after being appointed and prior to beginning work on a case counsel shall file a declaration with the Court demonstrating compliance with the requirements set forth in California Rules of Court, Rule 5.242 and this rule. Counsel may use form FL-322, *Declaration of Counsel for a Child Regarding Qualifications*. This form may also be used to demonstrate eligibility for annual reappointment.

If any disciplinary action is taken by the State Bar of California against an attorney who has been appointed to represent a child under this rule and California Rules of Court, Rule 5.242, he or she must advise the Court within five (5) days of the action stating the basis of the complaint, result, and notice of any reproof, probation, or suspension.

B. Experience Requirements:

(1) Initial Experience Requirements. To be appointed counsel in a family law proceeding, counsel must have represented a party or a child in at least six proceedings involving child custody within the previous five years. At least two of the six must have involved contested custody any visitation issues and no more than three of the six may be dependency or guardianship proceedings.

(2) Alternative Experience Requirements. If an attorney does not meet the initial experience requirements set forth above, he or she must meet one of the following alternatives:

(a) Be employed by a legal services organization or government agency, or employed by a private law firm that has previously been approved by the Court as qualified to represent children in family law proceedings and be supervised by an attorney who has met the initial experience requirements; or

(b) Be an attorney working in consultation with

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a qualified attorney; or

- (c) Demonstrate substantial equivalent experience to the satisfaction of the Court.

(Revised July 1, 2009)

8.23.02 RIGHTS AND RESPONSIBILITIES OF APPOINTED COUNSEL FOR A CHILD

Counsel appointed to represent the best interests of a child in a custody or visitation proceeding shall have the rights and responsibilities enumerated in California Rules of Court, Rule 5.242(i), (j) and (k), in addition to the statutory rights and duties conferred by California law.

(Revised July 1, 2009)

8.24.00 TITLE IV-D CASES (DISTRICT ATTORNEY - FAMILY SUPPORT DIVISION)

(Effective July 1, 1997)

8.24.01 DEFINITIONS

As used in this Section 8.27.00, the following terms have the following meanings:

- A. "Title IV-D" cases are those cases described by Family Code Section 4251.
- B. "Commissioner" means a person appointed as a Superior Court Commissioner.
- C. "IV-D Time" means the time spent by a Commissioner on Title IV-D cases.

(Effective July 1, 1997)

8.24.02 COMMISSIONER AND TITLE IV-D CASES

A Commissioner of this Court may sit on Title IV-D cases. The Commissioner shall keep track of his IV-D Time.

(Effective July 1, 1997)

8.24.03 POWERS OF COMMISSIONER IN TITLE IV-D CASES

A Commissioner shall have all the powers enumerated in Family Code Section 4251 (d).
(Effective July 1, 1997)

**8.24.04 CONTESTED CUSTODY AND/OR VISITATION ISSUES RAISED IN TITLE
IV-D CASES**

A Commissioner of this Court may hear contested custody and visitation issues in his capacity as a Commissioner or temporary judge. Said issues shall be severed from the Title IV-D case in which raised, and tried separately. The time spent on such severed issues shall not be changed as IV-D Time. This Rule is intended to comply with the provisions of Family Code Section 4251 (e) (3).
(Effective July 1, 1997)

8.25.00 FAMILY LAW FACILITATORS

(Effective January 1, 1998)

8.25.01 OFFICE OF FAMILY LAW FACILITATOR

Each division of the Superior Court shall maintain an office of Family Law Facilitator pursuant to the provisions of the Family Law Facilitator Act (Family Code Division 14).
(Effective January 1, 1998)

8.25.02 FACILITATOR SERVICES

The Family Law Facilitator shall provide the services as set forth in Section 10004 of the Family Code, and shall act in all types of cases described in Section 10003 of the Family Code.
(Effective January 1, 1998)

8.25.03 ADDITIONAL DUTIES OF THE FAMILY LAW FACILITATOR

The Bench Officer presiding over any case described in Family Code Section 10003 may designate any of the following duties to be performed by the Family law Facilitator:

- (1) Meeting with litigants to mediate issues of child support, spousal support, and maintenance of health insurance, subject to Section 10012. Actions in which one or both of the parties are non-represented by counsel shall have priority.
- (2) Drafting stipulations to include all issues agreed to by the parties, which may include issues other than specified in Section 10003.
- (3) If the parties are unable to resolve issues with the assistance of the Family Law Facilitator, prior to or at the hearing and at the request of the Court, the Family

Law Facilitator shall review the paperwork, examine documents, prepare support schedules, and advise the Judge whether or not the matter is ready to proceed.

- (4) Assisting the clerk in maintaining records.
- (5) Preparing formal orders consistent with the Court's announced order in cases where both parties are non-represented.
- (6) Serving as a special master in proceedings and making findings to the Court unless he or she has served as a mediator in that case.
- (7) Providing the services specified in Division 15 (commencing with Section 10100). Except for the funding specifically designated for visitation programs pursuant to Section 669B of Title 42 of the United States Code, Title IV-D child support funds shall not be used to fund the services specified in Division 15 (commencing with Section 10100).
- (8) Providing the services specified in Section 10004 concerning the issues of child custody and visitation as they relate to calculating child support, if funding is provided for that purpose.

In addition to the above duties, the Bench Officer may designate any of the following additional duties to the Family Law Facilitator:

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

(Revised July 1, 2000)

8.25.04 COMPLAINT PROCEDURE FOR FAMILY LAW FACILITATOR

A person wishing to register a complaint against a Family Law Facilitator may do so either verbally or in writing to the Family Law Commissioner for the session of court (Western Slope or South Lake Tahoe) in which the services were provided. The Family Law Commissioner will conduct an investigation, which may include consultation with the staff, the other party, or with the attorneys. Within thirty (30) days, the Family Law Commissioner will respond to the complainant acknowledging receipt of the complaint. To the extent possible, the Court will complete an investigation of the complaint within ninety (90) days of receipt.

The complaining party may appeal the Family Law Commissioner's action to the Presiding Judge of the El Dorado Superior Court. The Presiding Judge may request that the complaint be put in writing. Within thirty (30) days, the Presiding Judge will respond to the complainant acknowledging receipt of the complaint. To the extent possible, the Court will complete all appeal investigations of the complaint within ninety (90) days of receipt.
(Effective July 1, 2003)

8.26.00 ACCESS TO COURT HEARINGS

All litigants, both non-represented by counsel and represented by counsel, shall have ultimate access to a hearing before the court.
(Revised July 1, 2000)