



# Superior Court of California County of Trinity

Staci Holliday  
Court Executive Officer / Clerk of the Court

July 1, 2021

**Filing Instructions:**

**Re: Superior Court of California,  
County of Trinity  
Local Rules of Court**

The attachment represents a new edition of the Local Rules of Court for the Superior Court of California, County of Trinity, effective July 1, 2021.

Please file as follows:

**Discard:**

Local Rules of Court for the Superior Court of California, County of Trinity, effective January 1, 2019 (entire set).

**Replace with:**

Local Rules of Court for the Superior Court of California, County of Trinity, effective July 1, 2021 (entire set).

Staci Holliday  
Court Executive Officer

SH  
attachment

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF TRINITY  
LOCAL RULES OF COURT



RULES ADOPTED    XXXXXXXXX  
EFFECTIVE DATE    July 1, 2021

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## **SECTION 1 GENERAL RULES**

### **RULE 1.01 CITATION OF RULES**

These Rules shall be known and cited as the "Local Rules of Court" for the Trinity County Superior Court.

### **RULE 1.02 EFFECTIVE DATE OF RULES**

These Rules shall take effect on July 1, 2021.

### **RULE 1.03 EFFECT OF RULES**

These Rules shall, on their effective date, supersede all local court rules previously adopted.

### **RULE 1.04 CONSTRUCTION AND APPLICATION OF RULES**

These Rules shall be construed and applied in such a manner as not to conflict with the California Rules of Court and shall be liberally construed to facilitate and promote the business and administration of justice of the Superior Court. These Rules do not apply to Small Claims Division actions or proceedings unless the text of a specific rule otherwise indicates.

Unless otherwise specifically provided, any reference in these rules to a law or laws, or rule of court, shall be deemed to refer to the law or laws, or rule of court as currently written or as hereafter may be amended.

The Executive Officer, as Clerk of the Court, shall be the official publisher of these rules and shall maintain a set of the rules in the clerk's offices for public inspection and shall make available copies for sale at a reasonable fee.

### **RULE 1.05 DEFINITIONS OF WORDS USED IN THESE RULES**

- (A) The definitions set forth in the California Rules of Court, Rule 1.6, shall apply to these Rules with equal force and for all purposes, unless the context or subject matter otherwise requires.
- (B) The word "person" shall include and apply to corporations, firms, associations, and all other entities, as well as natural persons.
- (C) The word "affidavit" includes declaration and "declaration" includes affidavit.
- (D) The use of the masculine, feminine, or neutral genders shall include the others.
- (E) The word "court" shall mean the Superior Court of the State of California, in and for the County of Trinity. It shall include any judge, commissioner, or temporary judge appointed or elected to the court and any judge duly assigned to the court.
- (F) The word "judgment" includes and applies to any judgment, order, or decree from which an appeal lies.

### **RULE 1.06 AMENDMENT, ADDITION, OR REPEAL OF RULES**

These Rules may be amended or repealed, and new Rules may be added by a majority vote of the judges of the court.

**RULE 1.07      TIMELY APPEARANCE OF COUNSEL AND REQUIRED NOTIFICATION**

- (A) Except as set forth herein, once an attorney has made a general appearance in any matter, civil or criminal, that attorney shall appear in the department to which the matter has been assigned at or before the time set for any proceeding in that matter.
- (B) Except as set forth herein, once the attorney appears on a matter, the attorney shall not leave the department to which the matter has been assigned until the matter has been called and all proceedings scheduled for that matter have concluded.
- (C) However, the attorney may appear at or before the start of any calendar to which his or her matter is assigned to notify the court the attorney will be late due to an appearance in another department. Counsel may also seek approval of the court to leave the court prior to the conclusion of the matter assigned to one department in order to appear in matters set in other departments.
- (D) An attorney shall not be late for a court appearance or fail to appear at a court appearance except for good cause shown.
- (E) If counsel cannot be present at or before the time the matter is set, counsel shall notify Court Services. Counsel shall also inform Court Services of the reason for his or her late appearance and an estimated time of arrival. The clerk shall notify the bench officer or the courtroom clerk of the department to which the matter is assigned. It shall be deemed good cause if counsel has conflicting court appearances and complies with the notice requirements of this rule.
- (F) Violation of this rule may subject the attorney to sanctions pursuant to Rules 4.08 and 11.01 of these Local Rules.

**RULE 1.08      REQUIRED ATTORNEY NOTIFICATION FOR UNOPPOSED AND DROPPED MATTERS**

- (A) If an attorney will not oppose a motion filed by opposing counsel, that attorney shall promptly so notify opposing counsel and the Court Services office.
- (B) If an attorney has calendared a proceeding and decides to request the matter be dropped from calendar, the attorney shall promptly notify opposing counsel and the Court Services office.
- (C) Violation of this rule may subject the attorney to sanctions pursuant to Rules 4.08 and 11.01 of these Local Rules.

**SECTION 2  
ADMINISTRATIVE MATTERS**

**RULE 2.01      SUPERVISION OF THE BUSINESS OF THE COURT**

- (A) The judicial business of the court shall be supervised by the Presiding Judge, with the management assistance of the Executive Officer.



- (B) The administrative business of the court shall be conducted by the Administrative Office of the Trinity County Superior Court, as more particularly described herein.

## **RULE 2.02 DUTIES OF THE PRESIDING JUDGE AND ASSISTANT PRESIDING JUDGE**

The Presiding Judge and Assistant Presiding Judge of the court shall perform those duties set forth in California Rules of Court, Rule 10.603, as they apply, and shall be guided by the principles in the "Standards of Judicial Administration" set forth in the Appendix to the California Rules of Court, Division I.

## **RULE 2.03 ASSISTANT PRESIDING JUDGE**

When the Presiding Judge is absent due to vacation or illness or for other cause, he or she shall be replaced by the Assistant Presiding Judge. The Assistant Presiding Judge shall, during that period, have all the powers and authority of the Presiding Judge.

## **RULE 2.04 THE EXECUTIVE OFFICER AND CLERK OF THE COURT**

The Executive Officer shall also serve as Clerk of the Court. The Executive Officer has ultimate responsibility, under the direction of the Presiding Judge for planning, organizing, and directing the non-judicial activities of the court.

The Executive Officer shall be responsible for the operation of the Administrative Office of the Trinity County Superior Court and shall perform those duties set forth in California Rules of Court, Rule 10.610, and in job descriptions approved by the court from time to time.

## **RULE 2.05 COMMISSIONERS AND JUDGES PRO TEM**

- (A) Court commissioners for the court shall be appointed by and serve at the pleasure of a majority of its judges, and under the control and supervision of the Presiding Judge. Within the jurisdiction of the court and under the direction of its judges, commissioners of the court shall exercise all the powers and perform all of the duties authorized by law to be performed by commissioners of the appointing court.

At the direction of the judges of the court, commissioners may have the same jurisdiction and exercise the same powers and duties as the judges of the appointing court and with the consent of the parties, where required by law, may hear any other action as a judge pro tem.

- (B) Temporary judges shall be appointed in accordance with Rule 2.814 of the California Rules of Court and serve under the control and supervision of the Presiding Judge. Temporary judges shall hear matters as assigned by the Presiding Judge.

## **RULE 2.06 COURT REPORTERS**

- (A) Felony Criminal / Juvenile Dependency / Juvenile Delinquency:

Court reporters are provided for juvenile dependency proceedings (Welfare and Institutions Code §300 et seq.), juvenile delinquency proceedings (Welfare and Institutions Code §602 et seq.), and felony proceedings. In criminal matters other than felonies, court reporters are not available at the expense of the Court. In lieu, thereof, a recording system is available for misdemeanor or infraction cases pursuant to Penal Code §1045 upon direct request to the Clerk of the Court no later than five days in advance of the proceedings to be recorded. A privately hired pro tem court reporter may be used in criminal, non-felony cases, but they shall be obtained by, and at the expense of, that party.

(B) Civil Cases:

Official court reporters are not normally available in civil cases. Requests for court reporting services in civil cases shall be made in accordance with California Rules of Court, Rule 2.956, which may be submitted on Judicial Council form FW-020, *Request for Court Reporter by Party with a Fee Waiver*. Where the request is timely submitted and granted, a clerk will notify the requestor as soon as possible if no court reporter will be available. Given the limited availability of official court reporters, notice of the unavailability of a court reporter may not be given until the day of the hearing or trial.

When a request for an official court reporter is made in accordance with this paragraph (B) by a party with a fee waiver in a limited civil case, a court reporter will not be provided, but instead the proceeding will be electronically recorded by the court to make the official verbatim record of proceedings as provided in Government Code §69957 and California Rules of Court, Rule 2.952.

**RULE 2.07 JURY SELECTION BOUNDARIES**

In accordance with Code of Civil Procedure §190, et seq., there is hereby established one county-wide geographical selection area for the purpose of producing juror summons lists for the court. All jury trials shall be conducted in Weaverville, absent an order to the contrary by the Presiding Judge.

**RULE 2.08 CASE DISPOSITION TIME STANDARDS**

- (A) It is the policy of the court to manage all cases from filing (in civil matters) and first appearance (in criminal matters) through final disposition. This policy is to be construed in a fashion which is consistent with existing law. This policy is established to maximize efficient use of court resources; to improve the administration of justice by encouraging prompt disposition of all matters coming before the court; and to resolve cases within the time standards established in the California Rules of Court, Standards of Judicial Administration (hereinafter, "The Standards"), §§ 2.1 and 2.2, which are incorporated herein by this reference as follows:
- (B) **[General civil cases]** The goals for general civil cases, as defined in California Rules of Court, Rule 3.712, are:
- (1) [Unlimited Civil Cases]
    - (a) 75 percent disposed of within 12 months of filing;
    - (b) 85 percent disposed of within 18 months of filing; and
    - (c) 100 percent disposed of within 24 months of filing.
  - (2) [Limited Civil Cases]
    - (a) 90 percent disposed of within 12 months of filing;
    - (b) 98 percent disposed of within 18 months of filing; and
    - (c) 100 percent disposed of within 24 months of filing.
- (C) **[Small claims cases]** The goal for small claims cases is 100 percent disposed of within:
- (1) 30 days after filing if all defendants reside within the county;
  - (2) 60 days after filing if a defendant resides outside the county.
- (D) **[Unlawful detainer cases]** The goals for unlawful detainer cases are:
- (1) 90 percent disposed of within 30 days after filing;

(2) 100 percent disposed of within 45 days after filing.

(E) **[Misdemeanor cases]** The goals for misdemeanor cases are:

- (1) 90 percent disposed of within 30 days after the defendants' first court appearance;
- (2) 98 percent disposed of within 90 days after the defendants' first court appearance;
- (3) 100 percent disposed of within 120 days after the defendants' first court appearance.

(F) **[Felony preliminary examinations]** The goal for felony filings, excluding murder cases in which the prosecution seeks the death penalty, is disposition (by certified plea, finding of probable cause, waiver of preliminary examination, or dismissal) of:

- (1) 90 percent within 30 days after the defendants' first court appearance;
- (2) 98 percent within 45 days after the defendants' first court appearance;
- (3) 100 percent within 90 days after the defendants' first court appearance.

(G) **[Felony cases]** The goal for all felony cases is disposition within one year of first appearance in any court, except for capital cases.

(H) In order to meet the standards for timely disposition, additional procedures, guidelines, and requirements are set forth elsewhere in these Rules.

## **RULE 2.09 SMOKING**

The court, recognizing that smoking is harmful even to non-smokers in close proximity to smokers, and further recognizing that some individuals are substantially offended by tobacco smoking in closely confined areas, it is a rule of the court, and an ordinance of this county, that no smoking will be permitted in jury deliberation rooms, in the jury assembly room, or in any enclosed public area, at any time. The jury foreperson may, upon the request of any juror or jurors, allocate smoking breaks, not to exceed 5 minutes each hour of deliberation, during which time jurors may adjourn out of doors to smoke. During such periods, deliberations will be suspended and jurors will not in any way discuss the case at hand. The judge presiding over each trial will advise the jurors of this court rule, and will admonish them respecting discussions during smoking breaks. Counsel may stipulate that an initial admonishment will be sufficient without repetition at each break. The foreperson of the jury will make arrangements with the bailiff respecting times selected for smoking breaks, and the bailiff will remain in attendance during such periods.

## **RULE 2.10 CELLULAR PHONES & ELECTRONIC DEVICES**

Cellular telephones and other electronic devices must be silenced before entering courtrooms and may not be used within any of the courtrooms with the exception of calendaring purposes.

## **RULE 2.11 REQUESTS FOR ACCOMMODATION BY PERSONS WITH DISABILITIES**

The court does not discriminate on the basis of disability with respect to admission to, access to, or the operations of its programs, services, benefits, or activities. Disabled persons wishing to request accommodations may do so by completing Judicial Council Form MC-410, *Request for Accommodations by Persons with Disabilities and Response*, and sending it to the Court ADA Coordinator, 11 Court Street, Weaverville, CA 96093. Requests for accommodation may also be made by calling (530) 623-1369. Sign language interpreters are available by calling (530) 623-1369. Assistive listening devices are available in all courtrooms without advance notice.

## **RULE 2.12 JUDICIAL VACATION DAY DEFINED**

Pursuant to rule 10.603(c)(2)(E) of the California Rules of Court, the presiding judge of each court is to allow the judges of that court vacation days according to their number of years of service, and subdivision (H) of that section requires the court to adopt a local rule defining a “vacation day.”

Subject to rule 10.603(c)(2)(H), specifically exempting illness and certain judicial activities from constituting vacation, a “day of vacation” for a judge of this court shall be defined as an approved absence for one full business day. Consistent with the needs of the court and on approval of the Presiding Judge, a judge may nevertheless use vacation in half-day increments, if present at the court for the full morning or afternoon of business.

A judge may roll over unused vacation leave up to 30 days per year.

## **RULE 2.13 PLACE FOR FILING NOTICES OF APPEAL AND CERTAIN OTHER PLEADINGS**

All notices of appeal and any other pleading that requires payment of a filing fee must be filed in Court Services.

## **RULE 2.14 MEDIA COVERAGE ORDERS**

- (A) An order granting media coverage of court proceedings pursuant to Rule 1.150 of the California Rules of Court is required for proceedings within a courtroom as well as outside of a courtroom, including all interior spaces of the courthouse, and its entrances and exits.
- (B) An order granting media coverage within the courtroom applies only to coverage of proceedings in the courtroom/department of the specific judge identified, and only to the media agency (or agencies if under an approved pooling arrangement) making the request for order. An order granting media coverage outside of the courtroom applies only to coverage of the specific location(s) identified with the order, and only to the media agency (or agencies if under an approved pooling arrangement) making the request for order.

## **RULE 2.15 RECORDING DEVICES IN THE COURTHOUSE BY NON-MEDIA**

No videotaping, photographing or electronic recording of any kind is permitted by individuals in any part of the courthouse, including all interior spaces of the courthouse, and its entrances and exits. Violation of this rule may result in the confiscation of the device used to video, photograph, or record, and may be the basis for a citation for contempt of court or an order imposing monetary or other sanctions as provided by law.

## **RULE 2.16 DIGITAL SIGNATURES**

The use of digital signatures on documents filed with the Court is allowed, and shall have the same force and effect as the use of a manual signature, if it complies with all of the requirements of Government Code §16.5(a)(1)-(5). No other form of electronic signatures will be accepted. A party who files a document containing a digital signature under this rule represents that the signer’s certificate or similar verification document is maintained in the party’s possession or control, and is subject to production upon request from the Court.

### SECTION 3 CIVIL CASE MANAGEMENT

#### **RULE 3.01     SCOPE OF RULES, AUTHORITY**

The rules contained in this section apply to all “general civil cases” as defined in California Rules of Court, Rule 1.6(4). They implement and supplement the Trial Court Delay Reduction Act as set forth in Government Code §§68600-68620 and California Rules of Court, Rules 3.720-3.730.

#### **RULE 3.02     ALL PURPOSE ASSIGNMENT EXEMPTION FROM CASE MANAGEMENT CONFERENCE**

General civil cases shall be assigned to a judge pursuant to the court’s annual calendar at the time of filing.

#### **RULE 3.03     MANDATORY SETTLEMENT CONFERENCE**

- (A)     Statements. Mandatory settlement conference statements must be filed as required by Rule 3.1380(c) of the California Rules of Court. In addition to the requirements of Rule 3.1380(c), the mandatory settlement conference statement also must include the following: (1) whether a jury is demanded or waived and whether jury fees have been posted; (2) time estimate for trial; and (3) whether the case is ready to proceed to trial as assigned.
- (B)     Attendance by Insurance Carrier Representative. Pursuant to California Rules of Court, Rule 3.1380(b), good cause is deemed to have been shown to excuse from the attendance at the settlement conference insurance claims persons whose offices are more than 100 miles from the courthouse, provided those persons are available by telephone during the settlement conference.

#### **RULE 3.04     COLLECTIONS CASES UNDER CRC, RULE 3.740**

Collections cases, as defined in California Rules of Court, Rule 3.740, must be identified as such by the plaintiff at the time of the filing of the complaint by the filing of an accompanying limited jurisdiction Civil Case Cover Sheet specifying that the action is a collections case as defined in CRC, Rule 3.740. If not so identified, the case shall be subject to disposition pursuant to the case management procedures set forth within the balance of Section 3 of these rules. If so identified:

- (A)     At the time that the summons is issued, the court will prepare a *Notice-Collections Case*, setting the matter for trial. Plaintiff shall serve in accordance with Rule 3.03.
- (B)     Default Judgments shall be obtained pursuant to Rule 5.12 of these rules.

#### **RULE 3.05     COUNSEL PERMITTED TO APPEAR, ASSOCIATION OF COUNSEL**

Unless otherwise permitted by the Court, only the attorney of record, attorney approved to appear pro hac vice, or attorney who has filed a proper notice of association of counsel may appear on behalf of a party during any civil case proceeding. A notice of association of counsel must include the name, address, phone number, and bar number of at least one associating attorney, and must also be served on all parties with a proof of service attached to the original notice filed with the court.

**SECTION 4**  
**MISCELLANEOUS RULES – CIVIL**

**RULE 4.01 ATTORNEY FEES IN CIVIL ACTIONS OR PROCEEDINGS**

(A) In actions on promissory notes and contracts providing for the payment of attorney fees, whenever a prevailing party is entitled to the recovery of reasonable attorney fees, the following schedule shall be considered by the court, in its discretion, in awarding attorney fees:

(1) **Default action**

Exclusive of costs and interest,

- (a) Twenty-five percent (25%) of the first two thousand dollars (\$2,000) awarded as damages;
- (b) Twenty percent (20%) of the next four thousand dollars (\$4,000);
- (c) Fifteen percent (15%) of the next four thousand dollars (\$4,000);
- (d) Ten percent (10%) of the next ten thousand dollars (\$10,000);
- (e) Five percent (5%) of the next thirty thousand dollars (\$30,000); and
- (f) Two percent (2%) of amounts in excess of the first fifty thousand dollars (\$50,000).

(2) **Contested action**

The same amount as computed under paragraph (A)(1), increased by such compensation computed on an hourly or per-day basis for any additional research, general preparation, trial or other services as may be allowed by the court.

(B) Where a prevailing party is entitled to the recovery of reasonable attorney fees in an otherwise appropriate clerk's judgment, the Clerk shall include attorney fees computed pursuant to the fee schedule contained in Rule 4.01(A)(1).

(C) In any case where a party claims fees in excess of those allowed by Rule 4.01(A)(1), application for attorney fees shall be made to the court, supported by declarations setting forth the factual basis for the claimed attorney fees. The fees will thereupon be fixed by the court.

**RULE 4.02 PETITIONS TO APPROVE TRANSFER OF STRUCTURED SETTLEMENT  
PAYMENT RIGHTS**

At the time of filing a petition to approve a transfer of structured settlement payment rights pursuant to Insurance Code §10134 et seq., a proposed order that conforms to the moving papers and that contains the findings required by Insurance Code §10139.5 must be lodged with the court.

**RULE 4.03 DISCOVERY MOTIONS – SEPARATE STATEMENT**

Where a discovery motion requiring a separate statement under CRC 3.1345 is filed, the court permits, without leave of court, that a concise outline of the discovery request and each response in dispute be filed in lieu of the separate statement. Where further information is necessary to make a determination on the discovery motion, the court may request either or both parties to file a separate statement.

#### **RULE 4.04 FORM OF JUDGMENT**

In drafting forms of judgment for the trial judge to sign, counsel shall:

- (A) Clearly show the full names of the parties for whom, and against whom, the judgment is rendered, including their capacities as plaintiffs, defendants, cross-complainants and cross-defendants;
- (B) Refer to such full names as they appear in the pleadings, or obtain an order amending the pleadings in respect to such names; and
- (C) Unless costs have already been awarded in a specific amount, leave a blank space for insertion of any costs, as follows:  
"and costs in the sum of \$\_\_\_\_\_."

#### **RULE 4.05 STIPULATED JUDGMENT FORM TO BE SEPARATE FROM STIPULATION**

If the parties enter into a written stipulation for an order or judgment, a copy of the proposed order or judgment may be attached as an exhibit to such stipulation. However, the proposed order or judgment to be signed and filed shall be lodged as a separate document.

#### **RULE 4.06 APPEAL FROM DECISION OF LABOR COMMISSIONER UNDER LABOR CODE §98.2**

- (A) Any party filing a Notice of Appeal of the order, decision, or award of the Labor Commissioner pursuant to Labor Code §98.2, shall file with the Clerk of the Court:
  - (1) A copy of the complaint and any answer filed with the Labor Commissioner;
  - (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 Notice of Appeal filed pursuant to Labor Code §98.2 shall be treated as the first paper for the purpose of determining the filing fee.

#### **RULE 4.07 JUDGMENT ON COSTS ON APPEAL**

A party seeking judgment for costs awarded on appeal shall submit a separate Judgment Re Costs/Fees on Appeal for signature, following timely filing and service of a verified memorandum of costs pursuant to California Rules of Court, Rule 8.278. Judgment for costs on appeal will be entered after the time has passed for a motion to strike or tax costs or for determination of that motion.

#### **RULE 4.08 SANCTIONS**

A violation of these Rules of Court constitutes a violation of a lawful court order, as that term is used in Code of Civil Procedure §177.5, and may subject the party and/or counsel to sanctions thereunder, or under Code of Civil Procedure §575.2, or as otherwise provided by law.

#### **RULE 4.09     DEFAULT PROVE-UPS**

Except in cases concerning which the Clerk may enter judgment without review by a judicial officer (CCP §585(a)), it is the general policy of the court that prove-up applications and evidence in support thereof be presented in written form, unless prohibited by law (CCP §585(c)).

#### **RULE 4.10     TELEPHONIC & VIDEO APPEARANCES**

- (A) Counsel are permitted to appear by telephone or video in civil law and motion hearings, including ex parte applications and conferences set by the court for the purpose of case status or review. Unless otherwise ordered by the court, telephonic and video appearances will not be allowed at any proceeding at which witnesses will be called to testify or at settlement conferences absent judicial approval.
- (B) Unless leave of court is obtained to contact the court directly by telephone, all telephonic appearances shall be through a private vendor with which the court has made arrangements to provide teleconferencing services. Counsel wishing to appear by telephone must contact the vendor, Court Call at (888) 882-6878 prior to the hearing and comply with the vendor's procedures.
- (C) Notwithstanding any other provision of this rule, the court may at any time require the personal appearance of any party.

#### **RULE 4.11     FACSIMILE FILING / ELECTRONIC MAIL FILING**

- (A) This court does not accept direct fax filings as provided by CRC Rule 2.304. This court will accept filings through a fax filing agency in accordance with CRC Rule 2.303, with the exception of those documents identified in CRC 2.300(b). "Fax filing agency" means an entity that receives documents by fax for processing and filing with the trial courts. An attorney or law office may be a "fax filing agency" for the attorney, law office, or others so long as all duties and requirements under CRC Rules 2.303 and 2.305 are met.
- (B) Electronic mail filing<sup>1</sup> is accepted through our dedicated email address [court\\_filings@trinitycounty.org](mailto:court_filings@trinitycounty.org)

#### **RULE 4.12     SCHEDULING EX PARTE MOTIONS AND APPLICATIONS**

To secure a date and time for hearing ex parte motions and other ex parte applications for which personal appearances are required consistent with the California Rules of Court, the party making the application shall contact Court Services in order to schedule the hearing. In the event the party making the application elects not to proceed with the ex parte application, said party shall immediately so inform the court.

#### **RULE 4.13     PAYMENT OR WAIVER OF FEES**

Pursuant to Government Code §68634(d), the court delegates to the clerk authority to grant applications for fee waivers that meet the standards of eligibility established by Government Code §68632 and §68633.

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<sup>1</sup> If electronic filing is permissive, Code of Civil Procedure §1010.6(b)(3) and California Rules of Court, Rule 2.253(a) apply. Section 1010.6(b)(3) states: "Any document received electronically by the court between 12:00 a.m. and 11:59:59 p.m. on a court day shall be deemed filed on that court day. Any document that is received electronically on a non-court day shall be deemed filed on the next court day." Rule 2.253(a) states: "A court may permit parties by local rule to file documents electronically in any types of cases subject to the conditions in Code of Civil Procedure §1010.6 and the rules in this chapter [i.e., rules 2.250–2.261]."



#### **RULE 4.14 LAW AND MOTION MATTERS**

- (A) **Law and Motion Calendars.** All demurrers, motions and other applications for orders (except ex parte applications), and any other matters in connection with “general civil actions” as defined in California Rules of Court, Rule 1.6(4), customarily heard and determined as law and motion matters, shall be set on the appropriate civil day in the department to which the action has been assigned for all purposes. However, when the appropriate civil day is a court holiday, such matters shall be set on the next available civil day, absent other or further order of court.
- (B) **Continuances and Withdrawals.** A party seeking to continue a law and motion hearing, or who does not intend to proceed in any matter on the date set, must file with the Court and serve on all parties a notice of continuance or withdrawal of the hearing date, at least two court days before the originally scheduled hearing date. A notice of continuance must contain a declaration by counsel that all parties to the law and motion proceeding have agreed to the continuance, a continued hearing date and time must be set forth, and proof of service must be attached. A notice of withdrawal must have a proof of service attached.

Notwithstanding any agreement by the parties, the Court may reject a continuance or notice of withdrawal, and/or select a new continued hearing date different from the date set forth by the parties. Failure of the moving party to comply with this rule may result in the matter being taken off calendar or deemed to have been submitted for the Court’s ruling, and/or the imposition of monetary sanctions.

- (C) **Proposed orders.** The moving party shall submit a proposed order at the time of filing any demurrer, motion or other application for order.

#### **RULE 4.15 CONFLICTING COURT APPEARANCES**

When counsel has court appearances set in two or more court departments at the same time, he or she shall so advise the courtroom clerks and request priority handling in one department and that the proceeding in the other department(s) trail the first.

#### **RULE 4.16 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 Court Services and the case shall be thereafter assigned for all purposes to a judge designated by the presiding judge.
  - (2) **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 status conference before the judge assigned to the case within fifty (50) days of the date of filing of the petition, and serve notice of the date of the Status Conference on the respondent.
    - (b) **Briefing schedule and hearing on the petition.** The court shall set a tentative date for a hearing on the petition and set a tentative briefing schedule at the 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. The

memoranda of points and authorities, including length, shall be in accordance with California Rules of Court, Rule 3.1113, unless otherwise ordered by the court. 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 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) Mediation.**

In accordance with Government Code §66031, within five (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.

**(C) Preparation of the Administrative Record.**

**(1) Preparation of the record by the public agency.** Within twenty (20) calendar days after receipt of the 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 five (5) calendar days of receipt. Within forty (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 seven (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 forty (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 seven (7) calendar days after service of the agency's proposed documents 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 twenty (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 forty (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 seven (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.

(D) **Format of Administrative Record.**

- (1) **Lodging original documents.** 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.
- (2) **Volume designation.** The administrative record shall be lodged in one or more volumes of loose-leaf three-ring binders, 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 at which it appears, the full title of the document, and the page number of the record of the first page of the document. The volume number shall also be printed on the spine of each binder.
- (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 approving 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 is 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).

**(E) Certifying and Lodging the Record.**

Upon completion and preparation of the record, it must be certified by the agency before it is 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 sixty (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. An extension of the sixty (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 sixty (60) day period. Alternatively, an extension may be requested on noticed motion prior to the expiration of the sixty (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.

- (F) 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. Such motion should normally be filed as soon as possible after the record is lodged. **THE PARTIES ARE STRONGLY URGED TO MEET AND CONFER IN ORDER TO RESOLVE DISPUTES REGARDING THE CONTENT OF THE ADMINISTRATIVE RECORD.** 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.

- (G) Hearing to Certify the Administrative Record.** A hearing date to certify the administrative record will normally be set by the court at the initial 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 court will confirm or revise the tentative briefing schedule and hearing date that were set at the initial status conference.

- (H) **Trial Notebook.** Petitioners shall prepare a trial notebook in a three-ring binder that shall be filed with the court no later than fifteen (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 previously filed and set to be heard at the trial of the action, the statement(s) of issues required by Public Resources Code §21167.8, 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.

#### **RULE 4.17 SMALL CLAIMS ADVISORY SERVICES**

This court exempts itself from the small claims advisory service requirements set forth in Code of Civil Procedure §116.940(b).

### **SECTION 5 CRIMINAL RULES – FILING COMPLAINTS, ARRAIGNMENT AND BAIL RULE**

#### **RULE 5.01 FILING CRIMINAL COMPLAINTS AND CITATIONS**

- (A) All criminal complaints charging in-custody defendants shall be filed with the Clerk at the earliest time possible but in no case later than 11:00 a.m. on the morning of the day any such defendant is to first appear in court on those charges.
- (B) All criminal complaints charging out-of-custody defendants shall be filed with the Clerk no later than two (2) days before the time of the defendant's first appearance on those charges.

#### **RULE 5.02 BAIL**

##### **(A) GENERAL PROVISIONS**

- (1) **More than one request.** Any person requesting a bail reduction or increase shall disclose all such prior requests. This rule does not apply where an application or request is made after a preliminary hearing, or at an initial arraignment on the Information.
- (2) **Defense requests re bail/OR.**
  - (a) No defense request for bail or O.R. may be made without prior notification to the prosecuting agency, to allow a representative to be present.
  - (b) When a defense request for bail or O.R. is made after normal court hours the requesting party shall, before contacting the court, arrange for the telephone availability of a representative from the prosecuting agency.
- (3) **Notice of request to set aside forfeiture.** The prosecuting agency and County Counsel need not be given notice of an order setting aside a forfeiture of bail pursuant to Penal Code §1305(c)(1) provided the following determinations and assessments are made:

- (a) The defendant has been delivered into the custody of the Trinity County Sheriff or the defendant appears voluntarily in court; and
  - (b) The defendant was delivered into the custody of the Trinity County Sheriff or appeared voluntarily in court within 180 days after entry in the minutes or mailing of the Notice of Forfeiture, together with such additional time as the court may have previously ordered pursuant to its authority under Penal Code §1305(e) or §1305.4; and
  - (c) In all other cases of a motion to set aside forfeiture, the prosecuting agency and County Counsel shall be given at least 10 days' prior written notice by the moving party pursuant to Penal Code §1305(k), and proof of such notice shall be filed with the court.
- (4) **Notice of Request for tolling or extension of time.** In all cases wherein a moving party requests that the 180-day period be tolled pursuant to Penal Code §1305(e), or extended pursuant to Penal Code §1305.4, the moving party shall give to the prosecuting agency and County Counsel at least 10 days' prior written notice of the motion pursuant to Penal Code §1305(k), and proof of such notice shall be filed with the court.

**(B) SOURCE OF BAIL – P.C. §1275.1 – PROCEDURE**

When a Source of Bail Order pursuant to Penal Code §1275.1 has been signed by a judge in a case, the following procedure shall be followed by the defendant in calendaring the matter for hearing to show that no portion of the consideration, pledge, security, deposit, or indemnification paid, given, made, or promised for its execution was feloniously obtained:

- (1) The Request for Hearing shall be accompanied by a declaration or offer of proof setting forth the following:
  - (a) The identity of the bail agent and surety, or, if there is no surety, the depositor;
  - (b) The source of the bond premium, including name and address of person(s) proposing to pay said premium; and
  - (c) The source of the security or pledge, including the name and address of the owner, and description of the property.
- (2) The declaration or offer of proof shall be filed and personally served on the prosecuting agency, not later than twenty-four (24) hours before the hearing.
- (3) At the hearing, the defendant shall produce the bail agent, the person proposing to pay the premium, and the person proposing to provide the security for examination and cross-examination.

**(C) REAL PROPERTY BONDS**

In order to post a real property bond, the following procedure must be followed:

- (1) A Notice of Hearing pursuant to Penal Code §1298 shall be filed. It shall also be served on the prosecuting agency and County Counsel. Compliance with the notice provisions of California Rules of Court, Rule 4.111 is required.

- (2) The Notice of Hearing shall be accompanied by an Application for Real Property Equity Bond; a declaration of the real property owners; an executed Promissory Note; a Deed of Trust made payable to “County of Trinity” as beneficiary and “Court Executive Officer” as Trustee; and a proposed order approving property bond and order for release of Defendant.
- (3) In addition, the following must be filed with the original Notice of Hearing:
  - (a) An appraisal report of the fair market value of the property, dated not more than 45 days prior to filing the application for the property bond and completed by a qualified real estate appraiser;
  - (b) A current preliminary title report, prepared by a California title company, that includes a legal description of the property, the address or location of the property, and a listing of all encumbrances, and is dated no more than 30 days prior to the application for the property bond; and
  - (c) Proof of insurance coverage of the property, sufficient to pay all encumbrances, which insurance must include “County of Trinity” as a loss payee.

The proposed Order Approving the Property Bond and Order for Release of Defendant shall not be signed unless the court makes the required finding that the equity in the property is twice the value of the amount of bail, and only upon delivery to the court of the recorded Deed of Trust.

#### **RULE 5.03 ARREST AND SEARCH WARRANTS**

All requests for arrest warrants and search warrants shall first be presented to the District Attorney or Attorney General, as appropriate, for review and approval before delivery to the court. All supporting declarations on arrest warrants shall be fully dated and executed before being considered by a judge. The only exceptions to District Attorney or Attorney General review include *Ramey* warrants, forced blood draw warrants for suspicion of driving under the influence (DUI)/boating under the influence (BUI), and *Steagald* warrants.

Search warrant returns are to be presented to Court Administration who is authorized to receive and execute the return for the court pursuant to Penal Code §1534(d).

#### **RULE 5.04 ARRAIGNMENT**

- (A) As a general case handling guideline, the court shall schedule misdemeanor cases not resolved at arraignment for a pretrial conference in approximately two (2) weeks.
- (B) As a general case handling guideline, the court shall schedule felony cases not resolved at arraignment for a preliminary examination in approximately two (2) weeks and for a pre-prelim the week prior. The defendant shall be personally present at all felony appearances, unless excused by the Court, in advance, pursuant to Penal Code §977.

### **SECTION 6 CRIMINAL RULES – MISDEMEANOR PRETRIAL PROCEEDINGS**

#### **RULE 6.01 NEGOTIATIONS PRIOR TO PRETRIAL CONFERENCE**

- (A) Counsel are strongly encouraged to meet and discuss actions informally in an attempt to resolve matters prior to the pretrial conference.
- (B) Prosecution should deliver to defense counsel a formal offer for resolution prior to the day of the pretrial conference.
- (C) Defense counsel should appear at the pretrial conference having already discussed the case and prosecution's offer with the defendant.
- (D) Both sides shall be fully prepared and able to discuss the facts of the case and the availability of witnesses for trial. The final pretrial conference shall not be continued without actual good cause shown.
- (E) Pleas of guilty or no contest entered by counsel pursuant to Penal Code §977 must be accompanied by a properly executed plea form if the plea relates to any offense that constitutes a prior offense for purposes of enhanced punishment upon a subsequent conviction under any statute, including, but not limited to Penal Code §488 and Vehicle Code §§14601, 23103.5, 23152, and 23153.

#### **RULE 6.02 PRETRIAL MOTIONS**

- (A) In the event that moving papers are not timely filed for an assigned hearing date without good cause demonstrated, a motion may be deemed waived by the moving party.
- (B) Failure to serve or file papers in opposition to a motion or other application to the court for an order, other than an ex-parte application, may, in the court's discretion, be deemed a waiver of any objections and an admission that the motion or other application is meritorious. Notwithstanding the foregoing, in any matter in which the opposition is based upon a factual dispute, only, as distinguished from a disputed legal issue, opposition papers shall not be required.
- (C) Motions to continue any hearing, including trial, are disfavored and shall be denied unless the moving party, pursuant to and in accordance with Penal Code §1050, presents affirmative proof that the ends of justice require a continuance. A stipulation by all parties to continue a hearing does not constitute good cause, by itself. Substitution of counsel does not automatically constitute good cause for a continuance.

#### **RULE 6.03 FINAL PRETRIAL CONFERENCE**

- (A) All counsel shall attend a final pretrial conference held the Thursday prior to the jury trial date prepared to indicate to the court a readiness to proceed to jury trial. The prosecuting attorney must have authority to dispose of the case.
- (B) All cases shall be settled as soon as reasonably practicable. The judge may set cut-off dates for accepting negotiated dispositions.

#### **RULE 6.04 COURT REPORTERS AND RECORDING SYSTEM**

Except in felony cases, court reporters are not available at the expense of the Court. In lieu thereof, a digital recording system is available for misdemeanor or infraction cases pursuant to Penal Code §1045 upon direct request to the clerk of the court no later than five (5) days in advance of the proceedings to be recorded. Court reporters may be used, but they shall be obtained by, and at the expense of, one or more of the parties.



**SECTION 7  
CRIMINAL RULES – DISCOVERY**

**RULE 7.01 DISCOVERY**

- (A) Discovery shall be governed by the provisions of Penal Code §1054, et seq.
- (B) The obligation to make discovery is an automatic, reciprocal, and continuing obligation.
- (C) Unless otherwise ordered, a motion in a criminal case for the discovery of information or evidence shall be in writing and, absent an order shortening time, shall be subject to the time standards contained in California Rules of Court, Rule 4.111, which is incorporated herein by this reference.
- (D) In misdemeanor cases, all discovery shall be timely sought so that the attorneys are adequately prepared to discuss the case at the settlement conference.
- (E) In the event of a failure to comply with this rule or an order of discovery, the court may grant a continuance, exclude the evidence not disclosed, dismiss the case if required by the United States Constitution, or order any other relief or sanction available at law or under these rules.

**SECTION 8  
CRIMINAL RULES – TRIAL**

**RULE 8.01 MOTIONS AT TRIAL**

Motions that are out of the ordinary or unusual (e.g. complex or extensive motions in limine) shall be made in writing, served upon opposing counsel, and filed at or before the final pretrial conference.

**RULE 8.02 SUBMISSION OF CRIMINAL JURY INSTRUCTIONS**

**(A) Time for submission.**

- (1) Absent an order of the trial judge on good cause shown, or as otherwise directed by the trial judge, all jury instructions covering the law as disclosed by the pleadings shall be delivered in writing to the trial judge no later than 12:00 p.m. on the first day of trial and shall be served on all other parties by that time.
- (2) Specially prepared instructions shall be numbered consecutively and shown to opposing counsel.

**(B) Format of instructions.**

Each party shall submit one set of proposed instructions with a cover sheet in compliance with California Rules of Court, Rule 2.1055. Each instruction shall present the approved and unmodified wording as provided in CALCRIM. The instructions shall have the applicable CALCRIM number printed at the top of the page, but shall not include any place to indicate whether the instruction was given, refused, or modified. Each instruction shall be on a separate page or pages with sequentially numbered lines along the left margin. It is the court's preference that the individual pages not be numbered.

### **RULE 8.03     ORDINARY MOTIONS IN LIMINE**

All exhibits, exhibit lists, and witness lists must be filed with the court and shown to opposing counsel prior to jury selection.

## **SECTION 9 CRIMINAL RULES – PRELIMINARY EXAMINATIONS RULE**

### **RULE 9.01     TIME ESTIMATES FOR PRELIMINARY EXAMINATIONS**

Counsel shall, at the time of setting, or as soon as possible thereafter, identify to the setting judge, the Presiding Judge, or the Presiding Judge's designee any matter which can realistically be expected to take a half-day or more to present. Those matters not so designated will be assumed to require less than a half-day and will be appropriately calendared.

### **RULE 9.02     CONTINUANCES OF PRELIMINARY EXAMINATIONS**

- (A) Absent good cause shown, a motion to continue the preliminary examination shall be heard at the time of the felony pre-prelim conference scheduled for the case.
- (B) Motions to continue the preliminary examination are disfavored and shall be denied unless the moving party, pursuant to and in accordance with Penal Code §1050 and the particular statutes pertaining to continuances of preliminary examinations, presents affirmative proof that the ends of justice require a continuance. A stipulation by all parties to continue the preliminary examination does not constitute good cause, by itself. Substitution of counsel does not automatically constitute good cause for a continuance.

## **SECTION 10 RULES RELATING TO ADULT INFRACTIONS**

### **RULE 10.01     CONTESTING A TICKET**

A defendant who has received a written notice to appear may contest the citation or ticket by taking one of the following actions:

- (A) Appear in person at arraignment and plead not guilty, at which time a future date for a court trial will be assigned. No deposit of bail (also referred to as payment of fines) is required to appear in court for arraignment or trial.
- (B) Request a date for combined arraignment and court trial by contacting Court Services during normal business hours. The request must be received prior to the time at which the defendant is required to appear. Pursuant to Vehicle Code §40519, full bail must be deposited before a trial date will be assigned. Bail shall include all assessments under §42006 of the Vehicle Code and §1464 of the Penal Code.
- (C) Request a Trial by Declaration, as set forth in Rule 11.06. The request must be received prior to the time at which the defendant is required to appear. Pursuant to Vehicle Code §40902(b), full bail must be deposited at the time the written declaration is submitted.

## **RULE 10.02 TRIAL CONTINUANCES**

A request for continuance of court trial must be received at least ten (10) working days in advance of the trial date. An untimely request for continuance will not be granted unless the interest of justice shall so require.

## **RULE 10.03 TRIALS BY DECLARATION**

- (A) A defendant may elect to have a trial by declaration as fully set forth in Section 40902 of the Vehicle Code and Rule 4.210 of the California Rules of Court.
- (B) Failure to appear as promised (FTA) on a traffic infraction will result in the Court deeming that the defendant has consented that the Court may proceed in absentia, in a trial by written declaration pursuant to Vehicle Code §40903, and the case will be adjudicated solely on the merits of the citing document. The Court will notify the defendant of the disposition of the case and the amount of the imposed fines and penalties and a notice of conviction shall be reported to the California Department of Motor Vehicles.

## **SECTION 11 GENERAL CRIMINAL RULES**

### **RULE 11.01 SANCTIONS**

Rule 4.08 pertaining to civil actions is incorporated herein by this reference as though fully set forth at length, and is hereby made applicable to criminal actions in the court.

### **RULE 11.02 SENTENCE MODIFICATIONS**

In cases in which the court has not lost jurisdiction and the defendant or counsel seeks modification of a term of probation, including a jail term, the clerk shall be contacted so that a hearing can be set before the bench officer who imposed the sentence, on a regular calendar over which that bench officer presides. The request for modification shall be in the form of a noticed motion, the time for filing and service of which shall be as set forth in California Rules of Court, Rule 4.111, absent an order shortening time obtained on written application, and for good cause shown. If the sentencing bench officer is unavailable to hear the motion timely, then the Presiding Judge or his or her designee shall hear the motion. Nothing in this rule shall preclude pro per defendants from sending written requests for sentence modification to the sentencing judge's attention, nor shall it preclude bench officers from responding to such letter requests. In no event shall hearing on such an application take place following less than two days' actual notice to the District Attorney, unless time is expressly waived by the District Attorney.

### **RULE 11.03 CLAIMS FOR PAYMENT BY COURT APPOINTED COUNSEL**

As to attorney fees, this rule does not apply to any counsel who works under a contract with the County of Trinity or the Trinity Superior Court unless that counsel seeks payment in addition to sum certain stated in the contract. This rule applies to any counsel in any court who seeks the appointment of an expert.

To the extent the provisions of this rule conflict in capital cases with PC §987.9, the provisions of PC §987.9 shall control.

#### **(A) COURT APPOINTED COUNSEL**

Any counsel appointed by any judge in any court under any California Statute or Court Rule who claims reimbursement separate from and in addition to any contract consideration, shall include in his/her claim for payment all of the following: The date of appointment; the case number(s) of appointed cases; the name of the appointed client (except in juvenile cases); the date and inclusive times of work billed; the total hours and minutes (or fractions of an hour) billed for each entry; a clear and concise description of the work done. Further, counsel should ask for a copy of and comply with the most current court requirements for attorney billing. Rounding up in billings shall be no more than to the next 1/10ths of an hour, and in all cases, shall be reasonable in the discretion of the Court.

**(B) COURT APPOINTED EXPERTS**

Experts are paid the reasonable value of services. No payment will be made unless counsel first obtains the consent of the Court to retain the expert. A request that asks for an expert merely to explore the file will not be granted. Any application for appointment of an expert shall be by declaration of counsel and shall include at least the following:

- (1) The file number(s) and party name(s) (except in Juvenile appointments);
- (2) The type of service being requested;
- (3) Why such services are reasonably necessary to the case of counsel's client;
- (4) The identity, billing address, hourly rate, any flat charges that may apply;
- (5) A statement of the expert's qualifications to provide the requested services;
- (6) An estimate of total cost of services should be included where possible, as well as a not-to-exceed cap;
- (7) If the expert is required by law to possess a license or other qualification, then the application must identify the license or qualification, the date it was obtained, the office or institution from which that license or qualification was obtained, and a statement that the expert is current and in good standing thereunder.

The statement of services rendered and expenses incurred and any orders authorizing the attorney's use of ancillary services shall be attached to, and incorporated by reference as a part of, the declaration.

**(C) APPLICATIONS FOR AUTHORIZATION TO USE ANCILLARY SERVICES**

Before incurring expenses for ancillary services, which are defined to include, without limitation, services of investigators, experts, paralegals, and transcriptionists who are not salaried employees of the attorney, the attorney shall make written application for authorization from the court to do so. Such application shall be supported by a declaration made under penalty of perjury, setting forth the following facts:

- (1) The reason such services are reasonably necessary in the preparation of a defense;
- (2) The type of service being requested;
- (3) The name of the provider being requested and a brief statement of the provider's qualifications to provide the requested services;
- (4) Where the provider is required by law to possess a license to provide the requested services, the application shall include the provider's license number or specify any exemption to the licensing requirement applicable to the provider, and;
- (5) A request for authorization to spend up to a specific dollar amount.

After the initial approval of ancillary services by the court, the attorney may reapply for authorization for additional expenditures if the attorney believes there is a reasonable possibility the amount originally authorized for ancillary services will be exceeded. Such reapplication shall include in the declaration in

support of the request the amounts previously authorized and the reason a greater amount is being requested. Additionally, the attorney must include a summary of funds already paid to them for each request for ancillary services. A copy of any previous orders authorizing expenditures shall be attached.

Only when exigent circumstances exist may an attorney engage ancillary services without prior court authorization. If an attorney does so, the attorney must immediately thereafter make application to the court for authorization of such services and show, in a declaration made under penalty of perjury, exigent circumstances justifying the use of such services without prior court authorization. Exigent circumstances may include, but are not limited to, circumstances in which there is a need to preserve or document physical evidence which would dissipate before court authorization could be obtained. The inadvertence, neglect, mistake, or negligence of counsel or counsel's office staff in seeking timely authorization, even if excusable, shall not constitute exigent circumstances.

If an attorney submits a claim for payment of ancillary services which exceeds the amount previously authorized by the court, such excess amount shall not be paid unless the attorney, in a declaration made under penalty of perjury, submitted with the claim, establishes a reasonable explanation for exceeding the authorized amount without obtaining additional prior court authorization.

Claims for payment for ancillary services are to be submitted at the time the attorney submits the claim for payment of services rendered and expenses incurred. The claim for payment for ancillary services shall be submitted by the attorney employing such services. If periodic claims are submitted pursuant to (A) above an accounting shall be included which details the original amount authorized by the court plus any additional authorized amount(s) if any, less expenditures to date and the balance remaining. Orders for payment will be directly to the providers of the ancillary services.

**(D) COMPENSATION FOR POST-SENTENCING MATTERS**

Attorneys will be compensated only for those post-sentencing matters for which they are specifically appointed by this court. They will also be compensated for any post-sentencing matter for which they are directed by this court to appear in court or to review specific matters. A claim for any such services authorized by this paragraph shall be excepted from the single application requirement, shall be specifically identified as relating to post-sentence matters, and shall be presented in the form of a declaration.

**(E) MISCELLANEOUS MATTERS**

All claims and applications made pursuant to this Rule 11.03 shall include points and authorities, supporting declarations made under penalty of perjury, and proposed orders. Claims shall be submitted regularly or within 45 days of service. If a claim is denied in whole or in part, the attorney may resubmit a claim for the denied portion within 30 days of being notified of the denial, if the attorney, in a declaration made under penalty of perjury, provides additional facts which establish a reasonable basis for the attorney's belief the claim should receive additional consideration by the court. Each such resubmitted claim shall be expressly identified as such. If the court denies any such resubmission, the court shall state its reasons for denying the resubmitted claim in writing. In lieu of resubmitting the claim in writing, the attorney, within 30 days of being notified of the denial, may request an ex parte in-camera hearing. The hearing shall be on the record, and the transcript of such hearing shall be ordered sealed. If the court denies such resubmitted claim; the court shall state its reasons on the record. In no event shall the court consider any additional resubmissions.

The court shall act on all submitted claims within 90 days of submission of the claim.

All applications, including all supporting documentation, submitted and all orders made under the provisions of this rule are to be filed in the confidential portion of the files to which they pertain.

(F) **FORMS**

All claims for payment specified in this Rule 11.03 shall be made on the Courts Claim Form, which can be provided to counsel from the Court Secretary, or on forms substantially the same. If forms substantially the same are used, such forms shall include the same information required to complete the forms in the appendix, and that information shall be listed in the same order as on the forms in the appendix.

(G) **FAILURE TO COMPLY**

**Failure by the attorney to comply with the requirements of this rule, including the time for filing requirement, shall be deemed a waiver of the claim and right to reimbursement.** Such failure to comply may be excused upon good cause shown by declaration under penalty of perjury submitted with the claim, or within 30 days of rejection of such claim for failure to comply. A failure to comply with the time requirement may also be excused if the attorney, in advance of expiration of such time period, makes an application for an extension of the time period, for up to 30 days, and shows good cause for an extension of the time period in a declaration made under penalty of perjury, submitted with the application for extension of the time period.

A failure to comply with the requirement that all claims be made in a single application will be deemed a waiver of any such subsequent claims unless exceptional circumstances justifying submission of a subsequent claim are shown in a declaration made under penalty of perjury submitted with the subsequent claim.

**RULE 11.04 REQUIREMENTS FOR APPOINTED COUNSEL IN CAPITAL CASES**

(A) **Appointment of Trial Counsel**

No attorney shall be appointed as defense counsel in a death penalty case after January 1, 2004, unless he or she meets the minimum qualifications specified in California Rules of Court, Rule 4.117, in compliance with this rule.

(B) **Additional Requirements – Pretrial**

In cases in which the death penalty may be imposed, appointed counsel must comply with the additional requirements for pretrial proceedings as set forth in California Rules of Court, Rule 4.119.

(C) **Additional Requirements – Trial**

In cases in which the death penalty may be imposed, appointed counsel must comply with the additional requirements for trial as set forth in California Rules of Court, Rule 4.230.

(D) **Filing of Habeas Corpus Petition**

Counsel appointed in death-penalty related habeas corpus proceedings must comply with California Rules of Court, Rule 4.571 when filing a petition with the Superior Court.

## **RULE 11.05 FACSIMILE FILING**

- (A) This court does not accept direct fax filings as provided by CRC Rule 2.304. This court will accept filings through a fax filing agency in accordance with CRC Rule 2.303, with the exception of those documents identified in CRC 2.300(b). “Fax filing agency” means an entity that receives documents by fax for processing and filing with the trial courts. An attorney or law office may be a “fax filing agency” for the attorney, law office, or others so long as all duties and requirements under CRC Rules 2.303 and 2.305 are met.
- (B) Electronic mail filing<sup>2</sup> is accepted through our dedicated email address [court\\_filings@trinitycounty.org](mailto:court_filings@trinitycounty.org)

## **SECTION 12 FAMILY LAW RULES**

### **RULE 12.01 FAMILY COURT SERVICES COUNSELING**

(A) **Recommendations of Child Custody Recommending Counselors**

Court designated child custody recommending counselors are hereby authorized to render a recommendation to the court as to the custody or visitation of the child or children, involved. The Court may, without foundation, consider the report and recommendation of the counselor.

(B) **Challenge of Counselor**

The assignment of counselors is an administrative function of Family Court Services. Requests to assign or not assign a specific counselor will not be honored. Requests for a change in assigned counselor or reports of general problems related to Family Court Services shall be made to the Director of Family Court Services. Reports of general problems related to the Director of Family Court Services shall be made to the Supervising Family Law Judge.

(C) **Declarations**

All declarations submitted to the counselor for consideration shall comply with California Rules of Court, Rule 2.100. No single declaration shall exceed 10 pages in length nor shall the total number of pages submitted by or on behalf of any parent, including exhibits and attachments thereto, exceed 30 pages. All papers submitted to the counselor for consideration shall first be filed with the court and must be accompanied by a proof of service upon the opposing party or counsel (with file stamped, conformed copies given to Family Court Services). Service must be effected in a manner as to ensure actual physical receipt by the opposing party and/or counsel and Family Court Services, not later than noon of the court day preceding the scheduled mediation session. Notwithstanding the foregoing, declarations that are not timely served may be considered at the discretion of the counselor.

(D) **Testimony of Child Custody Recommending Counselor**

- (1) A party seeking testimony from the child custody recommending counselor at hearing or trial must, at least three court days prior to the scheduled hearing or trial, make a written request to

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<sup>2</sup> If electronic filing is permissive, Code of Civil Procedure §1010.6(b)(3) and California Rules of Court, Rule 2.253(a) apply. Section 1010.6(b)(3) states: “Any document received electronically by the court between 12:00 a.m. and 11:59:59 p.m. on a court day shall be deemed filed on that court day. Any document that is received electronically on a non-court day shall be deemed filed on the next court day.” Rule 2.253(a) states: “A court may permit parties by local rule to file documents electronically in any types of cases subject to the conditions in Code of Civil Procedure §1010.6 and the rules in this chapter [i.e., rules 2.250–2.261].”

the Family Court Services office at 11 Court Street, Weaverville, CA 96093. When trial is scheduled to commence less than three court days after the Trial Setting Conference, the written request must be submitted no later than 5pm on the day of the Trial Setting Conference.

- (2) This rule is not applicable to deposition testimony. A request for deposition testimony from the child custody recommending counselor must be made in compliance with Government Code §§68097.1 and 68097.2. The party issuing the deposition subpoena should contact the Family Court Services office prior to serving the subpoena to determine availability.

## **RULE 12.02 CHILD CUSTODY EVALUATIONS**

### **(A) Appointments of Child Custody Evaluators**

In any contested proceeding involving custody and/or visitation, the court may, in its discretion, appoint a child custody evaluator to perform an evaluation in accordance with Family Code §3110 et seq., Evidence Code §730, or Code of Civil Procedure §2032.010 et seq. The court will use Judicial Council form FL-327, *Order Appointing Child Custody Evaluator*, to make any such appointment.

### **(B) Payment for Child Custody Evaluations**

The court will order payment of the evaluator at the time of the appointment. The evaluator may not withhold a report from the court because of the parties' failure to pay. The evaluator may bring the issue of a party's failure to pay to the attention of the court.

### **(C) Conduct of Child Custody Evaluations**

The evaluation shall be conducted in conformance with Rule 5.220 of the California Rules of Court by a child custody evaluator who satisfies the licensing, education, training and experience requirements of Rules 5.225 and 5.230 of the California Rules of Court. In the event that no evaluator who meets the requirements of Rule 5.225 is willing and available to perform an evaluation, the court may appoint an evaluator who does not meet the requirements under the circumstances permitted by Rule 5.225.

### **(D) Qualifications of Evaluators**

Any child custody evaluator appointed pursuant to this local rule must file Judicial Council form FL-326, *Declaration of Private Child Custody Evaluator Regarding Qualifications*, as required by Rule 5.225(k) of the California Rules of Court to establish that he or she is a qualified child custody evaluator. Peremptory challenges to any court-appointed child custody evaluator will not be allowed.

### **(E) Withdrawal of Evaluator**

Evaluators may petition the court to withdraw from a case, for good cause, in a writing directed to the judicial officer to whom the case has been assigned with copies to the parties/attorneys. The evaluator need not be present at the hearing unless directed by the court.

### **(F) Complaints against Evaluators**

If a party alleges that an evaluator has committed an unprofessional or inappropriate act during the course of the evaluation, he or she may discuss the complaint with the evaluator directly in order to handle misunderstandings. Any complaints regarding the evaluator that are not resolved informally should be directed to the appropriate licensing/regulatory board.



(G) **Reports**

Evaluators shall prepare a written report. At least 10 days before the hearing regarding custody of the child, the evaluator shall file the report and serve it on the parties or their attorneys, and any counsel appointed for the child pursuant to Family Code §3150.

(H) **Confidentiality; Sanctions for Violation**

Reports from child custody evaluators shall be placed into the case management system as a confidential document, and may not be disclosed to anyone except the following persons: (a) a party to the proceeding and his or her attorney of record; (b) an attorney appointed for the child pursuant to Family Code §3150; (c) those additional persons set forth in Family Code §3025.5; and (d) any other person upon order of the court for good cause. Those persons entitled to disclosure of the report shall preserve the confidentiality of the document. Use of the report shall be limited to the pending litigation and no person who has access to the report shall make copies for dissemination or disclose its contents to any child who is the subject of the report or to anyone else not entitled to access, nor shall the parties attach such document to any pleading in the pending litigation or in any other litigation or proceeding. Substantial sanctions shall be imposed for inappropriate disclosure.

(I) **Ex Parte Communications with Evaluator**

Communications with the child custody evaluator are governed by Family Code §216 and Rule 5.235 of the California Rules of Court. In general, direct or indirect communications between the evaluator, any attorney for the parties, any attorney for a child appointed pursuant to Family Code §3150, or the court are prohibited without the knowledge, presence or consent of all parties involved in the matter.

**RULE 12.03 FAMILY LAW FACILITATOR**

The Family Law Facilitator provided for pursuant to Division 14 of the Family Code shall, under the supervision, and at the direction of the Presiding Judge or the Presiding Judge's designee, and in addition to providing the services set forth in Family Code §10004, be responsible to discharge the additional duties set forth in Family Code §10005.

**RULE 12.04 FAMILY-CENTERED CASE RESOLUTION PROCESS**

(A) **Purpose**

This rule is intended to implement a family-centered case resolution process in conformance with CRC 5.83.

(B) **Scope**

This rule applies to all dissolution, legal separation, nullity, parentage and grandparent cases filed after January 1, 2012.

(C) **Family Centered Case Resolution Order without an Appearance; Case Review**

Pursuant to CRC 5.83(f), the court will review the case to determine whether it is progressing towards disposition in a timely and effective manner in accordance with the milestones, disposition time standards, and additional factors set forth in CRC 5.83. The court may take any action authorized by

CRC 5.83, including but not limited to setting status conferences, setting a family-centered case resolution conference, or scheduling the case for further review without appearances by the parties. Following the case review, a family law judicial officer may issue a family centered case resolution order notifying the parties and attorneys of the current status of the case and the next steps required to reach disposition.

**(D) Disposition Goals; Milestones**

To accomplish the goal of disposing of 90 percent of all cases within 18 months of the date the petition was filed, it is expected that cases will meet the following milestones:

- (1) A proof of service of summons and petition should be filed within 60 days of case initiation;
- (2) If no response has been filed, and the parties have not agreed on an extension of time to respond, a request to enter default should be submitted within 60 days after the date the response was due;
- (3) The preliminary declaration of disclosure should be served within 60 days of the filing of the petition; and
- (4) When a default has been entered, a judgment should be submitted within 60 days of the entry of default.

**RULE 12.05 AT-ISSUE MEMORANDUM / REQUEST FOR TRIAL**

- (A) Once a petition, response and preliminary disclosures pursuant to Family Code §2104 have been filed by the petitioner and respondent in any family law case, a party may file an At-Issue Memorandum (Local Form) accompanied by a proof of service when the case is at-issue and ready to be set for trial. An At-Issue Memorandum shall not be filed if any petition or complaint, supplemental petition or complaint, or other affirmative pleading remains unanswered, or if preliminary disclosures have not been filed by the petitioner and respondent unless waived pursuant to Family Code §2107. A trial date will not be set upon the request of a party until the At-Issue Memorandum is filed. The Court retains discretion to set a trial date upon its own motion without an At-Issue Memorandum.
- (B) Any party not in agreement with the information or estimates given in the At-Issue Memorandum may, within ten (10) days after service of the At-Issue Memorandum, file and serve a Counter At-Issue Memorandum.
- (C) Following the filing of an At-Issue Memorandum, the parties shall complete all final disclosures, unless waived, pursuant to Family Code § 2105.

**RULE 12.06 CHILD SUPPORT AND TEMPORARY SPOUSAL OR PARTNER SUPPORT**

**(A) Guidelines for Child and Spousal Support**

- (1) In appropriate cases, temporary spousal support shall be awarded in accordance with Family Code §3600 et seq. and may also be determined by the use of a computer generated calculation that applies the “Santa Clara Rule.” The “Santa Clara Rule” provides:
  - (a) Temporary spousal or partner support is generally computed by taking 40% of the net income of the payor, minus 50% of the net income of the payee, adjusted for tax

consequences. If there is child support, temporary spousal or partner support is calculated on net income not allocated to child support and/or child-related expenses.

- (b) The Court will use the local spousal or partner support formula at temporary spousal or partner support hearings except in the following circumstances:
  - (i) The application would be inequitable; or
  - (ii) The demonstrated need for the requested support is below the formula amount. In the interest of avoiding unnecessary litigation on this issue, the Expense Declaration of the payee will not be viewed as determining or fixing need, but as indicating the level of expenditure under the existing circumstances.

**(B) Computer Generated Support Calculations**

All orders after hearing or stipulations that contain child and/or temporary spousal or partner support provisions, including orders for \$0 support, shall have attached a computer generated support calculation setting forth the guideline amount and the assumptions used in determining the support amount. If the parties do not agree upon a single calculation, each party may attach a computer generated calculation.

**(C) Reimbursement Issues**

Requests for reimbursement of out-of-pocket costs for health care and/or child care must include a summary detailing the cost paid and reimbursement requested. Copies of evidence/exhibits in support of the request for reimbursement shall be submitted with the moving papers.

**RULE 12.07 CALENDARING**

In order to improve access to the court process on issues of child custody and visitation, the Family Court Mediator is authorized to use a Mediator's Notice of Hearing. Forms and procedural rules for that process are developed and updated by the mediator, with the approval of the Presiding Judge.

**RULE 12.08 FACSIMILE FILING**

- (A) This court does not accept direct fax filings as provided by CRC Rule 2.304. This court will accept filings through a fax filing agency in accordance with CRC Rule 2.303, with the exception of those documents identified in CRC 2.300(b). "Fax filing agency" means an entity that receives documents by fax for processing and filing with the trial courts. An attorney or law office may be a "fax filing agency" for the attorney, law office, or others so long as all duties and requirements under CRC Rules 2.303 and 2.305 are met.
- (B) Electronic mail filing<sup>3</sup> is accepted through our dedicated email address [court\\_filings@trinitycounty.org](mailto:court_filings@trinitycounty.org)

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<sup>3</sup> If electronic filing is permissive, Code of Civil Procedure §1010.6(b)(3) and California Rules of Court, Rule 2.253(a) apply. Section 1010.6(b)(3) states: "Any document received electronically by the court between 12:00 a.m. and 11:59:59 p.m. on a court day shall be deemed filed on that court day. Any document that is received electronically on a non-court day shall be deemed filed on the next court day." Rule 2.253(a) states: "A court may permit parties by local rule to file documents electronically in any types of cases subject to the conditions in Code of Civil Procedure §1010.6 and the rules in this chapter [i.e., rules 2.250–2.261]."

## **SECTION 13 PROBATE RULES**

### **RULE 13.01 CAPTION OF PETITIONS AND POSTING**

The caption of a petition shall be all-inclusive as to the order sought so that the matter may be properly calendared and posted, and any filing fees determined. If any part of the estate is to be distributed to a trust, the caption shall so indicate.

### **RULE 13.02 SIGNING AND VERIFICATION OF PLEADINGS**

Pleadings shall be signed by the attorney and each representative, trustee, guardian, or conservator. The pleadings shall be verified by a representative, trustee, guardian, or conservator personally and not by the attorney unless one of the circumstances set forth in CCP §446(a) specifically authorizes verification by an attorney and compliance with the affidavit content requirements is met.

### **RULE 13.03 ADDITIONAL NOTICE REQUIREMENTS**

A copy of the petition shall be served with each notice of hearing when served on a person requesting special notice or where the petition is the accounting of a testamentary trustee. Where the fiduciary or attorney is requesting fees or commissions other than those computed by Probate Code §10800 and §10810, the notice of hearing and a copy of the petition shall be served on all interested parties. The proof of service shall show service of the copy of the petition as well as the notice of hearing.

### **RULE 13.04 WORDING OF PROBATE ORDER**

The moving party shall submit a proposed order for every petition. Probate orders shall be worded so that their general effect may be determined without reference to the petition on which they are based.

### **RULE 13.05 TIME FOR SUBMITTING ORDERS AND AFFIDAVITS OF PUBLICATION**

All orders prepared by the moving party and affidavits of publication shall be filed or lodged with the clerk at least three court days before the date of hearing.

### **RULE 13.06 ORDER FOR FAMILY ALLOWANCE**

The duration of an order for family allowance is limited to six months if no inventory and appraisalment has been filed, and is limited to one year if an inventory and appraisalment has been filed.

Comment: The court discourages requests for retroactive (nunc pro tunc) payment of family allowance. Requests for family allowance should be made in a timely fashion.

### **RULE 13.07 COMMISSIONS AND FEES IN PROBATE ESTATES**

- (A) All petitions for allowance of statutory fees or commissions on account before final distribution must contain the information required by CRC Rule 7.701. Ordinarily, no more than 75% of the statutory compensation will be allowed before approval of final distribution. In the court's discretion, the full amount may be allowed where the estate or heirs will benefit (e.g., to reduce income taxes) or where ordinary services have been completed and final distribution is delayed only in order to perform extraordinary services.

- (B) The court may deduct from the personal representative's statutory commission any sums paid from estate funds for the performance of the representative's ordinary duties.
- (C) Community Property Election:
- (1) If both halves of the community property are properly included in the probate proceeding, statutory compensation calculated on both halves of the community property will be allowed.
  - (2) In cases in which only one half of the community property is subject to probate, compensation for ordinary services may only be based upon the value of that part of the community property which is subject to probate.
- (D) Extraordinary Services:
- (1) Ordinarily, compensation for extraordinary services will not be allowed or paid before the final accounting has been approved by the court.
  - (2) Except as stated below for routine real property sales and federal estate tax work, petitions for fees or commissions for extraordinary services shall include the information specified in CRC Rule 7.702.
- (E) Sales of Real Property: In determining the compensation of any attorney for extraordinary services rendered with respect to real property sales, the court will consider the amount of time involved, whether or not a real estate broker was employed, the involvement of the attorney in negotiations, the nature of other services rendered (e.g., drafting of the sales agreement and its complexity, preparation of deeds and other documents) and other similar information. In cases where there is a confirmation of sale hearing, the court will consider \$750.00 to be reasonable compensation. If that amount is requested, detailed information as to services rendered will not be required. This guideline only applies to attorneys' compensation, however, a personal representative may also request compensation for extraordinary services in regard to sales of real property.
- (F) Preparation of Federal Estate Tax Return: In determining the compensation of a personal representative or an attorney for the preparation of a federal estate tax return, the court will ordinarily consider the hours spent, the intricacy or peculiar nature of any of the issues or computations involved, the extent of any audit, the value of the gross estate, the amount of tax and other similar information.
- If neither the personal representative nor an attorney provides the court with such information, the court will assume that the sum of \$750.00 is a reasonable amount for the preparation of the Federal Estate Tax Return.
- (G) Costs: Where reimbursement for costs incurred is requested by the personal representative or attorney, the cost of items advanced by such party must be separately stated and described.

#### **RULE 13.08 REQUIRED MATTERS IN A PETITION FOR FINAL DISTRIBUTION**

In addition to items otherwise required by law, a petition for final distribution shall contain the following matters, unless set forth in the account and report:

- (A) A full and complete description of all assets on hand.

- (B) Facts specifically showing the entitlement of each heir to the portion of the estate to be distributed to that heir, including any information concerning predeceased children.
- (C) A computation of the attorney fees and representative commissions requested.
- (D) A statement regarding payment of all taxes pursuant to Probate Code §9650.
- (E) If the decree of distribution is to distribute assets in kind in a manner that all persons will not share equally in each asset and the distribution is other than pursuant to the will or the laws of intestate succession, then an agreement must be signed by each heir and devisee with the signatures acknowledged accepting the plan of distribution.
- (F) A schedule of claims showing the name of the claimant, amount claimed, date presented, date allowed, and, if paid, the date of payment. As to any claims rejected, the date of rejection must be set forth, and the original of the notice or rejection with affidavit of mailing to the creditor must be filed.
- (G) The terms of any testamentary trust must be set out in full in the petition and order and not merely incorporated by reference.
- (H) An itemization of costs for which counsel has been paid or is seeking reimbursement. Ordinary overhead items, including, but not limited to, costs of duplication of documents, telephone calls, and automobile mileage are not proper cost items.
- (I) A schedule showing the proration of taxes, fees, and costs.
- (J) A statement of what property is separate and what property is community.
- (K) If distribution is to be made pursuant to an assignment of interest, the assignment shall be filed and acknowledged and the details of the consideration set forth.
- (L) If distribution is to be made to a trust, either an acknowledged statement by the trustee accepting the property under the terms of the trust, or a petition by the executor or administrator for the designation of a substitute trustee shall be filed.
- (M) If the distribution is to be made to a minor or an incompetent, either facts showing compliance with Probate Code §3300, et seq., or current certified copies of letters of conservatorship or guardianship of the estate shall be filed.

#### **RULE 13.09 ACCOUNTS IN PROBATE PROCEEDINGS**

- (A) In any probate proceeding in which an accounting must be filed pursuant to Probate Code §1060, including guardianship, conservatorship, and trust proceedings, the original Summary of Account as specified in Probate Code §1061 and the original Detailed Schedules as specified in Probate Code §1062 and §1063 shall be filed. (See Judicial Council Forms GC-400-405.)
- (B) For any accounting in a guardianship or conservatorship proceeding, the documents in support of the Summary of Account and Detailed Schedules shall be *lodged* rather than filed and shall include every “account statement,” as defined in Probate Code §2620(c)(1) and (2), that shows the balance of the account at the close of the preceding accounting period. As to the first accounting, the documents in support shall show the account balance immediately preceding the date the conservator or guardian was appointed. A *copy* of the Summary of Account referenced in subsection “A” shall be attached to the top

of the supporting documents lodged with the court. The documents lodged pursuant to this rule shall be retained by the clerk and returned following judicial review.

- (C) Time for Filing and Lodging of Documents: The Summary of Account and Detailed Schedules shall be filed and supporting documents lodged within 90 days of the close of the accounting period to which they relate.

#### **RULE 13.10 PETITION TO ESTABLISH FACT OF DEATH**

A petition to establish the fact of death (terminate a joint tenancy or life estate) shall be verified and shall have attached as exhibits:

- (A) A copy of any instrument relating to any interest in the property; and
- (B) A copy of the death certificate.

Comment: There is no statutory provision for the determination by a court for attorney fees in proceedings for termination of joint tenancy or a life estate. No request for fees for services of this character should be made.

#### **RULE 13.11 GUARDIANSHIPS – ANNUAL REPORTS**

To ensure compliance with the annual reporting requirement of Probate Code §1513.2 and California Rules of Court, Rule 7.1003, a hearing date will be scheduled for no later than one month after the anniversary date of the date of every order appointing a person as a guardian. The clerk will mail to the guardian Judicial Council Form GC-251, *Confidential Guardianship Status Report*, at least one month before the hearing date. If the report is filed prior to the date for the hearing, no appearance will be necessary unless the court orders otherwise, and the next annual reporting date will be scheduled.

#### **RULE 13.12 TELEPHONIC APPEARANCES**

- (A) Counsel are permitted to appear by telephone on the probate calendar. Unless otherwise ordered by the court, telephonic appearances will not be allowed at any proceeding at which witnesses will be called to testify or at settlement conferences.
- (B) Unless leave of court is obtained to contact the court directly by telephone, all telephonic appearances shall be through a private vendor with which the court has made arrangements to provide teleconferencing services. Counsel wishing to appear by telephone must contact the vendor, Court Call, at (888) 882-6878 prior to the hearing and comply with the vendor's procedures.
- (C) Notwithstanding any other provision of this rule, the court may at any time require the personal appearance of any party.

#### **RULE 13.13 FEES AND COMMISSIONS IN GUARDIANSHIPS, CONSERVATORSHIPS AND TRUSTS**

- (A) **Attorney Fees in General:**

In determining the reasonable attorney fees to be granted in guardianships, conservatorships, and trusts within the jurisdiction of the court, the court will require compliance with Section 6148 of the Business and Professions Code as follows:

- (1) In any matter in which it is reasonably foreseeable that the total expenses to a client, including attorney fees, will exceed one thousand dollars (\$1,000.00), there should be a written contract between the attorney and client for services in the matter containing all of the following:
  - (a) The hourly rate and other standard rates, fees, and charges applicable to the matter.
  - (b) The general nature of the legal services.
  - (c) The respective responsibilities of the attorney and the client as to the performance of the contract.
- (2) In any guardianship, conservatorship, or trust within the jurisdiction of the court where there is no such written contract, reasonable attorney fees will be determined by the court using hourly rates that are customary in Trinity County.
- (3) In any case, attorney fees may be denied or reduced below customary or contractually agreed upon amounts if the court determines that the services have not been performed in an efficient, timely or competent manner.
- (4) Only legal fees for counsel appointed by the court to represent the conservatee may be approved and included in the Order Appointing Conservator.
- (5) Where an attorney is the fiduciary and is a member of a law firm, attorney fees will not be allowed unless a declaration is executed by the fiduciary agreeing that the fiduciary will not share in the attorney fees to be received by the firm.

**(B) Guardianships and Conservatorships:**

- (1) All petitions for compensation to a guardian, conservator, or attorney for a guardian or conservator shall include the information required by CRC Rules 7.751 and 7.702. The court will evaluate the services as a whole rather than designate part of the services as “ordinary” and part of the services as “extraordinary.” In determining the amount of just and reasonable compensation, the court will consider the factors set forth in CRC Rule 7.756.
- (2) In the event the attorney has performed bookkeeping and other services for an individual fiduciary, the court may award the fiduciary’s attorney a larger compensation and the individual fiduciary a lesser compensation.
- (3) The fiduciary may employ tax counsel, accountants or other tax experts for the preparation of tax returns and for other tax related services and pay from the funds of the estate for such services. The court may deduct from the fiduciary’s commission any sums paid from estate funds for performance of the fiduciary’s duties such as ordinary accounting and bookkeeping services.

**(C) Trusts:**

**(1) Compensation of Trustees:**

In determining or approving compensation of a trustee, the court will consider the factors set forth in CRC Rule 7.776. Compensation for the trustee will ordinarily be allowed as provided in the governing instrument, unless the Court fixes a greater or lesser amount pursuant to Probate Code §15680(b). If the instrument is not specific, the court will establish reasonable compensation.



(2) Attorney Fees:

Compensation for an attorney for the trustee will ordinarily be allowed as provided in the governing instrument. If the instrument is not specific, the court will establish reasonable compensation, based on a detailed description of the services rendered, their necessity, benefit to the estate, expertise required, time expended, and hourly rate.

(3) The time for allowing compensation is governed by Probate Code §§15680- 15688. Petitions for periodic payments must comply with Probate Code §2643.

**RULE 13.14 COURT INVESTIGATION OF PETITIONS TO APPOINT GUARDIANS OR CONSERVATORS**

- (A) Every party petitioning to appoint a conservator or a guardian shall provide an extra copy of the petition and all supporting documents to the civil division clerk's office upon filing, which will then be forwarded to the Court Investigator by the clerk. Any additional documents filed after the initial petition shall be subject to the same process.
- (B) The fee for court investigations in guardianship and conservatorship proceedings is specified in the court's fee schedule, which is available at the public counter of the clerk's office or on the court's web site at [www.trinitycourts.ca.gov](http://www.trinitycourts.ca.gov). Unless a fee waiver has been granted, the court investigation fee will be collected at the time of filing of any petition to establish a guardianship in which the proposed guardian is a relative, pursuant to Probate Code § 1513.1. In conservatorship proceedings, the court will determine whether to collect, waive or defer the court investigation fee after the investigator's report has been completed, pursuant to Probate Code § 1851.5.

**RULE 13.15 FACSIMILE FILING / ELECTRONIC MAIL FILING**

- (A) This court does not accept direct fax filings as provided by CRC Rule 2.304. This court will accept filings through a fax filing agency in accordance with CRC Rule 2.303, with the exception of those documents identified in CRC 2.300(b). "Fax filing agency" means an entity that receives documents by fax for processing and filing with the trial courts. An attorney or law office may be a "fax filing agency" for the attorney, law office, or others so long as all duties and requirements under CRC Rules 2.303 and 2.305 are met.
- (B) Electronic mail filing<sup>4</sup> is accepted through our dedicated email address [court\\_filings@trinitycounty.org](mailto:court_filings@trinitycounty.org)

**RULE 13.16 TERMINATION OF CONSERVATORSHIP – DEATH OF CONSERVATEE**

- (A) The conservator shall notify the court within ninety (90) days of the death of the conservatee.
- (B) Upon receiving notice of the death of the conservatee, if the conservatorship is one of the estate, the conservator shall file a final account of the administration pursuant to California Rules of Court, rule 7.1052.

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<sup>4</sup> If electronic filing is permissive, Code of Civil Procedure §1010.6(b)(3) and California Rules of Court, Rule 2.253(a) apply. Section 1010.6(b)(3) states: "Any document received electronically by the court between 12:00 a.m. and 11:59:59 p.m. on a court day shall be deemed filed on that court day. Any document that is received electronically on a non-court day shall be deemed filed on the next court day." Rule 2.253(a) states: "A court may permit parties by local rule to file documents electronically in any types of cases subject to the conditions in Code of Civil Procedure §1010.6 and the rules in this chapter [i.e., rules 2.250–2.261]."

## **SECTION 14 JUVENILE COURT RULES**

### **RULE 14.01 ALL PURPOSE ASSIGNMENT**

All juvenile dependency proceedings are assigned for all purposes to Department 1 and all juvenile delinquency proceedings are assigned for all purposes to Department 1 pursuant to the annual court calendar issued each year.

### **RULE 14.02 PROCEDURES AND TIME FRAMES FOR CONTESTED ISSUES**

The court shall set the matter for hearing in accordance with the time limitations established by law (e.g., Welfare and Institutions Code §334; California Rules of Court, Rule 5.680.)

### **RULE 14.03 MEET AND CONFER REQUIREMENT**

- (A) All counsel shall meet and confer with the court officer assigned by the Department of Child Welfare Services (CWS) and/or the Deputy or Assistant County Counsel assigned to the case. Counsel will have previously met with their respective clients and will be ready to discuss the issues to be resolved. Meet and confer requirements of these rules do not apply to parties representing themselves in propria persona.
- (B) If the parties are unable to resolve the issues, each party shall advise the other counsel orally or in writing not later than 24 hours prior to the scheduled hearing of the names and addresses of each anticipated witness (addresses of confidential foster parents need not be disclosed). Failure to comply may be cause for preclusion of the witness from testifying.
- (C) Written reports of expert witnesses, if any, must be disclosed to all parties at least 24 hours in advance of the hearing.

### **RULE 14.04 WRITTEN WAIVER**

In order to facilitate the taking of admissions or no contest pleas from parents in juvenile dependency proceedings, counsel shall furnish the court, at the time of the plea, a written Judicial Council waiver form which has been discussed with and completed by the parent(s).

### **RULE 14.05 ATTORNEYS FOR PARTIES**

- (A) General Competency Requirement. All attorneys appearing in juvenile dependency proceedings shall, at a minimum, comply with the standards of competence required by California Rules of Court, Rule 5.660. In addition, all attorneys appearing in juvenile proceedings shall comply with the minimum standards of training and experience set forth in these rules.
- (B) Minimum Standards of Training and Experience. Each attorney appearing in a dependency proceeding shall have either:
  - (1) Within the preceding three (3) years, participated in at least eight (8) hours of training or education in juvenile dependency law as specified in California Rules of Court, Rule 5.660; or

- (2) At least 24 hours of experience within the preceding year in dependency proceedings in which the attorney has demonstrated competence in the representation of his or her clients in said proceedings.

#### **RULE 14.06 AUTHORIZATION FOR USE OF PSYCHOTROPIC DRUGS**

The administration of psychotropic drugs to minors who are wards or dependent children of the court shall only occur upon the authorization of a duly licensed physician. A Request for Psychotropic Medication Therapy shall be prepared by the minor's physician and provided to CWS/Probation for submission to the minor's parent or guardian to obtain consent, or in the absence of or unwillingness of parent or guardian to consent, to the Juvenile Court in support of an application for authority to administer the medication.

The administering physician may initiate or continue the use of such drugs for a five to seven day temporary period (the longer period applicable when the last day occurs on a weekend or court holiday) while Probation or CWS attempts to obtain parental or guardian consent. As soon as it becomes known that the minor, a parent, guardian, parent/guardian's attorney and/or the minor's attorney objects to administration of psychotropic drugs, the matter will be set for hearing in the Juvenile Court. In the absence of written objections, the court will review and consider the Request for Psychotropic Medication Therapy, and issue such orders as it deems appropriate within two (2) days after submission. If the minor has been involuntarily detained pursuant to Welfare and Institutions Code §5585, et seq., the Juvenile Court and the Superior Court shall have concurrent jurisdiction to issue orders regarding involuntary administration of psychotropic drugs. Prior to issuance of an order for such treatment by the Superior Court, the Court must conduct a hearing pursuant to Welfare and Institutions Code §5332 and find that the minor lacks capacity to make an informed decision to refuse the medication.

#### **RULE 14.07 CONFIDENTIALITY OF RECORDS / PETITIONS (Dependency and Delinquency Proceedings)**

- (A) Access to Records. With the exception of those persons or agencies permitted to inspect juvenile court records without court authorization under Welfare and Institutions Code §§827, 827.10 and 828, California Rules of Court, Rule 5.552(b), and those identified in sections (1)-(3) below, every person or agency seeking to inspect or obtain juvenile court records must petition the court for authorization. Where access to juvenile records and information is necessary and relevant in connection with a pending juvenile case, the following agencies and persons may inspect and receive copies of juvenile court records without filing a petition pursuant to Welfare and Institutions Code §827, but must restrict dissemination pursuant to §827(a)(4):
  - (1) An Indian child's tribe representative if the tribe has intervened in the juvenile's case;
  - (2) Any licensed, psychiatrist, psychologist, or other mental health professional ordered by the Trinity County Superior Court to examine or treat the juvenile or the juvenile's family.
- (B) Filing Petition. All *Petitions for Disclosure of Confidential Juvenile Records* and *Petitions to Obtain Report of Law Enforcement Agency/Juvenile* (Judicial Council Form JV-570 and JV-575, respectively) shall be filed in the Trinity County Courthouse, 11 Court Street, Weaverville, CA 96093. Petitioner shall submit one original and two copies for filing. If a conformed copy is requested, additional copies with a self-addressed stamped envelope shall be included.
- (C) Completing Petition. The Petition shall be completed with specificity regarding the records sought and the relevance and necessity of said records. If access is sought in relation to pending civil litigation the attorney of record shall attach a separate declaration signed under penalty of perjury pursuant to Code of Civil Procedure §2015.5 that he/she is the attorney of record in a pending action or potential action

which relates to the petition. The declaration must contain: a) the type of action being pursued; b) identification of the party represented by said attorney; c) specification of the necessity and relevance of access to said juvenile records sought, including a copy of the complaint; d) evidence of designation as counsel of record (e.g., minute order or other court documentation with such identification, copy of complaint or a valid retainer agreement.) The petitioning attorney shall include in his/her declaration, under penalty of perjury, that any records or reports or information relating to the contents of these records or reports shall not be disseminated to any persons or agencies not authorized to receive documents under Welfare and Institutions Code §827 without further court order and comport with the requirements pursuant to Navajo Express v. Superior Court of San Mateo County (1986) 186 C.A. 3d 981.

- (D) Notice. At least five calendar days before the petition is filed with the court, petitioner shall personally or by first class mail serve, or attempt to serve, a copy of the petition on the following: county counsel, district attorney, child, attorney of record for child, parent or guardian of a child under the age of 18, probation department, and child welfare services program. Requests for Orders Shortening Time will only be granted upon a showing a good cause based upon exceptional circumstances.
- (E) Objections. Any objections to the petitioner's request for access to juvenile records must be submitted in writing to, and received by, the Juvenile Court Presiding Judge no later than 5 actual days after the filing date of the petition. Prompt telephonic notice to the court that such an objection is forthcoming must be provided, in order to ensure proper consideration of such an objection. Court Services may be reached for that purpose at (530) 623-1208.
- (F) Hearings. Petitions will be handled without a hearing unless the Presiding Judge of the Juvenile Court or his/her designee sets one.
- (G) Order. If the court orders disclosure of juvenile court records, the court will issue Judicial Council Form JV-574, *Order After Judicial Review*. It is incumbent upon the Petitioner to present the Order to the respective agency and to comply with all agency rules and procedures including but not limited to the payment of any costs associated with the copying of records as identified in the Order.

## **SECTION 15 APPELLATE DIVISION RULES**

### **RULE 15.01 RECORD ON APPEAL – TRIAL COURT FILE INSTEAD OF CLERK'S TRANSCRIPT**

In accordance with California Rules of Court, Rules 8.833, 8.863, and 8.914, the appellate division elects to use the original trial court file in lieu of a clerk's transcript on appeal in appeals of limited civil, misdemeanor, and infraction cases.

## **SECTION 16 FORMS**

### **RULE 16.01 LOCAL FORMS**

Local forms that have been adopted for either optional or mandatory use are listed in Appendix A by form number and in Appendix B by form name. Local forms are available on the court's website at [www.trinity.courts.ca.gov](http://www.trinity.courts.ca.gov) under the "Forms" link, and are available at the clerk's counter.

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## APPENDIX A

### LIST OF LOCAL FORMS

NAME OF FORM	EFFECTIVE OR REVISED	Mandatory/Optional
At Issue Memorandum	Rev. 3/25/21	Optional
Claim Form	Rev. 3/29/21	Required
Delinquency Detention Request and Notice	Rev. 3/25/21	Required
Dependency Detention Request and Notice	Rev. 3/25/21	Required
Motion to Vacate Unlawful Detainer	Rev. 3/25/21	Optional
Order Granting Motion Unlawful Detainer Judgment	Rev. 3/25/21	Optional
Request to Calendar	Rev. 3/25/21	Required
977 Waiver of Personal Appearance	Rev. 3/25/21	Optional