



## Superior Court of California County of Humboldt

**Kerri Keenan**  
Executive Officer/Clerk and  
Jury Commissioner

**FOR IMMEDIATE RELEASE**

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Date: April 15, 2013

**\*\*\*\*\*PRESS RELEASE\*\*\*\*\***

### **HUMBOLDT COUNTY SUPERIOR COURT SEEKS COMMENT ON PROPOSED LOCAL RULES**

Pursuant to California Rule of Court 10.613(g), the Court must distribute each new or amended Local Rule for comment at least 45 days before it is adopted. Humboldt County Superior Court Proposed Local Rules are available for public comment beginning April 15, 2013 until May 29, 2013.

The Proposed Local Rules may be viewed online at [www.humboldt.courts.ca.gov](http://www.humboldt.courts.ca.gov).

Public comments may be submitted via email:  
[LocalRulesComment@humboldtcourt.ca.gov](mailto:LocalRulesComment@humboldtcourt.ca.gov)

Written comments may be mailed to:

Humboldt County Superior Court  
Attn: Local Rules Public Comment  
825 5<sup>th</sup> Street, Room 231  
Eureka, CA 95501

All comments must be received on or before May 29, 2013. Once approved, the local rules will become effective July 1, 2013.

**DRAFT LOCAL RULE 1.12**

**1.12 Photographing, Videotaping, and Electronic Recording**

**(a) Photographing, Videotaping, and Electronic Recording Inside Courtrooms**

Photographing, filming, videotaping, and electronic recording inside a courtroom are governed by Rule 1.150 of the California Rules of Court. All requests for any type of photographing, filming, videotaping, and electronic recording within a courtroom, including for the use of pool cameras, must be made in compliance with Rule 1.150.

**(b) Photographing, Videotaping, and Electronic Recording Outside Courtrooms**

(1) Photographing, filming, videotaping, and electronic recording outside a courtroom are governed by this Local Rule 1.12. Unless approved in advance by a written order of the Presiding Judge, photographing, filming, videotaping, and electronic recording outside a courtroom are not permitted in the courthouse portions of the building including, but not limited to, the second floor hallway, the Court Operations Department's public lobby (the filing area), the offices of the court mediators, the office of the family law facilitator, the self-help center, the offices of the courtroom clerks, and the human resources office. All requests for any type of photographing, filming, videotaping, and electronic recording outside a courtroom in the courthouse portions of the building will be evaluated based on factors listed in Rule 1.150, subdivision (e)(3), and in addition will be evaluated based on the tendency of the requested activity to obstruct, intimidate, or invade the privacy of court employees, parties, witnesses, jurors, or prospective jurors.

(2) Electronic devices that have photographing, digital image capturing, videotaping, or electronic recording capabilities, such as cell phones, personal digital assistants, or tablets, may be brought into the courthouse, provided that the photographing, image capturing, videotaping, and recording features are not used in the courthouse portions of the building.

(3) Any photographing, image capturing, videotaping, or electronic recording of a courtroom or courtroom proceeding through a courtroom's windows or doors is prohibited.

**(c) Violations**

Any violation of this rule or an order made under this rule may be the basis for an order terminating media coverage, a citation for contempt of court, or an order imposing monetary or other sanctions as allowed by law. Photography, film, videotape, and electronic recordings obtained in violation of this rule may be confiscated.

*(Eff. 07/01/2013)*

**CHAPTER 8 – FAMILY LAW**

**8.1 Ex Parte Orders**

~~The Court will not, except upon a clear showing of compelling necessity made by affidavit or declaration, and after a showing of compliance with the notice requirements of Family Code §241, issue ex parte orders, except after evidence of four (4) hours prior notice to the other party that would~~

- ~~(1) change custody of the children,~~
- ~~(2) exclude a party from the home who is presently residing there, or~~
- ~~(3) grant exclusive use or possession of an asset of the parties to one party.~~

~~In addition, the party seeking such an order must describe any previous orders that relate to the subject matter of the order being sought. Generally, ex parte orders regarding custody which are submitted which do not provide for reasonable visitation to the other parent will be denied.~~

~~(Eff. 07/01/1994; as amended, eff. 07/01/2004)~~

**8.2 Required Papers—Service and Filing**

~~(a) Concurrent with service of the first order to show cause or notice of motion, the moving party shall serve on the other party the Family Law Policy Statement (see Appendix 8.2), and a copy of any order together with all moving papers and one blank copy of the responsive declaration to the order to show cause or notice of motion and one blank copy of an income and expense declaration prescribed by the California Rules of Court.~~

~~(b) — All the documents described above, including affidavits and declarations, shall be served at least fifteen (15) days prior to the hearing unless a longer period is provided by law, except for good cause shown. All responsive papers shall be served and filed by the responding party not later than five (5) days before the hearing, except for good cause shown.~~

~~(c) — If responsive papers are filed, the moving party shall not be required to file a proof of service. If no responsive papers are filed, the moving party shall file proof of service no later than two (2) days before the hearing date, except for good cause shown.~~

~~(d) — If no temporary orders are sought, and if the Court has jurisdiction over the party against whom relief is sought, noticed motions should be used rather than orders to show cause.~~

~~(Eff. 07/01/1994; as amended, eff. 07/01/2004)~~

### **8.3 Evidence at Hearings**

~~A hearing on an order to show cause or notice of motion, other than a matter affecting custody, shall be based on declarations and affidavits without testimony or cross examination, except for good cause shown. The Court may, in its discretion, allow oral argument.~~

~~Custody matters requiring testimony in excess of ten (10) minutes may be specially set.~~

~~(Eff. 07/01/1994; as amended, eff. 07/01/2004)~~

### **8.4 Releases and Use of Evidence at Hearings**

~~Upon application of either party or upon its own motion, the Court in its discretion may order both parties to sign and provide to the other release forms as set forth (see Appendix 8.4) relating to release of all data relating to financial issues, save and except for data relating to a financial issue in which one other than a party has an interest. Likewise, no releases relating to medical or mental health records will be routinely ordered.~~

~~(Eff. 07/01/1994; as amended, eff. 07/01/2004)~~

### **8.5 Proceedings Involving Custody**

~~After filing for dissolution or separate maintenance, those parties with children will be required to attend the Children of Divorce Workshop designed to inform parents of the effects of divorce on their children. This program is mandatory and must be attended within four (4) months of filing.~~

- ~~(a) — Both parties must attend. They may attend separate sessions if emotion does not allow attendance together.~~
- ~~(b) — The parties, or counsel, must attempt to schedule attendance at the program before the first court appearance.~~
- ~~(c) — If there are minor children, no At Issue Memorandum may be filed until proof of attendance at the Workshop is filed or the Court issues an order excusing attendance.~~
- ~~(d) — Failure to comply with the time frames set forth may result in monetary sanctions.~~
- ~~(e) — This form shall be served with the summons and petition/complaint (see Appendix 8.5)~~
- ~~(f) — All custody and visitation disputes must be submitted to mediation prior to leaving the Court (see Appendix 8.5 (a)).~~
- ~~(g) — The Court, on its own motion, or the motion of a party, may require evaluations of child custody disputes pursuant to Family Code §3110 et seq. (See Appendix 8.5 (b)).~~

~~(Eff. 07/01/1994; as amended, eff. 07/01/2004)~~

## 8.6 Required Papers in Proposed Joint Custody Agreements

If the parties are seeking joint custody of a minor child or children, they must file, no later than three (3) court days before the hearing, a proposed written agreement setting forth in detail their plans for implementation of the joint custody order.

*(Eff. 07/01/1994; as amended, eff. 07/01/2004)*

## 8.7 Temporary Spousal Support Schedule

~~(See Appendix 8.7). This schedule shall be used as a guideline for orders of temporary spousal support, unless there are unusual facts and circumstances. It shall not be used as a guideline for long term support at trial or thereafter. The schedule is based on total net monthly income (including all cash flow) after deduction of mandatory taxes, social security, medical insurance, union dues, and mandatory retirement contributions.~~

~~This schedule is based on the spouse having use of the family residence, making payments thereon, including utilities, insurance, taxes, or rent. Furniture and other debts will be taken into consideration, and may affect the schedule, as will total assets and liabilities, and marital living standard.~~

~~Good cause to deviate from the temporary spousal support guideline may exist if the child support obligations of the supporting spouse are an amount greater than 50% of the net monthly income of the supporting spouse.~~

*(Eff. 07/01/1994; as amended, eff. 07/01/2004)*

## 8.8 Family Support/Dependency Exemption

- (a) — ~~In its discretion, the Court may order that support be paid as family support. Also, in its discretion, the Court may award the federal and state income tax dependency exemptions to either parent so as to maximize the total net income available for all family members.~~
- (b) — **Payment for use of assets pending trial.** While not obligated to do so, any party may raise by motion prior to trial, issues relating to the payment due to the community as and for the reasonable value of the use of a marital asset by a party between date of separation and date of disposition of said asset.

**Comment:** ~~Since in some cases there may be interplay between liability for reasonable value of use of a community asset and the net incomes of both the payor and recipient of temporary support, it is sometimes appropriate that this issue be determined at the time that the Court is asked to establish temporary child or spousal support or to make an interim award for attorney fees or expenses of litigation.~~

*(Eff. 07/01/1994; as amended, eff. 07/01/2004)*

**8.9 Settlement Conferences**

~~If either party requests a settlement conference, the Master Calendar Clerk shall schedule such a conference.~~

~~(a) **Date.** Settlement conferences will be scheduled approximately two (2) weeks prior to the date set for trial.~~

~~(b) **Attendance.** Parties and attorneys must attend at the time set. Attendance cannot be avoided by agreement of the parties. The fact that a party or attorney resides out of state is not an acceptable excuse for non-attendance.~~

~~(c) **Time, Manner and Requirements of Mailing Documents.** Each party shall file a settlement conference statement, the disclosure statement required by Family Code §2100, et seq., and the papers required by Local Rule 8.12 (except a judgment) with the County Clerk, and mail to the opposing counsel or party, at least five (5) calendar days prior to the settlement conference.~~

~~(d) **Rules Applicable to Settlement Conference Statements.** At the settlement conference the parties shall bring the following:~~

~~(1) Copies of all real and personal property appraisals and pension plan evaluations.~~

~~(2) Documentary evidence of relevant bank, credit union, savings account balances, and statements of balances of other liquid accounts, as of the date of separation and relevant dates thereafter.~~

~~(3) Documentary evidence of promissory notes, deeds, and other documents of title or major debt, where at issue.~~

~~(4) If the amount of earnings of a spouse is at issue, documentary evidence of such earnings.~~

~~(5) A statement from the carrier of cash value of a whole life insurance policy or policies.~~

~~(6) An itemization of all furniture, furnishings, appliances, utensils, and all other personal property, with the party's estimate of fair market value price after each item, must be included if the parties previously have not agreed to some reasonable division of these items. If this issue is not resolved at the settlement conference, it will be severed and referred to a referee.~~

~~(7) Documentation of all debt payment as to which reimbursement is being claimed shall be brought to the settlement conference.~~

~~(e) **Lack of Compliance with Rules.** In the absence of compliance with these rules regarding settlement conferences or proper preparation, it is the policy of this court to award attorney fees, impose sanctions, vacate the trial date or continue the settlement conference to another date, or any other action as appropriate.~~

*(Eff. 07/01/1994; As amended, eff. 07/01/2004)*

### 8.10 Required Papers—Trial

- (a) ~~Unless the parties have made the filing required by Family Code §2100 within thirty (30) days prior to the trial date, then both parties shall serve and file, no later than five (5) days before the trial, a completed current income and expense declaration and a completed current property declaration in the form prescribed by California Rules of Court. In every case the parties shall file a statement of issues, contentions, and proposed disposition of the case in the form required. At the discretion of the Court, failure of both parties to file the documents required by this subdivision may result in the trial date being vacated and the matter being dropped from the civil active list. Failure of one party to file the documents shall constitute an admission of all facts set forth in the papers filed by the opponent pursuant to sub-section (b) below.~~
- (b) ~~Unless addressed in the filing required by Family Code §2100, the statement shall include a full and complete statement of the information required by Family Code §2100 et seq., and~~
- ~~(1) **Tracing.** If it is contended that a single asset is part community and part separate in nature, the statement shall describe the asset, its date of acquisition, its value, the dates and amount of payments toward the purchase of the asset or nature and extent of the transaction which resulted in its acquisition, and a statement of the contended segregation of the total value of the asset as to its community and separate property values;~~
- ~~(2) **Support, Custody and Visitation.** The statement shall specify that party's contentions as to child custody, visitation, and the amount and duration of child and spousal support.~~
- ~~(3) **Reimbursement Claims.** Any reimbursement claims shall be itemized and explained.~~

~~**Comment:** The purpose of this rule is to insure that domestic relations cases are properly prepared and expeditiously tried, and to avoid using the trial itself as a discovery process. Counsel, with the authority of their clients to dispose of the issues, will be expected to meet and review the statements prior to the time set for trial in order that, to the fullest extent possible, issues can be determined by stipulation and those remaining for determination can be clearly defined. The parties are encouraged to exchange trial exhibits and to cooperate with each other and the clerk to have proposed exhibits marked prior to trial.~~

~~The Court may order the parties to update these statements where a substantial time has elapsed between the filing of the statements and the trial date.~~

~~(Eff. 07/01/1994; as amended, eff. 07/01/2004)~~

### 8.11 Valuation Date for Assets Other Than Trial Date

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- (a) — ~~A party seeking a valuation date for community property other than the date of trial shall serve and file a motion to be heard not later than thirty (30) calendar days before the trial date.~~

**Comment:** ~~Thirty (30) days notice of motion for an alternative valuation date is required by Family Code § 2552 (b). Parties seeking an alternative valuation date should promptly file papers upon discovering the necessity for such request because trial date can be set as early as thirty (30) days after a request for trial date is received. A party seeking a valuation date for community property other than the date of trial, is encouraged to file a motion not later than fifteen (15) days from the filing of an at issue memo by either party. So as to allow for proper settlement and trial preparation, valuation date issues should be determined as soon as possible.~~

*(Eff. 07/01/1994; as amended, eff. 07/01/2004)*

**8.12 — Required Papers in Default Action; Filing**

~~If support is sought or you are requesting distribution of community assets, a completed Income and Expense Declaration and completed Property Declaration shall be filed concurrently with the Request to Enter Default. In addition, an original and one copy of a proposed judgment shall be lodged at least three (3) days prior to the hearing.~~

~~(Eff. 07/01/1994; as amended, eff. 07/01/2004)~~

**8.13 — Approval or Incorporation of Property Settlement Agreement**

~~No property settlement agreement shall be approved by the Court or incorporated by reference in a judgment unless:~~

- ~~(a) — The petition refers to the property settlement agreement or a separate stipulation signed and filed by the parties and their respective attorneys provides that the agreement may be presented for court approval and incorporation, or both parties and their attorneys have endorsed approval of the agreement on the form of the stipulation for judgment.~~
- ~~(b) — The agreement is signed and acknowledged by the parties; and
  - ~~(1) If both parties are represented by counsel, the agreement is signed by both attorneys, or~~
  - ~~(2) If only one party is represented by counsel, the attorney for that party signs the agreement and the other party signs a statement in the agreement or a declaration or affidavit that they had been advised to consult an attorney regarding the agreement, but declined to do so; or~~
  - ~~(3) If neither party is represented by counsel, any party not appearing at the hearing acknowledges in the agreement that he or she is aware of the right to consult an attorney; and~~
  - ~~(4) In any case, the parties must acknowledge, in writing, that all disclosures required to be made to them have been made, and that they are satisfied that the agreement is fair and equitable.~~~~

~~(Eff. 07/01/1994; as amended, eff. 07/01/2004)~~

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**8.14 Stepparent Adoption**

- (a) ~~If a petition for adoption is filed under Family Code §8802, or any successor statute, without first having had a petition and order under Family Code §7840, there shall be a special hearing entitled “necessity of consent” hearing.~~
- (b) ~~The clerk shall immediately notify the probation officer of the filing of the petition, and the probation officer shall report in the same manner as provided in Family Code §7851.~~
- (c) ~~A citation in the form provided by Family Code § 7881 shall be issued on the filing of the petition, and shall be served on the persons and in the manner described in Family Code §§ 7880 and 7881. The citation shall require the persons served to show cause, if any, why the minor shall not be found to be abandoned and the consent of the named parent to the adoption { XE “adoption” } is unnecessary.~~
- (d) ~~The hearing date shall be on the regular Adoption Calendar, and the date selected shall be within sixty (60) calendar days of the filing of the petition.~~
- (e) ~~The proceeding under this rule is in addition to that required by Family Code §§ 9000-9007.~~

**Comment:** ~~It is preferred that Division 12 of the Family Code Part 4, §7800, et seq. rather than Division 13, Part II of the Family Code be used in an abandonment proceeding because of the specification of the notice procedures. However, when Division 13, Part II is used, the hearing on the necessity of consent is required as the probation officer cannot recommend favorably until there is consent or an order finding no necessity to consent.~~

*(Eff. 07/01/1994; as amended, eff. 07/01/2004)*

**8.15 Adoption Where Natural Father Not Found**

~~If it is claimed that an alleged natural father under Family Code §7666 cannot be found, or is unidentifiable, the petitioner shall file a petition under Family Code §7662, and the clerk shall set a hearing on the regular Adoption Calendar, to be scheduled within sixty (60) calendar days of the filing of the adoption} petition, to determine whether notice to any alleged natural father may be dispensed with and if the father is unidentifiable. The petitioner shall appear and present evidence at the hearing.~~

*(Eff. 07/01/1994; as amended, eff. 07/01/2004)*

**CHAPTER 8 - FAMILY COURT RULES**

**8.0 Jurisdiction, Scope and Procedure**

The Family Court has jurisdiction in all proceedings related to the Family Law Act, Uniform Parentage Act, the Domestic Violence Prevention Act, the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), the Uniform Interstate Family Support Act (UIFSA), the Domestic Partnership Act, and guardianships and adoptions. Unless the Judicial Council has adopted specific statutes or rules pertaining to family law matters, practice and procedure in Family Court is governed by the rules of civil procedure. (Family Code §210). The Court's Family Law Division may adopt Local Rules not inconsistent with statutes or California Rules of Court. (CRC 3.20). The Family Law Division manages cases pursuant to Family Code sections 2450 – 2451 and CRC 5.83.

*(Effective 07/01/2013)*

**8.1 Terms, Definitions and Forms**

References to legal authority in these rules may be identified by the following acronyms and terms: CRC (California Rule of Court), FC (Family Code), Local Rules (Humboldt County Superior Court Local Rules), CCP (Code of Civil Procedure), PR (Probate Code) and PC (Penal Code). Forms referenced in these rules, such as FL-300, refer to standardized, Judicial Council forms, many of which are mandatory. These forms are available on the California Court's website at [www.courts.ca.gov](http://www.courts.ca.gov). Humboldt Superior Court Local Forms are located in the Appendix to these rules.

*(Effective 07/01/2013)*

**8.2 Enforcement**

Violation of these rules or other applicable law is an unlawful interference with the proceedings of the court.

The court may order monetary sanctions against a person in any action or proceeding brought under the Family Code pursuant to CRC 5.14(a). A "person" is defined in CRC 5.14(b) and includes a party and a party's attorney. In addition to any other sanctions permitted by law, the court may order a person to pay reasonable monetary sanctions to the court or to an aggrieved person, or both, for failure without good cause to comply with the rules of this court or other applicable rules. Monetary sanctions may also be ordered pursuant to Family Code §271 and Code of Civil Procedure §177.5.

In addition to monetary sanctions, the court may order a change in the calendar status of a case or dismiss a pending action for violation of these rules or applicable law.

*(Effective 07/01/2013)*

### **8.3 Service and Filing**

Unless otherwise provided by statute or rule of court, moving and responsive pleadings along with all supporting documents shall be filed and served on the opposing party or attorney in accordance with Code of Civil Procedure §1005. If service of moving papers cannot be made by any of the methods provided in CCP §1005, the court may allow service by posting in the courthouse at a location designated by the court. (CRC 5.72).

Filing fees, if applicable, must be paid at the time documents are submitted to the Clerk of Court for processing. A fee waiver by a qualified applicant may be submitted in lieu of the filing fee. Payment plans are subject to court approval. CCP §412.10.

Concurrent with service of the first Request for Order (FL-300), the moving party shall serve on the other party a copy of any ex parte order along with all moving papers, a Notice to Responding Party (Local Form HRNG-8.I), Family Law Policy Statement (Local Form HRNG-8.2), Responsive Declaration to Request for Order (FL-320) and a blank copy of any moving papers filed and served by the requesting party, including a Declaration Under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) (FL-105) and/or an Income and Expense Declaration (FL-150), if applicable to the relief sought by the moving party. If temporary spousal or domestic partner support is requested, the moving party and responding parties shall comply with Local Rule 822 regarding the calculation of temporary spousal or domestic partner support. All documents filed with the court must have social security numbers redacted.

All parties shall comply with the provisions of Family Code section 215, requiring service upon a party after entry of a final judgment of dissolution, paternity or after a permanent order in any other proceeding in which there was at issue the visitation, custody or support of a child.

*(Effective 07/01/2013)*

### **8.4 Declarations**

All supporting and opposing declarations shall be made on personal knowledge, shall set forth admissible evidence, and shall provide facts that show affirmatively that the declarant is entitled to the relief requested and is competent to testify to the matters stated therein.

*(Effective 07/01/2013)*

### **8.5 Proof of Service**

Proof of timely service should be filed with the Clerk of Court no later than two (2) calendar days before the date set for hearing. Parties should retain a file-stamped copy of the proof of service to provide to the court in the event the original has not yet been placed in the court file.

*(Effective 07/01/2013)*

## 8.6 Family Law Temporary Restraining Orders at Initial Filing

- (a) Pursuant to Family Code section 2040, in actions for dissolution, annulment, and legal separation, certain temporary restraining orders issue automatically (Automatic Temporary Restraining Orders [ATROs]). The ATROS remain in effect until modified. These orders are mutual and restrain both the petitioner and respondent from doing any of the following acts:
- (1) Removing the minor child/ren of the parties from the state without the prior written consent of the other party or an order of the court;
  - (2) Cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of any insurance or other coverage including life, health, automobile, and disability designated for the benefit of the parties and their minor child(ren); and
  - (3) Transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, without the written consent of the other party or an order of the court, except in the usual course of business or for the necessities of life. Each party shall notify the other party of any proposed extraordinary expenditures at least five (5) days before incurring those expenditures and account to the court for all extraordinary expenditures made after service of the Summons on that party. However, nothing shall preclude the use of community property to pay reasonable attorney fees in order to retain legal counsel in the action.
- (b) In Uniform Parentage or Petition for Custody and Support matters, certain temporary restraining orders issue automatically (Automatic Temporary Restraining Orders [ATROs]). The ATROS remain in effect until modified. These orders are mutual and restrain both the petitioner and respondent from doing any of the following acts:
- (1) Removing from the state, the minor child or children for whom the action seeks to establish a parent-child relationship or to make custody and support orders, without the prior written consent of the other party or an order of the court.

*(Effective 07/01/2013)*

## Family Law Case Management

### 8.7 Family Centered Case Resolution Process

- (a) **Policy.** It is the policy of the Humboldt Superior Court that all family law cases be managed to expedite resolution of the case, reduce the cost of litigation, and focus on early settlement. These rules apply to all family law actions for dissolution, nullity, legal separation, partners in a domestic partnership, actions to establish parental relationship, and such other cases assigned to the program by the family law judge filed after January 1, 2013. The Family Centered Case Resolution process is set forth more fully in Family Code sections 2450-2451 and CRC 5.83. The terms Family Centered Case Resolution

and Family Law Case Management are used interchangeably in this section and refers to the same process.

**Case Management Forms to be Issued by the Clerk Upon Filing of Petition.**

Upon the filing of a case subject to Family Law Case Management Program, the petitioner shall receive two (2) copies of each of the following documents, one (1) of each to be served by petitioner upon the respondent:

(1) Guide to Case Management. (Local Form CM-8.1). This document provides a quick summary of the steps necessary for completing the Family Law Case Management Program, from the filing of the first papers in dissolution, legal separation, nullity or parentage actions through disposition of the case. The guide identifies local resources that offer procedural assistance, legal advice or information, settlement opportunities, and domestic violence services. It contains instructions for keeping the court informed of current contact information (address, telephone number and e-mail address). The Guide also contains information for self-represented parties about the opportunity to meet with court Self-Help Center staff and the Family Law Facilitator and information for litigants on how to request a Family Law Case Management Conference (CMC) earlier than or in addition to any CMC scheduled by the court. (CRC 5.83(g). The Guide also provides the dates by which the parties should file and serve required documents (*i.e.*, Proof of Service, Response or Request for Default, Petitioner's Preliminary Declaration of Disclosure of property and financial information, if a default is entered, the time by which a default judgment should be submitted or in an uncontested case when a written agreement for judgment should be submitted) and/or request setting of a trial date. (CRC 5.83(c)(4).

(2) Notice of Family Law Case Management Conference. (Local Form CM-8.2) This document provides the parties with notice of the date, time, and location of Family Law Case Management Conferences.

(3) Blank Case Management Conference Statement. (Local Form CM-8.3) This document provides the court with information regarding the status of the case.

**(b) Service of Summons and Petition -- Forms to be Served on Other Party.** The petitioner should serve the following documents on the opposing party within 60 days of filing:

(1) Summons (FL-110), Petition (FL-100), and, if applicable, petitioner's completed Declaration Under Uniform Child Custody Jurisdiction Enforcement Act (UCCJEA) (FL-105). [Note: A petitioner and/or respondent for dissolution, legal separation, or nullity of marriage shall serve a copy of the Preliminary Declaration of Disclosure (FL-140) at the time the petition or response is filed, or within 60 days of the filing of the petition or response unless that time period is extended by written agreement or court order. In addition, the petitioner and/or respondent must serve the last two years' tax returns as part of the disclosure (FC §2104). Any Response (FL-120) should be filed within 30 days of service of the Petition (FL-100) unless otherwise agreed by the parties. If no Response (FL-120) is filed, a Request to Enter Default (FL-165) should be filed within 90 days after the date the Response (FL-120) was due.

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- (2) Guide to Case Management (Local Form CM-8.1).
- (3) Notice of Family Law Case Management Conferences (Local Form CM-8.2).
- (4) Blank mandatory Family Law Case Management Conference Statement (Local Form CM-8.3).
- (5) Children of Divorce Workshop Registration (Local Form CCV-8.1) (if there are issues of child custody and visitation).

**(c) Case Management Conferences.**

(1) Calendar. The first Family Law Case Management Conference shall be set at least 180 days after the filing of the Petition (FL-100). No appearance is necessary if a judgment resolving all issues has been entered prior to the Family Law Case Management Conference. Once a date has been set for a Family Law Case Management Conference, it cannot be changed without a showing of good cause. A Request for Order (FL-300) containing a valid excuse shall be filed to request a change of the date set for the Family Law Case Management Conference.

(2) Appearance Mandatory. Appearance at the Family Law Case Management Conference is mandatory by counsel or the party if self-represented. Telephonic court appearances may be permitted with the approval of the judicial officer. Parties seeking a telephonic appearance shall contact a Court Secretary at least 5 days prior to the Case Management Conference at 707-269-1200. The court may require a party to make a written request using form FL-679, Request for Telephone Appearance. If granted, telephonic appearances shall be arranged and made through Court Call (888-882-6878). If the case is not resolved by the time of the initial Case Management Conference the court will schedule additional Case Management Conferences to monitor the progress of the case up to 18 months from the date of filing of the petition. The case will be considered inactive if the parties take no action by 18 months from the date of filing of the petition and the court will no longer track the progress of the case. CRC 5.83(c). A party must contact the Court Clerk's Office to reactivate the case and set a future Case Management Conference if the case is not resolved after 18 months. The Clerk of Court will require the filing of a Request for Order (FL-300) to schedule a new court date for further tracking of the case. [Petitioners shall proceed with reasonable diligence in prosecuting an action. A case is subject to dismissal if the Summons and Complaint are not served within three (3) years after the action is commenced (CCP §583.210) or if the matter is not brought to trial within five (5) years after the action is commenced (CCP §583.310)].

(3) Service of Case Management Conference Statement. Each party must file and serve a family law Case Conference Statement (or jointly file a statement) at least five (5) calendar days prior to the family law Case Management Conference. The parties shall use the Humboldt County Superior Court's mandatory Case Management Conference Statement (Local Form CM-8.3), a local form available on the court's website at <http://www.humboldt.courts.ca.gov> and at the Court Clerk's office.

(4) **Purpose.** At the first family law Case Management Conference, the court will review the status of the case, discovery plans, settlement options, alternative dispute resolution, and unresolved issues. At this or any family law Case Management Conference, the court may make further orders that the court deems necessary, consistent with Family Code sections 2032(d), 2450 and 2451 (family centered case resolution plan), including but not limited to the following:

- (a) Set or reset a settlement conference, hearing, trial or further family law Case Management Conference;
- (b) Refer the parties to Family Court Services for custody and visitation mediation, appoint a child custody evaluator or minor's counsel;
- (c) Establish a discovery schedule;
- (d) Require counsel or the parties to meet and confer and file preliminary stipulations if issues can be narrowed;
- (e) Schedule disclosure of expert witnesses, appoint court experts, set a trial briefing schedule;
- (f) Dismiss the action in whole or in part, impose sanctions, bifurcate issues for trial or enter judgment.

*(Effective 07/01/2013)*

## **Ex Parte Orders and Orders Shortening or Extending Time**

### **8.8 Ex-Parte Orders**

- (a) **Definition.** The term “Ex-Parte” means from or on one side only, with the other side absent or unrepresented. Ex-Parte orders are also known as “emergency orders.” Emergency, ex parte orders are temporary pending hearing.
- (b) **Procedure and Notice.** The procedure and notice of the submission of an application for emergency (ex-parte) orders and/or for a short notice hearing must be pursuant to applicable law, including Family Code sections 241, 2045, and 3060 - 3064, and California Rules of Court, Rules 5.151 through 5.169, including all requirements for a declaration setting forth that notice to the other party has been given or, alternatively, the reason notice has not been given [Notice to the other party may be waived under exceptional circumstances as provided in CRC 5.165(b)(2) and as noted below]. Unless notice is waived by the court, the party requesting emergency orders must attempt to determine whether the other party objects to the proposed orders and whether that party intends to file written opposition to the requested orders. Applicants shall use the Declaration re Notice of Ex Parte Hearing (Local Form HRNG-8.3) to verify compliance with notice requirements. The form is available on the court's website at

<http://www.humboldt.courts.ca.gov> or at the Court Clerk's Office located in the Humboldt County Courthouse at 421 I Street in Eureka, California.

- (c) **Appearance.** The general policy of the court is to make ex parte, emergency orders based on the documents submitted without requiring the parties to appear at a hearing, as permitted by CRC 5.169. However, the court may require parties requesting ex parte emergency orders to comply with the provisions of California Rules of Court, Rules 151-167, and to appear personally to prove-up the necessity for temporary orders.

**Request for Emergency Orders (CRC 5.151)**

- (a) **Application.** These rules do not apply to ex parte applications for domestic violence restraining orders under the Domestic Violence Prevention Act (Family Code §6300 et seq. and petitions for temporary orders in the following case types: Civil Harassment (CCP Code §527.6), Elder Abuse (Welfare and Institutions Code §15657.03) and Workplace Violence (CCP §527.8). These rules do apply to applications for orders shortening or extending time for service of notice and/or documents in support of such a request.
- (b) **Purpose.** The purpose of a request for emergency orders is to address urgent matters that require immediate court action. In this type of proceeding, notice to the other party is shortened. Notice to the other party can also be waived under exceptional circumstances. This process is used to request that the court:
- (1) Make orders to help prevent an immediate danger or irreparable harm to a party or to the children involved in the matter;
  - (2) Make orders to help prevent immediate loss or damage to property subject to disposition in the case; or
  - (3) Make orders about procedural matters, including orders shortening time for hearing, orders shortening or extending time for service of notice of hearing and supporting papers and orders continuing a hearing or trial.
- (c) **Required Documents.** A request for emergency orders must include all of the following documents (if applicable to the relief requested):
- (1) Request for Order (form FL-300);
  - (2) A current Income and Expense Declaration (form FL-150) or Financial Statement (Simplified) (form FL-155) and/or Property Declaration (form FL-160);
  - (3) Temporary Orders (form FL-305);
  - (4) A written declaration, based on personal knowledge, regarding the notice given to the other party of the application for emergency orders.

**(d) Contents of Application for Emergency Orders and Declaration in Support.**

(1) **Identification of attorney or party.** An application for emergency orders must state the name, address, and telephone number of any attorney for any party or, if no such attorney is known, the name, address, and telephone number of the party, if known to the applicant.

(2) **Factual showing.** The declaration must contain facts within the personal knowledge of the declarant that demonstrate why the matter should be handled as an emergency order, including a showing of irreparable harm, immediate danger, or any other statutory basis for granting relief without notice or with shortened notice to the other party.

(3) **Disclosure of previous applications and orders.** An applicant should submit a declaration that fully discloses all previous applications made on the same issue and whether any orders were made on any of the applications, even if an application was previously made upon a different statement of facts. Previous applications include an order to shorten time for service of notice or an order shortening time for hearing.

(4) **Disclosure of change in status quo.** The applicant has a duty to disclose that an emergency order will result in a change in the current situation or status quo. Absent such disclosure, attorney's fees and costs incurred to reinstate the status quo may be awarded.

(5) **Applications regarding child custody or visitation (parenting time).** Applications for emergency orders granting or modifying child custody or visitation (parenting time) under Family Code section 3064 must:

- (a) Provide a detailed description of the most recent incidents showing:
  - i. Immediate harm to the child as defined in Family Code section 3064(b); or
  - ii. Immediate risk that the child will be removed from the State of California.
- (b) Specify the date of each incident described in (a);
- (c) Advise the court of the existing custody and visitation (parenting time) arrangements and how they would be changed by the request for emergency orders;
- (d) Include a copy of the current custody orders, if they are available. If no orders exist, explain where and with whom the child is currently living; and
- (e) Include a completed Declaration Under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) (FL-105), if the form was not already filed by a party or if the information has changed since it was filed.

**(e) Contents of Notice of Application for Emergency Orders and Declaration in support.**

**(1) Contents of notice.** The person giving notice must:

- (a) State with specificity the nature of the relief to be requested;
- (b) State the date, time, and place for the presentation of the application;
- (c) State the date, time, and place of the hearing, if applicable; and
- (d) Attempt to determine whether the opposing party will appear to oppose the application (if the court requires a hearing) or whether he or she will submit responsive pleadings before the court rules on the request for emergency orders.

**(2) Declaration regarding notice.** An application for emergency orders must be accompanied by a completed declaration regarding notice that includes one of the following statements:

- (a) The notice given, including the date, time, manner, and name of the party informed, the relief sought, any response, and whether opposition is expected and that, within the applicable time under CRC 5.165, the applicant informed the opposing party where and when the application would be made;
- (b) That the applicant in good faith attempted to inform the opposing party but was unable to do so, specifying the efforts made to inform the opposing party; or,
- (c) That, for reasons specified, the applicant should not be required to inform the opposing party.

**Service of Notice of Application for Temporary Orders (CRC 5.165)**

**(a) Method of giving notice.** Notice of appearance at a hearing (if required) and/or notice of submission of a request for emergency orders may be given by telephone, in writing, or by voicemail message.

**(b) Notice to all parties.** A party seeking emergency orders must give notice to all parties or their attorneys so that it is received no later than 10:00 a.m. on the court day before the matter is to be considered by the court. For matters submitted on the pleadings, the date and time for consideration of the matter by the court shall be the time the moving papers are submitted to the Clerk of Court for review by the judicial officer. After providing notice, each party must be served with the documents requesting emergency orders as described in CRC 5.167 (See below). This rule does not apply to a party seeking emergency orders under the Domestic Violence Prevention Act.

(1) **Explanation for shorter notice.** If a party provided notice of the request for emergency orders to all parties and their attorneys later than 10:00 a.m. the court day before the submission of the documents or appearance (if required), the party must request in a declaration regarding notice that the court approve the shortened notice. The party must provide facts in the declaration that show exceptional circumstances that justify the shorter notice.

(2) **Explanation for waiver of notice (no notice).** A party may ask the court to waive notice to all parties and their attorneys of the request for emergency orders. To make the request, the party must file a written declaration signed under penalty of perjury that includes facts showing good cause not to give the notice. A judicial officer may approve a waiver of notice for good cause, which may include that:

- (a) Giving notice would frustrate the purpose of the order;
- (b) Giving notice would result in immediate and irreparable harm to the applicant, or the children who may be affected by the order sought;
- (c) Giving notice would result in immediate and irreparable damage to or loss of property subject to disposition in the case;
- (d) The parties agreed in advance that notice will not be necessary with respect to the matter that is the subject of the request for emergency orders; and
- (e) The party made reasonable and good faith efforts to give notice to the other party, and further efforts to give notice would probably be futile or unduly burdensome.

#### **Service of Application for Temporary Orders and Temporary Orders (CRC 5.167)**

(a) **Service of documents requesting emergency orders.** A party seeking emergency orders and a party providing written opposition must serve the papers on the other party or on the other party's attorney at the first reasonable opportunity before the hearing. Absent exceptional circumstances, no hearing may be conducted unless such service has been made. The court may waive this requirement in extraordinary circumstances if good cause is shown that imminent harm is likely if documents are provided to the other party before the hearing. This rule does not apply in cases filed under the Domestic Violence Prevention Act.

(b) **Service of temporary emergency orders.** If the judicial officer signs the applicant's proposed emergency orders and order shortening time, the applicant must have a conformed copy of the orders personally served on all parties.

**Court Policies Regarding Issuance of Temporary Orders (Non-child custody).**

- (a) **Exclusive Use of Vehicle.** An ex-parte order granting exclusive use of a vehicle may not be granted unless a declaration demonstrates that the opposing party has suitable transportation available, or requires no such transportation, or such order is necessary for the immediate best interests of child(ren) shared by the parties and/or the requesting party.
- (b) **Removal from Residence.** Unless a declaration is submitted that clearly states that the excluded party has previously voluntarily vacated the residence, an ex-parte order removing a party from a residence may not issue without facts demonstrating violence or threats of violence and the date(s) thereof, and fear that physical harm will result or such order is necessary for the immediate best interests of child(ren) shared by the parties and/or the party.
- (c) **Payment of Obligations.** An ex-parte order requiring the payment of obligations may not issue without financial facts justifying the order, plus a completed Income and Expense Declaration (FL-150) with an estimate of the opposing party's gross income.

**Set Aside of Ex-parte or Emergency Short Notice Orders.**

If a responding party requests that an ex-parte or emergency order be set aside prior to the date set for hearing, notice must be given to the moving party as set forth in California Rules of Court, Rules 5.151 – 5.169, detailed above. The court may order an earlier hearing date, modify or set aside the emergency orders.

*(Effective 07/01/2013)*

**Hearings – General**

**8.9 Setting Matters for Hearing**

- (a) **Definition:** A hearing is initiated by the filing of a Request for Order (FL-300), Order to Show Cause, Notice of Motion and/or an application for temporary orders. The estimated duration of the hearing determines whether it is a short or long cause matter. A short cause hearing must be concluded in no more than four hours. A long-cause matter is a hearing on a Request for Order (FL-300) that extends more than a single court day. (CRC5.393). Long-cause hearings must be specially set by the court.

All family law matters in which at least one party is represented by counsel are calendared in the master family law department, except child support enforcement. Family law matters in which both parties are self-represented are heard separately on the family law self-represented Pro Per Calendar, including restraining order hearings and probate guardianship proceedings. Child support enforcement proceedings where the Department of Child Support Services is appearing are heard on a separate calendar.

*(Effective 07/01/2013)*

### 8.10 Master Family Law Calendar and Pro Per Calendar

- (a) At the Master Family Law Calendar and Pro Per Calendar call, counsel or self-represented parties shall state their names, appearances, whether moving or responding, and an accurate time estimate for the hearing on the matter of issues not agreed upon, including preliminary statements, testimony, and closing comments. The court will assign all matters to a department on a date and time certain, subject to availability. Counsel and the parties must be prepared to proceed at the time of hearing.
- (b) The court will grant priority, where possible, to matters where special circumstances exist (e.g., out-of-town counsel or parties, witnesses under subpoena or present in court). At the calendar call, the court will give preference to stipulations, requests for continuances, and uncontested matters. Matters set for hearing on the master calendar and pro per calendar will be continued only in accordance with subsection D, below.
- (c) **Setting Trials.** After the filing of an At-Issue Memorandum (Local Form TR-8.1), the court will place the matter on the master calendar for setting of trial. The court will provide notice to the parties.
- (d) **Matters Taken Off Calendar.** After service of the moving papers, no matter shall be taken off calendar without stipulation or notice to the responding party or attorney and the court. The moving parties or their attorneys must notify the Family Division of the Clerk of Court immediately by telephone in the event the matter will not proceed to hearing. This notification should be followed by a written transmittal signed by a party or the attorney for a party confirming that the matter is to be taken off calendar with a copy to opposing counsel or self-represented party.

*(Effective 07/01/2013)*

### 8.11 Continuances

- (a) Any request for continuance of a hearing shall be made by Stipulation or Request for Order (FL-300) with an order shortening time setting forth good cause before the assigned judge at least five (5) court days before the scheduled hearing with proof of notification to all parties.
- (b) A matter set pursuant to a Request for Order (FL-300) will only be continued with a Stipulation and Order or by submitting an Application and Order for Reissuance of Request for Order (FL-306).
- (c) An Order to Show Cause Re: Contempt (FL-410) will not be reissued. If a new hearing date is sought, a new Order to Show Cause Re: Contempt (FL-410) must be submitted to the court.
- (d) After service of an Order to Show Cause Re: Contempt (FL-410), a continuance will not be granted without a court appearance.

- (e) If a Request for Order (FL-300) cannot be timely served, the requesting party may request reissuance of the order by submitting an Application and Order for Reissuance of Request for Order (FL-306). Requests for reissuance may be submitted before the date set for hearing or at the scheduled hearing. The court prefers that a reissuance be requested prior to a set hearing when timely service is not possible and the matter cannot go forward on the calendared hearing date.

*(Effective 07/01/2013)*

### **8.12 Meet and Confer Requirement/Settlement Efforts**

Except for proceedings under the Domestic Violence Prevention Act and petitions for temporary orders in the following case types: Civil Harassment, Elder Abuse, and Workplace Violence and the Humboldt County Department of Child Support Services calendar, counsel and parties in pro per must meet and confer prior to the beginning of a contested hearing to resolve or limit the disputed issues. "Meet and Confer" means a telephone conference between opposing parties or, whenever reasonably possible, a face-to-face meeting. A meet and confer obligation is not satisfied by an exchange of letters.

- (a) Failure to conduct such settlement discussions in good faith may cause attorney fees to be awarded to the other party and may result in a court-ordered continuance.
- (b) All parties are required to provide copies of documentary evidence to opposing parties prior to the hearing except where a document clearly and substantially impeaches the veracity of a party or witness, and the document is used primarily for that purpose. This document exchange must occur prior to or at the meet and confer session.
- (c) No case on the family law master calendar will be heard unless counsel, with their respective clients either physically present or immediately physically available, have met and conferred in good faith and attempted to resolve all disputed issues. The matter may be re-set for hearing by the filing of an Application and Order for Reissuance of Request for Order (FL-306).
- (d) When counsel cannot reasonably or economically meet prior to the hearing date due to geographical distances, counsel may meet on the day of the hearing prior to the call of the calendar, or in the discretion of the court, after the calendar is called but prior to the matter being heard.
- (e) When counsel is appearing at a mandatory settlement conference on behalf of clients who cannot be present at the hearing, counsel must arrange for the absent client to be on telephone standby.
- (f) Meet and confer requirements apply to pro per litigants as well. The court requires that all parties, including those in pro per, make a concerted effort to narrow issues for trial.

*(Effective 07/01/2013)*

### 8.13 Stipulations in Open Court

The settlement of matters resulting in stipulations is favored and will take precedence on the calendar over contested matters.

*(Effective 07/01/2013)*

### 8.14 Preparation of Order After Hearing

- (a) **In general.** The prevailing party must submit an Order After Hearing (FL-340) in accordance with California Rules of Court, Rule 5.125, unless the court orders otherwise. It is the responsibility of each party and/or counsel to keep the court informed of their current mailing address. This must be done in writing on Judicial Council Form MC-040, Notice of Change of Address or Other Contact Information. It is the policy of the Humboldt County Superior Court not to sign orders or judgments unless some portion of the text of the order or judgment appears on the page to which the Judicial Officer's signature is affixed so that the connection between the signature page and the remainder of the order or judgment is apparent.
- (b) **Submission of proposed order after hearing to the court.** In any matter where the court orders a party to prepare a written Order After Hearing (FL-340):
- (1) The party preparing the order must serve the proposed order to opposing counsel or self-represented party for approval within ten (10) calendar days of the hearing.
  - (2) If the other party did not appear at the hearing or the matter was uncontested, the party preparing the order shall submit the proposed order directly to the court without the other party's approval. A copy must also be served to the other party or attorney.
- (c) **Other party approves or rejects proposed order after hearing.** The other party must approve or reject the proposed order after hearing within 20 calendar days from the court hearing. If the other party approves the proposed order, that party shall sign and serve the order on the preparing party. If the other party rejects the proposed order, that party shall state any objection to the proposed order and prepare and serve an alternate proposed order on the party that was ordered to prepare the initial order after hearing.
- (1) Meet and confer to resolve disputes regarding orders after hearing. The parties have 10 calendar days following service of the objection and alternate proposed order after hearing to meet and confer to attempt to resolve the disputed language. If the parties fail to resolve the matter, each party shall submit its proposed order after hearing to the court within 10 calendar days following the meeting, along with a copy of the court record of the order and a cover letter explaining the disputed language between the parties.
  - (2) No response. If the preparing party does not receive a response within 20 calendar days of having mailed the proposed order to the opposing attorney or self-represented party, the preparing party must submit the order directly to the court within

25 calendar days of the date of hearing with a cover letter compliant with CRC, Rule 5.5.125(c)(2) advising the court of the situation. The order signed by the court shall be served by the preparing party on the other party.

- (d) **Failure to prepare proposed order after hearing.** If the party ordered to prepare and serve the proposed order fails to do so, the other party may prepare its own order after hearing and present it to the opposing party and the court in compliance with CRC Rule 5.125(d).

*(Effective 07/01/2013)*

### **8.15 Settlement Conferences (Pre-Hearing)**

- (a) **Settlement Conferences.** Long-cause matters (estimated to take more than one court day) may be set for a Settlement Conference. At the Settlement Conference each party must provide an estimate of the amount of time that will be needed to complete the long-cause hearing. The estimate must take into account the time needed to examine witnesses and introduce evidence at the hearing. (CRC 5.393). The court must determine at the conference whether to require each party to submit a hearing brief. If hearing briefs will be required, they must comply with the requirements of CRC 5.394. It is the general policy of the court not to require a settlement conference if either party is self-represented.
- (b) **Voluntary Settlement Conferences.** A Settlement Conference may be held upon request of both parties and with the approval of the court. The Settlement Conference shall be calendared on the Master Family Law Calendar, either by request for order or upon request of both counsel at the family law Case Management Conference. The Settlement Conference will be assigned to a department on a date and time certain within that calendar week subject to availability. Each party and the attorney for each party must personally attend the Settlement Conference unless specifically excused by the court. A voluntary Settlement Conference should not be calendared until the case is adequately prepared and ready for a meaningful Settlement Conference.
- (c) **Discovery.** Discovery must be completed no later than five (5) court days prior to the Settlement Conference, except upon order of court for good cause shown.
- (d) **Meet and Confer Requirement.** The parties or their attorneys must meet and confer in good faith, in person or telephonically, no later than two (2) court days before the Settlement Conference and attempt to resolve issues, stipulate to facts, and delineate the issues remaining for resolution at the Settlement Conference.
- (e) **Settlement Conference Statements.**
  - (1) Time Requirements. At least two (2) court days before the Master Family Law Calendar from which the Settlement Conference is to be assigned, or at least five (5) calendar days before a specially set Settlement Conference, each party must prepare, lodge with the court, and serve on the other party a Settlement Conference Statement as

set forth below. If service is by mail, an additional five (5) calendar days notice is required.

(2) Contents.

- (a) Caption. The caption shall contain the time and Master Family Law Calendar date and trial date if set.
- (b) Income and Expenses. In all cases where support or attorney fees is in issue, a current Judicial Council Income and Expense Declaration (FL-150) shall be prepared, signed, and dated. Two months evidence of proof of income shall be attached to the Income and Expense Declaration (FL-150).
- (c) Assets & Liabilities. In all cases where property issues (characterization, division, and/or valuation) are unresolved, each party must prepare a comprehensive inventory of all assets (real and personal) and liabilities claimed by the parties to be community property and/or community debt. This inventory can either be typed on applicable Judicial Council forms (FL-160 Property Declaration), or may be prepared in any form which contains substantially the same information as set forth on the Judicial Council forms.

The parties must attach to their Settlement Conference Statements copies of the completed inventory of assets and liabilities forms indicating their claim to values and proposal for division of the property.

In all cases where the characterization of real or personal property of the parties (whether community or separate) or reimbursement for contributions to the community from a separate property source is in issue, the parties must set forth all of the facts upon which their claims are based and cite appropriate legal authorities for each of those claims.

- (d) Contentions About Child and Spousal Support. Both parties shall specify their contentions as to the amount of child support and amount and duration of spousal or partner support. Include calculations showing guideline child support. If any child is a recipient of public assistance, and the Department of Child Support Services is the assignee of the support, the statement shall show that the Department of Child Support Services has been notified of the time and date of the Settlement Conference and provided copies of all pertinent, current financial documents (*i.e.*, Income and Expense Declarations (FL-150), support calculations (Child Support Guideline Calculator results), etc.).
- (e) Contentions About Attorney Fees, Accountant Fees, Expert Fees, and Costs. Both parties shall include in their statement their position regarding requests for attorney and accountant fees, other expert fees, and court costs. Where appropriate, such requests shall be supported by adequate documentation.

(Effective 07/01/2013)

**Trial**

**8.16 Pre-Trial Settlement Conference and Settlement Conference Statement**

- (a) All parties and attorneys must attend a mandatory settlement conference prior to trial on a date designated by the court, unless exempted from compliance with this rule. An exemption will be granted only upon a showing of good cause and leave granted by the court. A motion for leave to dispense with any mandatory Settlement Conference requirement must be filed, calendared, and heard on or before the date of the Settlement Conference. At the Settlement Conference each party must provide an estimate of the amount of time that will be needed to complete the trial. The estimate must take into account the time needed to examine witnesses and introduce evidence at the trial. (CRC 5.393). The court must determine whether to require each party to submit a trial brief. If trial briefs will be required, they must comply with the requirements of CRC 5.394.
- (b) At least ten (10) days before the settlement conference, each party must file with the court and serve on the opposing party a Settlement Conference Statement that must contain the following:
- (1) Caption. The caption shall contain the Trial Date, Time and Department.
  - (2) Community Property. A list of all community assets and debts related to them, including the date of acquisition, purchase price, and present fair market value. If there is a dispute as to whether the asset is community or separate property, a tracing of the funds should be included. The tracing shall describe the asset, its date of acquisition, its value, the dates and amount of payments toward the purchase of the asset or nature and extent of the transaction which resulted in its acquisition, and a statement of the contended segregation of the total value of the asset as to its community and separate property values.
  - (3) Separate Property. A list of all property that the party claims is separate property, including the date and method of acquisition. The fair market value of separate assets should also be included.
  - (4) Support and Attorney's Fees. The statement shall specify that party's contentions as to the amount and duration of child and spousal or partner support and the facts in support of (or in opposition to) a claim for child support, and/or spousal or partner support, and attorney fees. Any request for spousal or partner support must be supported by a statement addressing all relevant facts listed in Family Code Section 4320.
  - (5) Child Custody and Visitation. The statement shall specify that party's contentions as to child custody and visitation.

(6) Appraisals – Real and Personal Property

- (a) Where the parties possess real property, the same must have been appraised before the date of the settlement conference, and a copy of the appraisal must be attached to the statement.
- (b) Where the furniture has not been divided, a complete inventory of the furniture must be attached along with an appraisal.
- (c) Motor vehicles listed must be accompanied by the Kelly Blue Book valuations.

(7) Pension and Retirement Plans. When the asset is a pension or retirement plan, unless the parties have agreed regarding the pension division, or anticipate it will be an in-kind division, an appraisal of the same must be attached to the statement; provided however, that if a party is willing to accept the “vested cash value,” such party may furnish a certified statement by the holder of the pension showing the “vested cash value” of the pension.

(8) Payments of Community Debts with Separate Property Money. If a spouse or domestic partner is claiming credit for payment of community debts after separation, an itemized list of the community obligations existing at time of separation, with proof of payment, must be attached.

(9) Valuation of Property After Separation and Before Trial. Absent a stipulation, any party contending that community property or quasi-community property of the parties should be valued at a date after separation and before trial shall file a Request for Order (FL-300), providing the opposing party 30 days notice, per FC §2552(b). Such motion must have been made and heard before the date of the settlement conference.

(10) Valuation Requirement. A statement that the value of an asset or liability is unknown (without a showing that a good faith appraisal thereof could not be made), or that a valuation of the asset is not made because a party seeks a sale, a deferred sale of home order, or equal division of the asset, will be deemed a material failure to comply with these rules.

(11) Disposition of Family Home. Where it is urged that the family home be retained pursuant to Family Code Section 3800, all facts relevant to this issue must be included in the statement.

(12) Judicial Council Forms Attached to Settlement Conference Statement. A final Declaration Regarding Service of Declaration of Disclosure (FL-141), current Income and Expense Declaration (FL-150) and a current Property Declaration (FL-160) as to community property and, if applicable, a current Property Declaration (FL-160) regarding separate property or a statement that no information has changed since the previous filing.

**(13) Settlement Conference – Documentary Evidence Requirement**

At the settlement conference the parties shall bring the following:

- (a) Copies of all real and personal property appraisals and pension plan evaluations.
- (b) Documentary evidence of relevant bank, credit union, savings account balances, and statements of balances of other liquid accounts, as of the date of separation and relevant dates thereafter.
- (c) Documentary evidence of promissory notes, deeds, and other documents of title or major debt, where at issue.
- (d) If the amount of earnings of a spouse or domestic partner is at issue, documentary evidence of such earnings.
- (e) A statement from the carrier of cash value of a whole life insurance policy or policies.
- (f) An itemization of all furniture, furnishings, appliances, utensils, and all other personal property, with the party's estimate of fair market value after each item must be included if the parties previously have not agreed to some reasonable division of these items.
- (g) Documentation of all debt payment as to which reimbursement is being claimed shall be brought to the settlement conference.

**Lack of Compliance with Rules.** In the absence of compliance with these rules regarding settlement conferences, the court may award attorney fees, impose sanctions, vacate the trial date or continue the settlement conference to another date, or take other action as appropriate.

*(Effective 07/01/2013)*

**8.17 Pre-Trial Conference and Trial Exhibits**

A list of all exhibits, except for those used solely for impeachment purposes, must be exchanged between counsel no later than five (5) court days prior to the Pre-Trial Conference at which the trial date shall be confirmed.

Upon completion of trial, all exhibits shall be retained by the court according to the following time schedule:

- (1) Until 90 days following judgment if no appeal is filed.

(2) If an appeal is filed, until 30 days following the date of filing of the remittitur, assuming the judgment is affirmed.

(3) If an appeal is filed and the judgment is reversed or otherwise requires further hearing, until resolution of the matter.

*(Effective 07/01/2013)*

## **8.18 Contested Judgments**

- (a) **Preparation of Judgment.** Following trial, unless a statement of decision is required, the party directed by the court to do so shall prepare the Judgment (FL-180) in accordance with the court's decision no later than 20 days after the decision is received. The Judgment (FL-180) so prepared shall be served upon the other party who shall, within ten (10) days of receipt, either approve or refuse to approve the Judgment (FL-180), in writing. If approval is refused, alternative proposed language shall be submitted in writing to the preparing party.
- (b) **Failure to Approve or Submit Alternative Judgment.** If the responding party fails to approve the Judgment (FL-180) or submit alternative language, the preparing party may present the proposed Judgment (FL-180) to the court for signature together with a declaration (with a copy to the responding party), stating that the Judgment (FL-180) was served upon the responding party on a certain date and describing the circumstances surrounding the responding party's failure to approve the Judgment (FL-180). If the responding party has submitted alternative proposed language to the preparing party, the preparing party shall submit both proposed forms of Judgment (FL-180) to the court, and the court shall select, modify if appropriate, and sign that form of Judgment (FL-180) which best reflects the court's decision.
- (c) **Failure to Prepare and Serve Judgment.** If the party directed to prepare the Judgment (FL-180) fails to prepare and serve the Judgment (FL-180) as required, then the other party may prepare the proposed Judgment (FL-180) and mail it directly to the court without seeking the approval of opposing counsel, along with a letter to the court (with a copy to the opposing party) setting forth the applicable dates according to this rule and requesting that the court sign it.

*(Effective 07/01/2013)*

## **Monetary Awards and Allocations**

### **8.19 Court Policies Regarding Financial Matters**

**Introduction:** The goal and intention of the "Court Policies Regarding Financial Matters" is to encourage and enhance the ability of counsel and the parties to settle financial matters whenever possible.

**COURT POLICY #1:** Allocation of child care costs related to employment or to reasonably necessary education or training for employment skills is generally limited to costs incurred with non-relative, licensed providers.

**COURT POLICY #2:** Additional child support amounts are generally divided one-half to each parent. (Fam. Code §4061.) “Additional child support amounts” shall include:

- (1) Child care costs related to employment or to reasonably necessary education or training for employment skills;
- (2) The reasonable uninsured health care costs for the children as provided in Family Code §4063;
- (3) Costs related to the educational or other special needs of the children; and
- (4) Travel expenses for visitation. (Family Code §4062.)

**COURT POLICY #3:** In determining the amount of temporary spousal or partner support, the court generally does not consider overtime earnings.

**COURT POLICY #4:** Within 15 days following the court’s service of a filed Family Law Minute Order or Judgment (FL-180 or FL-630) containing an order for child support, spousal or partner support, and/or family support, the prevailing party shall submit to the court an appropriate order form for wage withholding and, where child support is ordered, a Child Support Registry form (FL-191).

**COURT POLICY #5:** Attorney fee orders under Family Code Section 2030 are viewed as a means to insure that each party has access to legal representation. Attorney fee orders are not a mechanism to equalize the relative wealth of the parties. It is the court’s view that attorneys should be held accountable to their own clients to justify the necessity for and the amount of the services that they perform. Attorney fees are generally ordered payable over time and contain a ten-day acceleration clause.

**COURT POLICY #6:** The court generally does not distribute debts at a hearing for temporary orders during the pendency of the case. However, when orders are made for the temporary use of property, orders are generally included for payment of loans related to that property.

*(Effective 07/01/2013)*

## **8.20 Income and Expense Declarations and Supporting Documentation**

- (a) An Income and Expense Declaration (FL-150) must be filed and served with the moving and responsive papers in all matters where child support, spousal or partner support, or payment of obligations is at issue. This provision shall not apply to individuals who are subject to contempt proceedings for non-payment of support.

- (b) The failure to complete the Income and Expense Declaration (FL-150) fully, or attach the required pay stubs or income information, may result in sanctions as set forth in Local Rule 802.
- (c) If an Income and Expense Declaration (FL-150) is more than 90 days old, the party must file a current Income and Expense Declaration (FL-150). If there has been no change within the previous 90 days, a declaration under penalty of perjury to that effect must be filed with the court. In either case, current verification of earnings or income must be attached as set forth in subdivision (D) below.
- (d) For wage earners, pay stubs for the immediately preceding two months, or one pay stub showing year-to-date information, and W-2 forms for the prior year, must be attached to all Income and Expense Declarations.
- (e) For self-employed persons, their previous year's federal income tax return, including all Schedules, 1099 forms, and supporting Partnership or Corporate returns/schedules and a profit and loss statement for the current year, through the last quarter, showing income and deductions, must be attached to all Income and Expense Declarations (FL-150).
- (f) If documents are not available because they are in the possession and control of the other party, a declaration under penalty of perjury must state that fact.

*(Effective 07/01/2013)*

#### **8.21 Family Support, Dependency Exemption, Use of Assets Pending Trial**

- (a) In its discretion, the court may order that support be paid as family support. Also, in its discretion, the court may award the federal and state income tax dependency exemptions to either parent so as to maximize the total net income available for all family members.
- (b) **Payment for use of assets pending trial.** While not obligated to do so, any party may raise by Request for Order (FL-300) prior to trial, issues relating to the payment due to the community for the reasonable value of the use of a marital asset by a party between the date of separation and date of disposition of said asset.

**Comment:** When temporary spousal or partner support is ordered, the court in its discretion may apportion liability for reasonable value of use of a community asset depending on the net incomes of both the supporting party and the party receiving temporary support. This issue is best resolved at the time the court establishes temporary child or spousal/partner support or makes an interim award of attorney fees or expenses of litigation.

*(Effective 07/01/2013)*

## 8.22 Spousal or Domestic Partner Support

- (a) **Permanent Spousal Or Domestic Partner.** Permanent spousal or domestic partner support shall be established according to the provisions of Family Code §4300 et seq. and California Rules of Court 5.260 and 5.275.
- (b) **Temporary Spousal Or Domestic Partner Support.** Temporary spousal or domestic partner support shall be determined based on the factors, guidelines and schedules set forth below. The schedules are subject to change. Temporary support may be calculated manually or by a certified software program designated in the California Rules of Court that contains the Humboldt County Superior Court's formula option. Temporary support calculations shall not be used as a guideline for long term support at trial or thereafter.

The court will consider the following factors in determining temporary support:

- (1) The total net monthly income (including all cash flow) after deduction of mandatory taxes, social security, medical insurance, union dues, and mandatory retirement contributions.
- (2) Whether the supported spouse or domestic partner has use of the family residence and is making payments thereon, including utilities, insurance, taxes or rent.
- (3) The total assets and liabilities and marital living standard.
- (4) The actual tax consequences to the parties of entry of the temporary order.

In general, the court will select among three support options in setting the amount of temporary support: minimum, average and maximum support. The court will adopt the average in determining temporary spousal or partner support unless good cause is shown. Good cause to deviate from the average spousal or partner support guideline may exist if the child support obligations of the supporting spouse or domestic partner are an amount greater than 50% of the net monthly income of the supporting spouse or partner.

### Temporary Spousal Or Domestic Partner Support Schedule

Note: If the supported spouse or domestic partner is working, and receives a net monthly income equal to 60% or more of the supporting spouse or partner, generally no temporary spousal support will be ordered. Also, if child support is paid by the supporting spouse or domestic partner, the supporting spouse's or partner's net monthly income shall be reduced by the amount of child support paid before applying the calculations set forth below.

### If There Are No Minor Children

- (a) **Minimum Support.** If there are no minor children, and the supported spouse or partner receives a net monthly income less than 60% of the supporting spouse or partner, minimum temporary support is computed by subtracting one-half of the supported

spouse's or domestic partner's net monthly income from 30% of the supporting spouse's or partner's net monthly income.

- (b) Average Support. If there are no minor children, the average temporary spousal or partner support is computed by subtracting 50% of the supported spouse's or domestic partner's net monthly income from 35% of the supporting spouse's or partner's net monthly income.
- (c) Maximum Support. If there are no minor children, the maximum temporary spousal or partner support is computed by subtracting 50% of the supported spouse's or domestic partner's net monthly income from 40% of the supporting spouse's or partner's net monthly income.

**If There Are Minor Children**

- (a) Minimum Support. If there are minor children, and the supported spouse or domestic partner receives a net monthly income less than 60% of the supporting spouse or partner, the minimum temporary spousal or partner support is computed by subtracting one-half of the supported spouse's or partner's income from 25% of the supporting spouse's or partner's net monthly income.
- (b) Average Support. If there are minor children, the average temporary spousal or partner support is computed by subtracting 50% of the supported spouse's or domestic partner's net monthly income from 30% of the supporting spouse's or partner's net monthly income.
- (c) Maximum Support. If there are no minor children, the maximum temporary spousal or partner support is computed by subtracting 50% of the supported spouse's or domestic partner's net monthly income from 35% of the supporting spouse's or domestic partner's net monthly income.

*(Effective 07/01/2013)*

**8.23 Attorney Fees**

- (a) Except as provided in Local Rule 802, or as otherwise allowed by statute, attorney fees and costs will not be awarded unless an Income and Expense Declaration (FL-150) is filed *by the requesting party*, with the attorney's fees disclosure at Item 15 fully and accurately completed.
- (b) If attorney's fees and/or costs of litigation (including fees for experts) are requested and the combined amount is in excess of \$2,500.00, the request must be supported by a separate declaration signed by the attorney, describing services performed, time expended, hourly rate, and all reasonably anticipated fees and/or costs. In the absence of such declaration, no award in excess of \$2,500.00 for fees and costs will be granted.

- (c) Without compliance with Local Rule 812 (meet and confer), no attorney fees under Family Code Section 271 will be awarded at any hearing.

*(Effective 07/01/2013)*

## **Child Support, Title IV-D**

### **8.24 Department of Child Support Services Matters**

- (a) **Application of General Family Laws.** Except as otherwise provided in this section, all Local Rules applicable to Family Law generally apply to cases enforced by the Humboldt County Department of Child Support Services (“IV-D cases”). To the extent that the rules in this section conflict with rules applicable to Family Law rules, the rules in this section shall prevail in IV-D cases.
- (b) **Appearance by the Humboldt County Department of Child Support Services.** The Humboldt County Department of Child Support Services (Child Support Services) will be deemed to have appeared in any action filed by the department initially and in any case in which a Notice Regarding Payment of Support has been filed indicating Child Support Services is providing services. (CRC 5.360) Once an appearance has been made by Child Support Services, all attorneys and parties shall give notice to Child Support Services of all moving papers and stipulations involving support according to the timelines for service otherwise required by law.
- (c) **Independent Enforcement Action.** Before independent enforcement actions may be taken to enforce an IV-D order, a Notice to Local Child Support Agency of Intent to Take Independent Action to Enforce Support Order (FL-645) must be executed and served in accordance with Family Code section 17404(f)(2).
- (d) **Proceedings Before IV-D Commissioner.** Pursuant to Family Code section 4251 and California Rules of Court, Rule 5.305, all IV-D cases shall be assigned to an IV-D Commissioner. Under some circumstances such as the unavailability of an IV-D Commissioner, a judge may preside. All attorneys and parties are put on notice that objections to a hearing in front of a commissioner must be made in accordance with the procedure outlined in Family Code section 4251.
- (e) **Dedicated Calendar.** IV-D cases are set on a dedicated weekly calendar. Attorneys and parties must be prepared to proceed to hearing at that time. All motions involving support in which Child Support Services has appeared shall be scheduled on the dedicated calendar absent a finding of good cause.
- (f) **Income and Expense Declarations.** A current (less than 90 days old) Income and Expense Declaration (FL-150) must be completed and filed with the court, including the other party’s income, or a fair estimate thereof. The following information shall be attached:

- (1) Wage earners shall attach a pay stub showing year-to-date income covering the last 90 days, or sufficient pay stubs without year-to-date information to cover the last 60 days of employment.
  - (2) Self-employed persons shall attach copies of their previous year's Federal Income Tax return and a profit and loss statement for the current year, through the last quarter, showing income and applicable deductions.
- (g) **Stipulations.** All stipulations in an IV-D case must be presented to Child Support Services for approval before submission to the court. (FC §4065(c)).
- (h) **Child Support Calculations.** All IV-D cases shall use the CSE-CCSAS Guideline calculator or other certified child support calculator for purposes of determining the guideline child support obligation. A public version of the CSE-CCSAS guideline calculator can be accessed by litigants at no charge on the Department of Child Support Services' website: [www.childsup.ca.gov](http://www.childsup.ca.gov).
- (i) **Telephonic Appearances.** Telephonic appearances in Title IV-D child support hearings and conferences will be permitted as set forth in California Rules of Court, rule 5.324. The court may require the requesting party to file a Request for Telephone Appearance (FL-679) to confirm the necessity for a telephone appearance.

*(Effective 07/01/2013)*

## **Child Custody and Visitation**

### **8.25 Children of Divorce Workshop**

- (a) **Policy.** After filing a petition for dissolution of marriage or legal separation, the court's policy is that those parties with children should attend the Children of Divorce Workshop, which is a program designed to inform parents of the effects of divorce on their children.
- (b) **Post-Judgment Modification of Custody and/or Visitation Orders.** After entry of a judgment of dissolution of marriage or legal separation, neither party may modify child custody and/or visitation orders (unless by stipulation) without completing the Children of Divorce Workshop and providing proof to the court or obtaining a waiver of this requirement from the court.
- (1) This requirement does not apply to parties seeking restraining orders or temporary orders in emergency circumstances. In those cases the court will make child custody and/or visitation orders in the best interest of the child(ren). The court may require parties requesting temporary orders to appear personally to prove-up the need for such orders.

- (c) **Local Form CCV-8.1** (Children of Divorce Workshop Registration) shall be served with the summons and petition in any divorce or legal separation case involving minor children.

*(Effective 07/01/2013)*

## **8.26 Mediation and Child Custody Recommending Counseling**

At the hearing on a Request for Order (FL-300) requesting child custody and/or visitation orders, the Judicial Officer may order the parties to engage in Mediation and/or Child Custody Recommending Counseling.

- (a) **Mediation Regarding Child Custody and Visitation.** At the hearing, the judicial officer may order the parties to engage in an informal child custody and visitation mediation session outside the courtroom. Court Staff will work with the parties to effect settlement of disputed issues. If the parties are unable to reach an agreement regarding child custody and/or visitation orders during informal mediation, the court will set the matter for a Child Custody Recommending Counseling session.
- (b) **Child Custody Recommending Counseling.** Contested issues regarding the custody and/or visitation (parenting time) of a minor are scheduled for Child Custody Recommending Counseling as required by Family Code §3170 and set forth in California Rules of Court 5.210. A court mediator shall serve as a Child Custody Recommending Counselor and will facilitate this process. There is no fee for Child Custody Recommending Counseling.
- (c) **No Agreement.** If no agreement is reached by the parties during the child custody recommending counseling session, the Child Custody Recommending Counselor will file a written report with the court containing a recommendation with respect to the disputed child custody and visitation issues that contains a proposed parenting plan. The report may be lodged with the court prior to the return to court date; however, the court may not review the report and no hearing in the matter may be held until the parties have had the opportunity to read the report. (FC §3183). If one party is self-represented, and the attorney for the represented party receives a copy of the report prior to the court date at which the report is to be considered by the court, the attorney shall notify the self-represented party that the report is available for inspection. The self-represented litigant may obtain a copy of the report from the Court Clerk's Office. The Child Custody Recommending Counselor may request an extension of time to conduct further investigation or prepare a report.
- (d) **Domestic Violence.** A party alleging domestic violence may elect to have a separate mediation or child custody recommending counseling session (Family Code §3181, California Rule of Court 5.215). Any party protected by a protective order has the right to have a support person attend any mediation orientation, mediation, or child custody recommending counseling session. (CRC 5.215(h)(1)). A party requesting a separate

session should arrange this with the mediator or Child Custody Recommending Counselor and/or the Family Law Facilitator to provide adequate protection for the party alleging domestic violence. Separate sessions may be at separate times to avoid in-person contact between the parties.

- (e) **Participation of Children.** Children should not be present for mediations, court hearings or Child Custody Recommending Counseling sessions unless ordered by the court or requested by the mediator or Child Custody Recommending Counselor. The court and/or the Family Law Facilitator will determine whether and under what conditions a minor may be interviewed. However, if the child is 14 years of age or older and wishes to address the court regarding custody or visitation, the child shall be permitted to do so, unless the court determines that doing so is not in the child's best interests. In that case, the court shall state its reasons for that finding on the record. Nothing in this section shall be interpreted to prevent a child who is less than 14 years of age from addressing the court regarding custody or visitation, if the court determines that is appropriate pursuant to the child's best interests. If the court precludes the calling of any child as a witness, the court shall provide alternative means of obtaining input from the child and other information regarding the child's preferences. (FC §3042 and CRC 5.250).
- (f) **Attendance and Participation of Interpreters in Mediation or Child Custody Recommending Counseling.** A neutral person who is fluent in both English and the party's native language may interpret for a party in mediation or a recommending counseling session if there is no court appointed mediator or Child Custody Recommending Counselor available to conduct the mediation in that party's native language. Individuals who serve in this capacity may be required to sign a confidentiality agreement. In no case may a minor child of the parties serve as an interpreter.
- (g) **Only Parties in Family Court Services.** Only the parties involved in the mediation or child custody recommending counseling process are to be present during the session, unless otherwise requested by the Mediator or Child Custody Recommending Counselor. However, pursuant to Family Code Section 6303(c) a support person must be permitted to accompany a person protected by a restraining order when that person is attending mediation or CCRC sessions, including separate sessions and parent orientation. The presence of the support person does not waive the confidentiality of the mediation or child custody recommending counseling session.
- (h) **Telephonic Appearance.** At the time the Child Custody Recommending Counseling (CCRC) session is set by the court, a party may request a telephonic appearance for his/her CCRC session if he/she resides more than 100 miles from Humboldt County or for other good cause at the court's discretion. If granted, the party requesting the telephonic appearance may initiate the telephone call to the Child Custody Recommending Counselor (CCRC) as determined and arranged by the CCRC. The court prefers that parties appear personally for mediation or child custody recommending counseling. The court has found that it is less likely that parties will be able to reach an agreement without in-person contact with the Child Custody Recommending Counselor and the other party.

- (i) **Confidentiality.** Mediation and Child Custody Recommending Counseling proceedings will be held in private, and all written and verbal communication will be deemed “official information” (Evidence Code §1040).
- (j) **Orientation Class.** Prior to a Child Custody Recommending Counseling session, each party must attend an orientation scheduled and conducted by Family Court Services or an organization designated by Family Court Services. CRC 5.210(e)(2). The Children of Divorce Workshop satisfies this requirement. If exceptional circumstances exist, the court may exempt a party from attending the orientation or refer the party to an on-line orientation.
- (k) **Sanctions.** The court may sanction any party who fails to attend Orientation and/or Child Custody Recommending Counseling. Sanctions may include, but are not limited to, monetary fines, denial of relief sought, dismissal of the Request for Order or other moving papers, entry of substantive orders, or contempt.
- (l) **Subsequent Child Custody Recommending Counseling.**

If temporary orders are entered and a review hearing requested as part of a court order regarding child custody and/or visitation, the court may order the parties to attend a further child counseling recommending session in lieu of a court hearing, on a date set by the court on the court’s mediation calendar, along with a return to court date. If permanent agreement is reached at the recommending counseling session, the mediator shall draft a stipulation to be signed by the parties and the court and the return to court date vacated. If the court date is to be vacated, the stipulation must state this, as well as the date of the court date to be vacated. If no agreement is reached, the parties shall attend the return to court date and the court will take further action as it deems appropriate.

- (m) **Authentication of Child Custody Recommending Counselor’s Report.** The Child Custody Recommending Counselor’s report shall be received into evidence at court without evidentiary foundation and no appearance or subpoena of the Child Custody Recommending Counselor shall be required for such purpose. However, the Child Custody Recommending Counselor must appear in court when subpoenaed as a witness.
- (n) **Ex Parte Communication with Child Custody Recommending Counselor.** Absent a stipulation to the contrary, and except as provided in Family Code §216 and California Rule of Court 5.235, there must be no ex parte communication between the Child Custody Recommending Counselor and the attorney for either party, minor’s counsel or the court, except to schedule appointments or regarding other issues as permitted by CRC 5.235(e) or other applicable law. If ex parte contact has been authorized by the parties, an attorney may provide the Child Custody Recommending Counselor with documents about the case but only after giving the other party or that party’s attorney (if any) and minor’s counsel (if any) a copy of the documents. Any documents that a party wants the Child Custody Recommending Counselor to consider must be submitted to the Child Custody Recommending Counselor no less than five (5) days prior to the scheduled child custody recommending counseling appointment. The Child Custody Recommending Counselor may have contact with either or both parties as needed. Such contact is not considered ex parte communication. After obtaining releases from the party, the

counselor shall have the discretion to communicate with any party, person or agency that may provide information relevant to the case. (CRC 5.235).

**(o) Complaints Regarding Mediators or Child Custody Recommending Counselors and Requests for a New Mediator or Recommending Counselor.**

(1) **Complaint Process.** The court's mediation services demonstrate accountability by providing for acceptance of and response to complaints about a mediator's performance. (CRC 5.210(d)(1)(C)). The court has adopted the complaint process set forth in California Rules of Court 3.865 through 3.872 for complaints regarding Mediators and Child Custody Recommending Counselors.

(2) **Summary of Complaint Procedure.** The complaint process is confidential. Complaints are submitted in writing to the Family Law Facilitator or other person designated by the court on a complaint form available from the Family Law Facilitator's Office, the Court Clerk's Office or the Court's Human Resources Office. The Family Law Facilitator or other appointed person shall serve as the Court's Complaint Coordinator. The Complaint Coordinator shall send a written acknowledgement of the complaint and promptly conduct a preliminary review to determine if the matter can be resolved informally or merits investigation. If a complaint is not resolved during the preliminary review, the complaint shall be investigated by the Complaint Coordinator and the Mediator or Child Custody Recommending Counselor shall be given written notice of the complaint and an opportunity to respond in writing. The Complaint Coordinator shall make a recommendation concerning court action on the complaint to the Presiding Judge, Chief Executive Officer of the Court or other designee who will conduct further investigation and make a final decision. The final decision may be one or more of the following: (1) Direct that no action be taken on the complaint; (2) Counsel, admonish or reprimand the Mediator or Child Custody Recommending Counselor; (3) Impose additional training requirements or (4) terminate the Mediator or Child Custody Recommending Counselor's employment.

**(p) Requests for a New Mediator or Child Custody Recommending Counselor.** The requesting party should complete and file with the court Local Form CCV-8.5 (Ex Parte Request and Order Re: Disqualification of Mediator or Evaluator) which is provided in the appendix to these rules. The requesting party must show that there is a conflict of interest or other good cause for the grant of this relief. Any party filing such a request shall serve it upon the other party and the Family Law Facilitator. If directed by the court, the Family Law Facilitator will consult with the mediator or Child Custody Recommending Counselor assigned to the case and makes a recommendation to the court regarding the request for disqualification. The judicial officer assigned to the case will determine whether to replace the challenged mediator or Child Custody Recommending Counselor or take no action.

*(Effective 07/01/2013)*

## 8.27 Supervised Visitation

- (a) **Purpose.** To establish uniform practices regarding the provision of supervised visitation. Also, this rule is to assure that the two primary goals of supervision are met. The first priority is to assure the safety and welfare of the child, adults, and providers of supervised visitation. Once safety is assured, the most important goal is to support and protect the best interest of the child.
- (b) **Application.** These rules apply to all providers of supervised visitation, including non-professional visitation supervisors. FC §3200, CRC 5.20.
- (c) **Qualifications of Supervisor.** A visitation supervisor, whether non-professional or professional, should meet these minimum standards. CRC 5.20(c)(1).

**The Supervisor SHOULD:**

- Be at least 21 years old;
- Have no convictions for DUI within the last 5 years;
- Not have been on probation or parole for the last 10 years;
- Have no record of conviction for child molestation, child abuse or crimes against a person;
- Have a valid driver's license and proof of insurance (if transporting child);
- Have had no civil, criminal, or juvenile restraining orders against him or her within the last 10 years;
- Have no current or past court order in which the supervised visitation provider is the person being supervised;
- Not be financially dependent on the person being supervised or have any other conflict of interest (including being an employee of the person being supervised or being in an intimate relationship with the person being supervised); and,
- Agree to enforce the court order regarding supervised visitation.

**Duties.** The visit supervisor should monitor conditions to assure the safety and welfare of the child, enforce the frequency and duration of the visits ordered by the court, remain unbiased, ensure that all contact between the child and the noncustodial party is within the provider's hearing and sight at all times and that discussions are audible to the provider. CRC 5.20(j).

**The Visit Supervisor SHOULD NOT ALLOW any of the following actions or behavior:**

- Making derogatory comments about the other parent, his or her family, caretaker, child or child's siblings;
- Discussion of the court case or possible future outcomes;
- Using the child to gather information about the other party or caretaker or to transmit documents, information, or personal possessions;
- Emotional, verbal, physical or sexual abuse or corporal punishment; or

- Visits to occur while the visiting party appears to be under the influence of alcohol or illegal drugs.

Suspension or Termination of Visits. If a provider determines that the rules of the visit have been violated, the child has become acutely distressed, or the safety of the child or the provider is at risk, the visit may be temporarily interrupted, rescheduled at a later date or terminated. CRC 5.20(n).

*(Effective 07/01/2013)*

## **8.28 Drug/Alcohol Abuse Testing**

- (a) In order to determine the best interest of a child, the court may order drug testing for any person seeking custody of or visitation with a child if the court finds by a preponderance of the evidence that the person engages in the habitual, frequent or continual illegal use of controlled substances or the habitual or continual abuse of alcohol. The court shall order the least intrusive form of drug testing, as required by Family Code section 3041.5, unless the parties stipulate to more extensive drug testing, including hair follicle testing. The results of this testing shall be confidential and maintained as a sealed record in the court file and may not be released to any person except the parties, their attorneys or any person to whom the court expressly grants access by written order made with prior notice to all parties. (FC §3041.5).
- (b) By court order, parties may drug test at the Humboldt County Probation Office located on the third floor of the Humboldt County courthouse. The parties must pay a fee for this service that cannot be waived by the court. Results from tests at the Probation Department can only be released to the court. The Probation Department does not release the results directly to the tested party, the other party or an attorney for either party. The court's standing order is that the results from testing by the Probation Department may be released to the parties or their attorneys. Test results may be obtained from the Court Clerk's Office. Proof of identity is required for any party requesting a copy of the results. Personnel from the offices of attorneys of record may pick up test results. Test results are made available to Child Custody Recommending Counselors upon execution by the parties and the court of an Order Appointing Court Investigator And/or Child Custody Recommending Counselor And Releasing Information. (Local Form CCV-8.3).

## **8.29 Appointment of Counsel for the Child**

- (a) **Generally.** In any proceeding covered by the family law rules, the court may, if it finds it would be in the best interest of the minor child, appoint counsel to represent the interests of the child. (FC § 3150, et seq.)
- (b) **Compensation.** When the court appoints counsel to represent the minor, counsel shall receive a reasonable sum for compensation and expenses. Compensation and expenses shall be determined by the court and paid by the parents in such proportion as the court deems just, or by the court under Government Code section 77003(a)(4).

- (c) **Appointment termination.** Minor’s counsel may be relieved 90 days after the action is resolved. At the end of the appeal period, the Court Clerk’s Office shall mail a Notice to Relieve Minor’s Counsel to the appointed attorney, which states the attorney will be relieved 30 days from the date of the notice unless good cause is shown not to do so.
- (d) **Complaints.** Complaints regarding the conduct of or procedures employed by counsel for minor children appointed by the court must be made in writing to the Presiding Family Law Judge. A copy of the complaint must be provided to all parties. The court will determine what action, if any, to take including whether the complaint should be referred to the appropriate professional licensing board. The court will provide a written response to the complaint to all parties and minor’s counsel.

*(Effective 07/01/2013)*

### **8.30 Child Custody Evaluations**

- (a) **Purpose.** A Child Custody Evaluation is an investigation, assessment and analysis used to assist the court and the family in determining the best interest of the child(ren) and the most effective way to support the child(ren)’s health, safety and welfare with regard to disputed child custody and visitation issues.
- (b) **Applicable Law.** Child Custody Evaluations are governed by Family Code sections 1815, 1816 and sections 3110 through 3118, as well as California Rules of Court 5.220, 5.225 and 5.230. Generally, evaluations are conducted according to FC §3111. Evaluations are conducted pursuant to FC §3118 when there are allegations of “serious” sexual abuse.
- (c) **Qualifications and Training.** A Child Custody Evaluator must be a licensed Psychiatrist, Psychologist, Marriage and Family Therapist or Clinical Social Worker. CRC 5.225(c). An evaluator must complete the domestic violence and child abuse training set forth in Family Code sections 1815, 1816, 3110.5(b)(2) and 3111 and comply with the training requirements set out in California Rules of Court 5.225 and 5.230.

Each evaluator must submit a declaration verifying completion of all updated training as required by CRC 5.225 and 5.230. The declaration shall be on form FL-325 (Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications) or FL-326 (Declaration of Private Child Custody Evaluator Regarding Qualifications), as appropriate.

- (d) **Appointment.** Child Custody Evaluators may be either court-connected (under contract with the court) or independent professionals. Appointments may be made by the court or by stipulation of the parties. A child custody evaluation pursuant to Family Code sections 3110 et seq. requires written authorization of a judicial officer. In cases where the parties stipulate to an investigation, such stipulation will only be approved where the alleged facts, in the opinion of the judicial officer, warrant an investigation. The order appointing a child custody evaluator shall be on form FL-327.

(1) Written stipulation of the parties. If both parties agree to an evaluation and the identity of the evaluator, they may enter into a stipulation. Such stipulations shall name the evaluator, the issues presented for evaluation, the relative obligations of the parties for payment of professional fees, releases of information, and obligations of the parties regarding the provision of documents to the evaluator.

(2) Request for Order filed by either party or by Court Order. If the parties cannot agree on the necessity for, or details of an evaluation, a party may bring a Request for Order (FL-300) for evaluation pursuant to Family Code §3110. Moving papers shall specify the necessity for the evaluation, the identity of the evaluator, the proposed allocation of payment for the evaluation, the issues to be evaluated and the documents to be reviewed. If the parties agree on the necessity for an evaluation but cannot agree upon the identity of the evaluator, the parties will nominate three qualified professionals and the court will choose from that list. If the parties cannot agree on the proposed allocation of payment, the court shall make an order allocating costs and fees between the parties using as a guideline Family Code §3112.

- (e) **Court Proceedings.** The written evaluation report shall be received into evidence at a trial or hearing in the same case in which child custody or visitation is at issue provided the report is not more than one (1) year old and the author of the report is available for examination at the option of any party. (FC §3117). The parties must receive written notice of their right to cross-examine the evaluator after having had a reasonable time to review the evaluator's report. (FC §3117). The party seeking to examine the evaluator is responsible to subpoena him or her.

If a party seeks to file a child custody evaluation that was obtained without notice to the other party, or which was obtained without an attempt to include the other party in the evaluation, such evaluation shall be subject to a motion to strike. If a party seeks to introduce evidence obtained as the result of such an evaluation, the court may, in its discretion, exclude such evidence on the grounds that the evaluation does not comply with these rules.

- (f) **Scope of Evaluation.** An evaluation may be either full or partial. The evaluator must be given, before the evaluation begins, a copy of the court order that specifies the appointment of the evaluator under FC §3110 and the purpose and scope of the evaluation. CRC 5.220(d)(1)(B).
- (g) **Content of Report.** The report of the evaluator shall conform to the requirements of CRC 5.220(e) and include a written explanation of the process that describes the purpose of the evaluation, the procedures used, the scope of the evaluation, the limits on confidentiality and costs and payment responsibility for the evaluation. The report must disclose the data and analysis that substantiates the evaluator's interpretations and conclusions regarding each child's developmental needs, the quality of attachment to each parent, that parent's social environment and the child(ren)'s reaction to the dispute between the parents. The evaluator may present his or her findings in writing or orally.

- (h) **Service of Report.** The report shall be filed with the court and served on the parties or their attorneys and any appointed minor's counsel 10 days before any hearing regarding custody of the child. FC §3111(a).
- (i) **Peremptory Challenge.** In all cases referred for evaluation for which there is no previous stipulation as to the evaluator, the parties will nominate three qualified professionals, and the court will choose from that list. No preemptory challenge will be allowed once the name of the evaluator is so chosen.
- (j) **Fees and Costs.** When ordering an evaluation, the court will make an order allocating the payment of the evaluator's fees and costs between the parties. CRC 5.220(d)(1)(D).
- (k) **Withdrawal From a Case.** An evaluator may request to withdraw from a case by delivering a written declaration demonstrating good cause under penalty of perjury to the judicial officer assigned to the case and must give copies of the request to all parties and minor's counsel. Any objections to the request to withdraw must be filed with the court and served on the evaluator, all parties, and minor's counsel within ten (10) days of the service of the request to withdraw. After time for filing of objections to the request to withdraw has expired, the court may, upon a finding of good cause, grant the request to withdraw, deny the request, or set a noticed hearing to resolve the issue.
- (l) **Complaints Regarding Evaluators.** Complaints regarding the conduct of, or procedures employed by, a child custody evaluator must be made in writing to the judicial officer assigned to the case. A copy of the complaint must be provided to the evaluator, all parties, and to any minor's counsel. The court must determine what action, if any, to take including whether the complaint should be referred to the appropriate professional licensing board.
- (m) **Removal of Evaluator.** A party may seek to remove an evaluator only on a clear and convincing showing of professional misconduct or incompetence or a violation of these rules. A request for the removal of an evaluator must be filed with the judicial officer assigned to the case, and served on the evaluator, all parties, and minor's counsel, if applicable. Local Form CCV-8.5 may be used to request disqualification of an evaluator.
- (n) **Confidentiality.** All child custody evaluation reports to the court will remain confidential, and their duplication and dissemination may be subject to appropriate protective orders as determined by the court. No report may be disseminated to any individual not a party to the proceeding, or to their attorneys, except by order of the court. Without a court order, no person with access to a child custody evaluation report may use the report or information contained therein for any purpose outside the custody proceeding for which the report was ordered. A violation of this rule may result in the imposition of monetary sanctions. FC §3111(d).

A Notice Regarding Confidentiality of Child Custody Evaluation Report (form FL-328) must be attached as the first page of the child custody evaluation report when filed with the court and served on the parties or their attorneys and any counsel appointed for the child, to inform them of the confidential nature of the report and the potential consequences for the unwarranted

disclosure of the report. The report shall be placed in the court file in an envelope marked CONFIDENTIAL.

**(o) Conduct of Evaluation.**

(1) Assessment Methods. Evaluators shall utilize interview, assessment, and testing procedures for all parties that are consistent with generally accepted professional standards and strive to minimize the potential for psychological trauma to children during the evaluation. In performing an evaluation, the child custody evaluator must comply with the ethical requirements set forth in CRC 5.220(h).

(2) Parents. Evaluators must include both parents in a custody evaluation. No recommendations may be offered about a party unless that party has been evaluated. CRC 5.220(h)(3). The evaluator should interview both parents and must inform each adult party of the purpose, nature, and method of the evaluation. CRC5.225(1)(2). The evaluator should observe the child or children with each parent, unless the evaluator determines this is detrimental to the health, safety, welfare and best interest of the child(ren). CRC 5.220(h)(4).

(3) Domestic Violence. Where there has been a history of domestic violence between the parties, or where a protective order is in effect, at the request of the party alleging domestic violence (in a written declaration under penalty of perjury) or at the request of a party who is protected by the order, the parties shall meet with the court-appointed investigator separately and at separate times. (FC §3113).

(4) Children. The evaluator should interview all minors whose custody or visitation is at issue unless the age of a minor, in the evaluator's opinion, makes such personal interview detrimental. Siblings may be interviewed separately unless, in the opinion of the evaluator, separate interviews are not in the best interest of the children. Children must not be pressured to state a custodial preference. CRC 5.220(h)(7).

At the initial meeting with each child the evaluator must provide an age-appropriate explanation of the evaluation process, including the limitation on the confidentiality of the process. Children must be informed that the evaluator may need to tell the judicial officer what was discussed during their conversations. CRC 5.220(d)(2)(C).

(5) Mandated Reporting. The evaluator must inform the parties of his or her reporting requirements, including, but not limited to, suspected child abuse and neglect and threats to harm one's self or another person. CRC 5.225(h)(8).

(6) Collateral Contacts. The evaluator must maintain objectivity and gather balanced information for both parties. The confidentiality of the parties and the children must be protected in any collateral contacts. CRC 5.220(h).

The evaluator should interview, in person or by telephone, such other persons who, in the judgment of the evaluator, may possess information necessary to conduct a comprehensive evaluation.

The evaluator should review all court, educational, medical, psychological, law enforcement, social service and other records which, in the evaluator's judgment, are necessary to conduct a comprehensive evaluation. The parents should sign releases of information that allow the evaluator access to such records.

(7) Ex-parte communication. Unless there is a stipulation between the parties, ex parte communication by counsel verbally or in writing with the evaluator is prohibited, except to schedule appointments. If there is such a stipulation, an attorney for a party or minor's counsel must not provide the evaluator with documents pertaining to the case without first providing the other party and minor's counsel, if any, with a copy of the documents. While protecting confidentiality as required under CRC 5.220(h), and after obtaining releases from the party, the evaluator shall have the discretion to communicate with any party, person or agency that may provide information relevant to the evaluation.

### **8.31 Custody Orders and Agreements**

As allowed by Family Code Section 3024, all child custody agreements and orders must contain language that is in substantial conformity to the following:

“If either parent plans to change the residence of a child, subject to this order, for more than thirty (30) days, and that change will affect the ability of either parent to fulfill this parenting plan, unless there is a written agreement of the parties, the parent contemplating the move shall notify the other parent of said move by mail, return receipt requested and postage prepaid, to the last known address of the parent to be notified. A copy of the notice shall also be sent to that parent's attorney of record. To the extent feasible, the notice shall be provided within a minimum of 45 days prior to the proposed change of residence so as to allow time for mediation of a new agreement concerning custody and visitation.”

Failure to comply with this notice requirement is not sufficient to bar a change of an existing order of custody and visitation.

*(Effective 07/01/2013)*

### **Default and Uncontested Judgments**

#### **8.32 Entry of Default**

Envelopes provided to the Superior Court Clerk for mailing to parties on entry of default must contain the return address of the Superior Court Clerk, not the address of the moving party.

The Court's address is: Clerk of the Humboldt County Superior Court, 825 Fifth Street, Eureka, CA 95501. Case Number \_\_\_\_\_.

*(Effective 07/01/2013)*

### **8.33 Default or Uncontested Judgments**

- (a) **By Affidavit or Declaration.** No court appearance is necessary to obtain a default or uncontested judgment unless the court requires it, in which case the court shall notify the parties. To obtain a Judgment of Dissolution or Legal Separation by declaration (non-appearance) pursuant to Family Code section 2336, the following completed forms must be submitted to the clerk:
- (1) Declaration for Default or Uncontested Dissolution (FL-170), signed by one of the parties. The relief sought in the declaration must be consistent with the relief sought in the Petition. If either party is receiving public assistance, that fact shall be stated.
  - (2) Current Income and Expense Declaration (FL-150) if (1) support is to be ordered, (2) there are minor children and child support is not reserved, or (3) the marriage lasted for ten (10) years or more, unless parties have otherwise agreed in a Marital Settlement Agreement or Stipulated Judgment.
  - (3) Request to Enter Default (FL-165) or Appearance, Stipulation and Waiver form (FL-130), whichever applies.
  - (4) Petitioner's Declaration Regarding Service of Declaration of Disclosure (FL-141) (preliminary).
  - (5) Original and two (2) copies of Judgment (FL-180).
  - (6) Original and two (2) copies of Notice of Entry of Judgment (FL-190).
  - (7) Two (2) envelopes, stamped with proper postage and addressed to each of the parties, with a return address of the Humboldt County Superior Court, 825 Fifth Street, Eureka, CA 95501.
- (b) **Acknowledgment of Receipt and Proof of Service.** Unless the court orders otherwise, a default will not be entered based on a Notice and Acknowledgment of Receipt (FL-117) or a certified return receipt (if the party is out-of-state) signed by a person other than the party to whom it is directed. In addition, no default will be entered without filing a Proof of Service of Summons (FL-115) with the clerk.
- (c) **Child Support, Spousal or Partner Support and Attorney Fees Awards.** No award of child support, spousal/partner support, or attorney fees will be granted unless there is either an attached agreement or stipulation between the parties settling those issues, or there is sufficient information on which the court may base an order, including a fully completed and executed current Income and Expense Declaration (FL-150) (with information regarding the other party's income if available) and a child support calculation, if applicable.
- (d) **Procedures for Entry of Judgment with Child Support Orders.** If either party is receiving public assistance, the signature of an attorney in the Department of Child

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Support Services consenting to the child support provision must be affixed to the judgment or a copy of a current child support order shall be incorporated into the judgment. A judgment containing child support orders shall make provision for medical support for children pursuant to Family Code sections 3750 - 3753.

All proposed judgments where child support is ordered shall contain the following language:

(1) “Pursuant to Family Code Section 4062, each parent is responsible for one-half of all reasonable uninsured health care costs for the children. All judgments shall include a copy of the Notice of Rights and Remedies - Health Care Costs and Reimbursement Procedures (FL-192); and

(2) “Pursuant to Family Code Section 4062, each parent is responsible for one-half of child care costs related to employment or for reasonably necessary education or training for employment skills. All expenses for child care shall be documented, including, but not limited to, name of care provider, facility license, contract for services, and monthly billing; and this document shall be provided to the obligor parent in a timely manner.”

All stipulations waiving guideline child support shall include the following language:

“The parties agree to an amount of child support that is not pursuant to current guideline formula. The parties further agree that, pursuant to Family Code Section 4065(a):

(1) They are fully informed of their rights concerning child support.

(2) The order is being made without coercion or duress.

(3) The agreement is in the best interest of the child/ren involved.

(4) The needs of the child/ren will be adequately met by the stipulated amount.

(5) The right of support has not been assigned to the county pursuant to Welfare and Institutions Code Section 11477, and no public assistance application is pending.”

All judgments and orders after hearings in which a child support order is contained and the Department of Child Support Services is enforcing the order shall include the following language:

“All child support payments must be made to the California State Disbursement Unit at P.O. Box 989067, West Sacramento, CA 95798-9067. Parties must notify the Department of Child Support Services in writing within ten (10) days of any change of residence, income, or employment.”

(e) **Community and/or Separate Property and Debts.** No division of community property (assets or debts) or confirmation of separate property will be ordered unless there is either an attached agreement or stipulation settling those issues, or there is a completed Property Declaration regarding community property (and a Property Declaration regarding separate property, if applicable) attached to and served with the Request to Enter Default.

(f) **Child Custody and Visitation.** In cases involving minor children, the petitioner must file a current Declaration Under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) (FL-105). Where the judgment is taken by default and either supervised visitation or denial of visitation is requested, unless a settlement agreement or stipulation of the parties concerning child custody and visitation is submitted with the judgment, a factual declaration under penalty of perjury shall be submitted with and incorporated into the Declaration for Default or Uncontested Dissolution or Legal Separation (FL-170) at item 6.d. The declaration shall include the following:

(1) Where a party is seeking to deny visitation between a child and the defaulting party. The specific reasons visitation should be denied; the date upon which the last visitation between the child and the defaulting party occurred; and a statement that the whereabouts of the defaulting party is unknown, or, if known, the defaulting party's address.

(2) Where a party is seeking supervised visitation between a child and the defaulting party. The reasons such visitation should be supervised; when and where supervised visitation should occur; the name and address of the person or agency who/which will perform the supervision; and the method by which the supervisor is to be compensated.

(3) Other information. The date upon which the parties separated, the identity of the primary caretaker of the child during the last six (6) months, and the extent of contact between the child and the non-caretaker parent during that time.

(g) **Children of Divorce Workshop.** The court's policy is that when a judgment of divorce or legal separation contains child custody and visitation orders that both parties complete the Children of Divorce Workshop and file proof of completion with the court. Judgment may enter without completion of the workshop; however, a party that does not complete the Children of Divorce Workshop cannot permanently modify child custody or visitation orders unless he/she completes the workshop and provides proof to the court or obtains a waiver of this requirement from the court. In emergency circumstances, including requests for restraining orders, the court may grant temporary orders modifying child custody and/or visitation.

*(Effective 07/01/2013)*

### **8.34 Marital Settlement Agreements and Stipulations for Judgment**

#### **Approval or Incorporation of Marital Settlement Agreement or Stipulation for Judgment**

(a) No marital settlement agreement or stipulation for judgment shall be approved by the court or incorporated by reference in a judgment unless:

(1) The settlement agreement or a stipulation provides that the agreement or stipulation shall be incorporated into the judgment,

- (2) The agreement or stipulation is signed and acknowledged by the parties; and
  - (a) If both parties are represented by counsel, the agreement or stipulation is signed by both attorneys, or
  - (b) If only one party has legal counsel, any marital settlement agreement or stipulation should contain language which is in substantial conformity with the following:

“Petitioner/Respondent acknowledges by the initials at the end of this paragraph that he/she has been advised to obtain independent legal counsel and that he/she has voluntarily chosen not to do so; that he/she has read and understands the contents and legal effect of this agreement or stipulation and has entered into it and signed it freely and voluntarily.” (Initials of party)

- (c) If neither party is represented by counsel, any marital settlement agreement or stipulation should contain language which is in substantial conformity with the following:

“Petitioner and Respondent acknowledge they are aware of the right to consult independent counsel and that both parties have read and understand the contents and legal effect of this agreement or stipulation and have entered into it and signed it freely and voluntarily”; and

- (3) The parties acknowledge, in writing, that all disclosures required to be made to them have been made, and that the agreement is fair and equitable.
  - (4) Where a default judgment is requested, the signature of the spouse or domestic partner who has defaulted shall be notarized on any marital settlement agreement or stipulated judgment. (FC §2338.5(a)).

*(Effective 07/01/2013)*

## **Miscellaneous Provisions**

### **8.35 Domestic Violence Coordination Rules**

- (a) **Court Communication.** It is this court’s goal to coordinate domestic violence orders. It is the clerk’s responsibility, upon any request for protective orders, to determine if any such orders have already been issued as to the same parties or children in any other department by accessing the court’s case management system. The court’s family law department shall use all reasonable efforts to communicate and exchange information with other court departments regarding any domestic violence orders.
- (b) **Avoiding Conflicting Orders.** The Family Court shall not issue a protective order or custody order in conflict with an order of the criminal court. If such an order issues inadvertently, the orders of the criminal law proceeding shall have priority.

- (c) **Modification Of Criminal Orders.** A court issuing a criminal protective order may, after review of any existing Family or Juvenile Court orders, modify the criminal protective order to allow or restrict contact between the restrained person and his or her child(ren), spouse, or other protected person.
- (d) **Coexisting Criminal, Family and/or Juvenile Orders.** A Family or Juvenile Court order may coexist with a Criminal Court protective order, subject to the following:
  - (1) Any order that permits contact between the restrained person and his or her children shall provide for the safe exchange of the child(ren) and shall not contain language either printed or handwritten that violates a “no contact order” issued by a criminal court.
  - (2) Safety of all parties shall be the court’s paramount concern. The Family Court order shall specify the time, day, place, and manner of transfer of the child/ren, as provided in Family Code Section 3100.
- (e) **Issuance and Enforcement of Restraining Order.** Upon granting of relief (through initial petition, modification, or termination), the clerk shall convey within 24 hours a file-endorsed copy of the order to the Humboldt County Sheriff’s Department for input into CLETS (a statewide computerized registration system for restraining orders).

*(Effective 07/01/2013)*

### **8.36 Stepparent Adoption**

- (a) If a petition for adoption is filed under Family Code §8802, without an order or judgment under Family Code §7840 freeing the child free from the custody and control of either or both parents, and there are no consents from the parents in the file, there shall be a special hearing entitled “Necessity of Consent” hearing.
- (b) The clerk shall immediately notify the probation officer of the filing of the petition, and the probation officer shall report in the same manner as provided in Family Code §7851.
- (c) A citation in the form provided by Family Code § 7881 shall be issued on the filing of the petition, and shall be served on the persons and in the manner described in Family Code sections 7880 and 7881. The citation shall require the persons served to show cause, if any, why the minor should not be found to be abandoned and why the consent of the named parent of the minor is necessary.
- (d) The hearing date selected shall be within not more than forty five (45) days after the petition is filed. FC §7870.
- (e) The proceeding under this rule is in addition to that required by Family Code sections 9000-9007.

**Comment:** It is preferred that Division 12 of the Family Code Part 4, §7800, et seq. rather than Division 13, Part II of the Family Code be used in an abandonment proceeding because of the specification of the notice procedures. However, when Division 13, Part II is used, the hearing on the necessity of consent is required as the probation officer cannot recommend favorably until there is consent or an order finding no necessity to consent.

*(Effective 07/01/2013)*

### **8.37 Adoption Where Natural Father Not Found**

If it is claimed that an alleged natural father under Family Code §7666 cannot be found, or is unidentifiable, the petitioner shall file a petition under Family Code §7662, and the clerk shall set a hearing on the regular Adoption Calendar, to be scheduled within sixty (60) calendar days of the filing of the adoption petition, to determine whether notice to any alleged natural father may be dispensed with and if the father is unidentifiable. The petitioner shall appear and present evidence at the hearing.

*(Effective 07/01/2013)*

### **8.38 Duties of the Family Law Facilitator**

Pursuant to Family Code section 10004, the Family Law Facilitator shall have the following duties:

- (a) Providing educational materials to parents concerning establishing parentage, establishing, modifying, and enforcing child support and spousal support;
- (b) Distributing court forms and voluntary declarations of paternity;
- (c) Providing assistance in completing forms;
- (d) Preparing child support calculations; and,
- (e) Providing referrals to the local child support agency, family court services and other community agencies and resources that provide service for parents and children.

Pursuant to Family Code section 10005, the Family Law Facilitator may have the following additional duties:

- (a) Meeting with litigants to mediate issues of child support, spousal or partner support, and maintenance of health insurance, subject to California Family Code §10012 (Domestic violence);
- (b) Drafting stipulations, which may include issues other than those specified in California Family Code §10003;

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- (c) If the parties are not able to resolve issues with the assistance of the Family Law Facilitator, the Facilitator, before or at the hearing, and at the court's request, shall review documents, prepare support schedules, and advise the court whether the matter is ready to proceed;
- (d) Assisting the clerk in maintaining records;
- (e) Preparing orders consistent with the court's announced order where both parties are self-represented;
- (f) Serving as a special master and making findings to the court, unless the Facilitator has served as a mediator in the case;
- (g) Providing the services specified in FC §10004 concerning the issues of child custody and visitation as they relate to calculating child support;
- (h) Assisting the court with research and any other responsibilities that will enable the court to be responsive to the litigants' needs;
- (i) Developing programs for bar and community outreach that will assist underrepresented and financially disadvantaged litigants in gaining meaningful access to family court, including information concerning underutilized legislation, such as expedited child support orders (FC §3620 et seq.) and any preexisting, court-sponsored programs, such as supervised visitation and appointment of attorneys for children.
- (j) Such additional duties as may be delegated by the Presiding Family Law Judge, consistent with Family Code Section 10005.

*(Effective 07/01/2013)*

**HUMBOLDT COUNTY SUPERIOR COURT**  
**LOCAL FORMS**

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## SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT

### GUIDE TO CASE MANAGEMENT

**NOTE:** *The information in this document is not legal advice.* It is intended to provide general information, primarily for the self-represented litigant (SRL) on what to expect at a Family Law Case Management Conference.

California family courts manage cases through the “family centered case resolution” process. This court’s process is the Family Law Case Management Program. This case management procedure is aimed at early settlement, quicker trial dates, reduced expense of litigation, and better assistance to families. Cases will be managed through two or more Case Management Conferences (CMC) at which the parties, attorneys and a judicial officer will discuss a “case resolution plan”. The family centered case resolution plan may be set forth on Form FL-174 (Family Centered Case Resolution Order), which is available on the California Court’s Website at [www.courts.ca.gov](http://www.courts.ca.gov). The Notice of Case Management Conferences (Local Form-CM-8.2), which sets two mandatory Case Management Conferences (the first at 180 days and the second at 360 days from the date the petition is filed), must be served with the summons and petition. Other Case Management Conferences may be set by the court as needed or if requested by a party. A party may request an additional Case Management Conferences by filing a Request for Order (Form FL-300) with the Court Clerk’s Office at 421 I Street in Eureka California. Additional information can be found in Family Code sections 2550 and 2541, California Rule of Court 5.83, the Humboldt County Superior Court’s Local Rules and website at [www.humboldt.courts.ca.gov](http://www.humboldt.courts.ca.gov) and on the California Court’s Website at [www.courts.ca.gov](http://www.courts.ca.gov).

### **FAMILY LAW CASE MANAGEMENT CONFERENCE**

**What is it?** A Family Law Case Management Conference (CMC) is a meeting of the parties and the attorneys with a judicial officer to develop a case resolution plan for managing the case and resolving issues as quickly, fairly and efficiently as possible. It is not an evidentiary hearing or a settlement conference.

**Attendance and Orders.** Each party’s attorney or the self-represented litigant must attend the CMC in person, unless the court orders otherwise. Both attorneys and self-represented litigants must be familiar with the case and be prepared to discuss the party’s position on all issues as well as potential agreements or stipulations regarding compliance with required legal procedures. The case resolution plan will become a written case resolution order signed by the judicial officer. This order will provide an easily accessible written record of the decisions made at the CMC, facilitate future case management planning, and minimize disputes over previous decisions.

825 Fifth Street ~ Eureka, California 95501 (707) 445-7256

### **CASE MANAGEMENT PROGRAM TIMELINES**

Cases should proceed in an effective and timely manner. Litigants should comply with the following timelines in processing their case:

- (A) A proof of service of summons and petition should be filed within 60 days of case initiation;
- (B) 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;
- (C) The petitioner's preliminary declaration of disclosure should be served within 60 days of the filing of the petition;
- (D) When a default has been entered, a judgment should be submitted within 60 days of the entry of default;
- (E) If a response has been filed and this is a contested matter, an at-issue memorandum should be filed as soon as pre-trial procedures have been completed, including discovery;
- (F) When the parties have notified the court that they are actively negotiating or mediating their case, a written agreement for judgment should be submitted within six months of the date the petition was filed, or a request for trial date is submitted.

### **FAMILY LAW FACILITATOR SERVICES**

Self-represented litigants are encouraged to meet with Family Law Facilitator staff or attend a workshop before their first CMC to help prepare their case. For more information about Family Law Facilitator services, visit [www.humboldt.courts.ca.gov](http://www.humboldt.courts.ca.gov).

### **CHANGE OF ADDRESS**

Litigants must keep the court informed of their current mailing address and telephone number. If you move, you must file a Notice of Change of Address (Form MC-040) with the Court Clerk's Office immediately. This form is available at the Court Clerk's Office or online at [www.courts.ca.gov](http://www.courts.ca.gov).

### **FAMILY LAW CASE RESOURCE INFORMATION**

Family Law cases include dissolution of marriage (divorce) or domestic partnership, legal separation, annulment of marriage (nullity), paternity, and domestic violence. Detailed information about each type of family law case can be found on the court's website [www.humboldt.courts.ca.gov](http://www.humboldt.courts.ca.gov) and the California Court's Website: [www.ca.courts.gov](http://www.ca.courts.gov). Among other information, these websites provide answers to frequently asked questions, terms and definitions used in family law cases, forms with step-by-step instructions, local rules, California Rules of Court, and information on where to find help. Judicial Council Form FL-107-INFO (Legal Steps for a Divorce) is available on the California Court's website, which provides an overview of the legal steps for a divorce, important notices, statewide

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resources, and services available at all California courts. The following topics contain general information specific to the Humboldt County Superior Court.

### **SELF-REPRESENTED LITIGANTS**

Individuals who represent themselves may get help through the Family Law Facilitator's Office, which is located in room 305 on the third floor of the Humboldt County Courthouse located at 825 Fifth Street in Eureka, California. The facilitator provides both one-on-one services and group workshops. The services are free and they are usually offered on a first-come, first served basis; although, some appointments are available. The court's website ([www.humboldt.courts.ca.gov](http://www.humboldt.courts.ca.gov)), under "Self Help" provides contact information and information about services offered by the Facilitator's Office.

**Procedural Assistance:** If you do not have an attorney, you can get help with filling out forms and information about filing documents, serving papers and other types of procedural assistance from the Family Law Facilitator's Office.

### **LOCAL RESOURCES**

**Legal Advice and Information:** If you would like to consult with an attorney but cannot afford one there may be free services available through Redwood Legal Services, 123 Third Street, Eureka, CA 95502 (707) 445-0866 or for Senior Legal Assistance call (707) 443-9747. Legal information is available through the Humboldt County Law Library, which is located in the ground floor of the courthouse at 812 4th Street, Eureka, CA (707) 476-2356, including access to legal reference materials; however, law library staff cannot give legal advice.

#### **Settlement Opportunities:**

- **Child Custody:** Before a court order can be made on a dispute over child custody and visitation, the parties must participate in a child custody recommending counseling session facilitated by a Child Custody Recommending Counselor, who will help both parents work together toward a mutually acceptable agreement that is in the best interest of the children. The parties may also stipulate to private mediation at their own expense. The recommending counseling session allows both parents to work together toward a mutually acceptable agreement which is in the best interest of the child(ren). For additional information, view the Mediation Orientation Presentation available on the court's website [www.humboldt.courts.ca.gov](http://www.humboldt.courts.ca.gov).
- **Private Resources:** Mediation and other types of settlement resolutions may be available from private providers at the parties' own cost. The Family Law Facilitator's Office may have brochures or other referral information; however, the court cannot recommend or endorse any private business.

**Domestic Violence Victim Services:** The Family Law Facilitator's Office provides help preparing applications for restraining orders. Comprehensive information about domestic violence is available on the court's website at [www.humboldt.courts.ca.gov](http://www.humboldt.courts.ca.gov), including forms. Victims of domestic violence

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may contact **Humboldt Domestic Violence Services' 24 hour crisis line at (707) 443-6042**. The National Domestic Violence Hotline (24 hours) can be reached at 1-800-799-7233. Victims of crime may contact the Humboldt County Victim/Witness program at 707-445-7417.

**The Humboldt Community Switchboard:** This is a free service that offers a comprehensive database of information on resources available in Humboldt County. You can search the database on their website <http://theswitchboard.org/> or call their help line at **707-441-1001**.

**DISCLAIMER:**

This information sheet is intended to provide general information for litigants in family law cases. It may not include all information that is legally required, it is not legal advice, and it should not be used as a substitute for legal advice from an attorney licensed by the State Bar of California. If you should have any questions about your legal rights, you should talk to an attorney.

With the exception of the Humboldt County Superior Court's website, the Humboldt County Superior Court does not control or maintain the websites referred to in this information sheet and cannot be responsible for the accuracy of the information or content they contain. In addition, the content of a website may change, and the court would not necessarily be made aware of the change. When you access one of these websites, you are subject to the terms of use and privacy policies of that website.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT

\_\_\_\_\_, ) Case No.: \_\_\_\_\_  
 )  
Petitioner, )  
 )  
and )  
 ) NOTICE OF FAMILY LAW CASE  
 ) MANAGEMENT CONFERENCES  
\_\_\_\_\_, )  
 )  
Respondent. )  
\_\_\_\_\_ )

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Please take notice that the above-entitled action has been included in the Family Law Case Management Program of the Humboldt County Superior Court. You are required to comply with the guidelines set forth in this court's Guide to Case Management (Local Form CM-8.1), Local Rules 800 and 807, Family Code Sections 2450 – 2451 and California Rule of Court 5.83.

You are further advised that Case Management Conferences are scheduled on the following dates:

\_\_\_\_\_ 20\_\_\_\_\_, at \_\_\_\_\_: \_\_\_\_\_ AM/PM in Department # \_\_\_\_\_ and

\_\_\_\_\_ 20\_\_\_\_\_, at \_\_\_\_\_: \_\_\_\_\_ AM/PM in Department # \_\_\_\_\_ of the above

entitled Court. You must personally appear at all Case Management Conferences. Case Management Conference Statements on Local Form CM-8.3 shall be filed with the Court and exchanged among the parties no later than 15 days before the Case Management Conference.

DATE: \_\_\_\_\_ CLERK, By \_\_\_\_\_, Deputy

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):   TELEPHONE NO.: _____ FAX NO.(Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT</b> STREET ADDRESS: 825 Fifth Street MAILING ADDRESS: CITY AND ZIP CODE: <b>Eureka, CA 95501</b>	
PETITIONER: RESPONDENT: OTHER PARENT:	
<input type="checkbox"/> PETITIONER'S <input type="checkbox"/> RESPONDENT'S <input type="checkbox"/> OTHER _____ <b>CASE MANAGEMENT CONFERENCE STATEMENT</b> DATE OF STATUS CONFERENCE: _____	CASE NUMBER:

Complete all questions, check-boxes, and blanks that apply. Use extra pages if needed. You must file and serve this Case Management Conference Statement on the opposing attorney or party (and DCSS if applicable) 15 days prior to the Case Management Conference and file a Proof of Service with the court.

**1. PETITION:**

**Dissolution of Marriage/Domestic Partnership:**

The Petition for  Dissolution of Marriage/Domestic Partnership  Legal Separation  Nullity was filed on: \_\_\_\_\_ (date).

Date of Marriage \_\_\_\_\_, Date of Separation \_\_\_\_\_ Is duration disputed?  No  Yes

**Parentage Actions:**

The Petition for  Establishment of Parental Relationship  Custody and Support was filed on: \_\_\_\_\_ (date).

**2. SERVICE AND RESPONSE (ALL CASES):**

Respondent was served with the Petition on \_\_\_\_\_ (date), by (which method):  
 personal service  substituted service  publication  notice/acknowledgement of receipt  
 other \_\_\_\_\_.

Respondent has not been served with the Petition.  
 Respondent filed a Response on (date) \_\_\_\_\_.  
 Respondent has not filed a Response with the court.

**3. DISCOVERY:**

**Dissolution of Marriage/Domestic Partnership:**

The following documents have been served on the opposing party:

Schedule of Assets and Debts (FL-140) or  Property Declaration (FL-160) or  Both  
 Income and Expense Declaration (FL-150): Date yours was last filed and served: \_\_\_\_\_  
 Declaration Regarding Service of Declaration of Disclosure (FL-141):  
 Preliminary: (Date filed) \_\_\_\_\_  Final: (Date filed) \_\_\_\_\_  
 Appraisal(s) of:  Real Estate  Other: \_\_\_\_\_  
 Pension Plan Documents  Other documents served: \_\_\_\_\_  
 Other discovery is needed on: \_\_\_\_\_

**Parentage Actions:**

The following documents have been served on the opposing party:

Income and Expense Declaration (FL-150): Date yours was last filed and served: \_\_\_\_\_  
 Other discovery is needed on: \_\_\_\_\_

4. **BASIC LIST OF THE ISSUES—CHECK ALL THAT APPLY:**

**All Actions:**

- Parentage of Minor Child     Child Custody and Visitation     Child Support     Attorney Fees and Costs
- Other: \_\_\_\_\_

**Dissolution Actions (only):**

- Real Property Division     Business Division     Personal Property Division     Division of Other Property
- Work-Related Benefit Division     Spousal Support     Other \_\_\_\_\_

5. **CHILDREN:**

Number of children of this relationship: \_\_\_\_\_. Age(s) of child(ren): \_\_\_\_\_.

The parties last engaged in child custody mediation on (date) \_\_\_\_\_ with Mediator \_\_\_\_\_.

- My Declaration Under The UCCJEA (FL-105) has been filed.
- All Child Custody and Visitation issues have been resolved.
- Further mediation might help.

It should address the following issues: \_\_\_\_\_.

- A child custody evaluation is needed, to be paid for as follows: \_\_\_\_\_.

It should address the following issues: \_\_\_\_\_.

6. **SUPPORT:**

- All Child Support issues  have  have not been resolved.
- All financial information  including FL-150's has been exchanged for meaningful settlement talks, or trial.
- More information must be obtained before the parties can hold a meaningful settlement conference or trial.
- An expert witness must be retained before the parties can hold a meaningful settlement conference or trial.

What kind of information or expert?: \_\_\_\_\_

- The Department of Child Support Services ("DCSS") of \_\_\_\_\_ County is involved in this case.
- All Spousal Support issues  have  have not been resolved. (Dissolution only)

7. **PROPERTY DIVISION (Divorce Only):**

- All Property Division issues  have  have not been resolved.
- All information  including FL-160's or equivalent has been exchanged for meaningful settlement talks or trial.
- More information must be obtained before the parties can hold a meaningful settlement conference or trial.
- An expert witness must be retained before the parties can hold a meaningful settlement conference or trial.

What kind of information or expert?: \_\_\_\_\_

9. **SETTLEMENT CONFERENCE AND/OR TRIAL:**

This case should be ready by these dates for: Settlement Conference \_\_\_\_\_ Trial \_\_\_\_\_

I  am  am not requesting a trial date at this time. My estimate of the total time needed for trial is \_\_\_\_\_ hours.

10. **SPECIAL CONSIDERATIONS:**

- I reside more than one hundred miles from the courthouse.
- I request to appear telephonically at the Case Management Conference. (Explain why this is necessary): \_\_\_\_\_
- I need an interpreter for the following language: \_\_\_\_\_  I can provide this interpreter.
- I need the following special access (e.g., wheelchair) to the courts: \_\_\_\_\_

11. **OTHER INFORMATION:**

Other information the Judicial Officer needs to know about your case in order to prepare for the Case Management Conference.

\_\_\_\_\_

- The name of the other party's attorney is \_\_\_\_\_

- Are there other court cases between or involving the parties?  No  Yes: (List county, file number, status): \_\_\_\_\_

- Additional page(s) attached concerning item(s) numbered: \_\_\_\_\_.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Party or Attorney for Party



## SUPERIOR COURT OF CALIFORNIA COUNTY OF HUMBOLDT

[THIS NOTICE SHALL BE SERVED WITH THE RESPONSIVE DECLARATION]

### NOTICE TO RESPONDING PARTY:

You are being sued. The court may decide against you without you being heard unless you file a responsive declaration with the court.

You must file your responsive declaration with the court and serve the other party at least nine (9) court days prior to the hearing date, which is listed on the legal papers you were served (unless otherwise ordered by the court).

You must use the responsive declaration attached to this notice.

**PLEASE BE ADVISED:** The court has the authority to disregard any responsive declaration filed less than (9) court days prior to the hearing.

Please submit an original and two copies of the responsive declaration for filing to the Humboldt Superior Court Clerk's Office located at 421 I Street. Two file-stamped copies will be returned to you – one for your records and one for service on the other party.

The responsive declaration may be served by mail after your case is begun. Service must be by another adult or by law enforcement.

The Court Clerk's Office hours are 9:00 a.m. to 2:00 p.m. Monday through Friday, excluding judicial holidays.

You may submit your documents in the drop box located at the entrance of the Clerk's Office between the hours of 8:00 a.m. and 4:00 p.m.

## SUPERIOR COURT FAMILY LAW POLICY STATEMENT

(A COPY OF THIS DOCUMENT SHALL BE SERVED  
ON EACH PARTY BY THE MOVING PARTY)

ALL TEMPORARY ORDERS WILL REMAIN IN EFFECT UNTIL TRIAL UNLESS  
CHANGED BY THE COURT DUE TO CHANGED CIRCUMSTANCES

1. **Restraining Orders.** Restraining Orders forbidding the parties from molesting or harassing each other, and from transferring or disposing of community property, except for necessary living expenses, will usually be given upon request.
2. **Attorney Fees.** When either party lacks sufficient assets to pay for an attorney, the Court may order the other party to pay those reasonable attorney fees, or make other arrangements.
3. **Residence Exclusion.** The Court may order the temporary exclusion of one party from the family dwelling when there is a showing that the party to be excluded has assaulted, or threatens to assault, the other party and that physical or emotional harm would result to the other party (or another person under the care, custody or control of the other party) unless the assaultive party is excluded.
4. **Child and Temporary Spousal or Partner Support.** Pending resolution and upon application, the Court may order child support and/or spousal/partner support.

The Court will consider all forms of income, including public assistance, and may consider ability to earn as well as actual earnings.

It is not unusual that the parties' needs exceed their combined incomes. The Court is primarily concerned with the actual income of the parties and only secondarily with their living expenses.

5. **Custody of Children.**
  - (a) Child custody and visitation will be awarded according to the best interests of the child. The Court's primary consideration is the health, safety and welfare of the child. Domestic violence and abuse of illegal drugs or alcohol may preclude an award of custody and/or visitation to the parent engaging in such behavior. Once the child(ren)'s health, safety and welfare is secure, the court's will make orders ensuring that both parents have frequent and continuing contact with the child(ren). Supervised visitation may be ordered at the court's discretion.
  - (b) The Court may refer a child custody dispute to an appropriate agency for investigation and report. This referral may be at the expense of the parties. The Court does not routinely refer child custody disputes for an investigation and report.

- (c) If there is a dispute over child custody or visitation the parties will be referred to mediation or child custody recommending counseling. (FC §3170 et seq.).
- (d) In all cases in which there are minor children both parties should attend the Children of Divorce Workshop when obtaining a divorce or legal separation. Any party failing to attend the Children of Divorce Workshop cannot modify child custody or visitation orders entered as part of a judgment of dissolution or legal separation. This requirement does not apply in cases involving restraining orders or emergency circumstances. In such cases the court will make child custody and/or visitation orders in the best interest of the child(ren).
- (e) A party alleging domestic violence may elect to have a separate mediation or child custody recommending counseling session (Family Code §3181, California Rule of Court 5.215). Any party requesting a separate session should arrange this with the mediator or Child Custody Recommending Counselor and/or the Family Law Faciliator to provide adequate protection for the party alleging domestic violence. Separate sessions may be at separate times to avoid in-person contact between the parties.

(Effective 7/1/13)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  TELEPHONE NO.: _____ FAX NO.(Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT:	
<b>DECLARATION REGARDING NOTICE OF APPLICATION FOR EX PARTE ORDERS</b>	CASE NUMBER: _____

I, the undersigned, declare:

1. I am (choose one):

- attorney for Petitioner       attorney for Respondent       attorney for child(ren)  
 self-represented Petitioner       self-represented Respondent  
 other (explain): \_\_\_\_\_

2. The opposing party or minor child(ren) is represented by an attorney:  Yes       No

(If you checked "yes," fill in the attorney's name, address, and telephone number. If you checked "no," fill in the other party's name, address, and telephone number.

Party/Attorney name: \_\_\_\_\_  
 Address/Telephone number: \_\_\_\_\_  
 Child's attorney name and address: \_\_\_\_\_

3. OTHER CASES: Have the parties to this case been involved in another Family, Probate, Juvenile, or Criminal court case?

Yes     No    If yes, fill in the case number: \_\_\_\_\_ and date and county of filing \_\_\_\_\_.

4. NOTICE:

A. I HAVE given notice to the opposing party and/or their attorney by the following method:

- Telephone     Voicemail Message     In writing by     Personal delivery     Fax     Overnight Carrier     First Class Mail  
 Other: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_ (Notice must be given by 10 a.m. the court day prior to the time the matter is to be submitted to the court unless excused by the court)

I have received confirmation that the other party has received my papers as follows: (Check one below)

- In person/telephone (describe): \_\_\_\_\_  
 Confirmation of receipt     Other: \_\_\_\_\_

The other party:  does not object or  objects and  intends  does not intend to file written opposition.

B. I HAVE NOT given notice of the ex parte request for orders because (check all that apply):

- This is an application for Domestic Violence Prevention Act (DVPA) restraining orders or restraining orders for Civil Harassment, Elder Abuse or Workplace Violence.  
 Great or irreparable injury will result to me or children affected by this order before the matter can be heard on notice  
 Giving notice would result in immediate and irreparable damage to or loss of property subject to disposition in this case.  
 I am unable to serve the other party 21 days before the hearing.     It is impossible to give notice and futile to try do so.  
 Giving notice would frustrate the purpose of the order (explain) \_\_\_\_\_  
 The other party agrees to the orders requested.  
 A hearing between the parties is already set, I am asking that his motion be heard at the same time.  
 Other: \_\_\_\_\_

I declare under penalty of perjury that the foregoing is true and correct.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Declarant

\_\_\_\_\_  
Print Name

**INSTRUCTIONS**

**Please refer to Superior Court of California, County of Humboldt Local Rule 8.8 for more information.**

This form is required in Humboldt County, if you are asking the Judge to make immediate orders without the other party being present for a hearing. These orders are called ex parte orders. This form must be completed in any case where ex parte orders are requested. If you have given notice to the other party in your case, you must state the form of notice given. Notice means providing the other side of the case, either attorney or a self-represented party, with copies of any papers that you want the Judge to review and any orders that you are requesting. If you have not given notice, you must explain why you have not given notice. There are some circumstances when notice may be waived, such as cases involving allegations of domestic violence where the safety of a party or a child might be at risk if notice is given. It is up to the Judge in your case to determine whether notice will be required or not.

**SECTION #1**

State whether you are the Petitioner or Respondent in the case. Once a case is filed, the parties keep the same status in the case. You do not change from the Respondent to the Petitioner by filing a new Request for Order in the case. If you do not have an attorney, you are considered self-represented.

**SECTION #2**

If the other party is represented by an attorney, you must provide the Court with the attorney's name and address. If the other party is not represented by an attorney, you must provide the Court with the other party's address.

**SECTION #3**

It is very important to list all other court cases in which you and the other party have been involved. This includes other Family Law, Probate, Juvenile, Restraining Order, Child Support, Civil, or Criminal matters. If you do not have the case number, please put unknown and list the date and the county of the filing, if possible.

**SECTION #4A**

**Unless notice is excused by the Court, you must provide notice of your Request for Order to the other party before you deliver it to the Court. When you give such notice, specify how you did it (by telephone, voice mail message, or in writing, for example) and at what time and date. Explain how you know that the other side received notice and if possible, copies of your papers and what response you were given. You must state whether the other party objects to the request and, if so, whether that party intends to file a written opposition.**

**SECTION #4B**

**If you did not give notice of this application, in the box marked other, explain why in this section. Check as many boxes as apply. You may also write out any further explanation of your reasons for not giving notice. Additional pages attached \_\_\_\_\_.**

After this form is completed, attach it to your ex parte request and submit both documents to the Court Clerk's Office where you are submitting your paperwork for review.

1 \_\_\_\_\_ (name)  
\_\_\_\_\_ (address)  
2 \_\_\_\_\_ (tel. number)

3 In Pro Per

4 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
5 IN AND FOR THE COUNTY OF HUMBOLDT

6  
7 \_\_\_\_\_  
8 Petitioner,  
9 and  
10 \_\_\_\_\_  
11 Respondent.

) Case No.:  
) DECLARATION IN OPPOSITION TO  
) ORDER TO SHOW CAUSE RE CONTEMPT

12 I, \_\_\_\_\_, declare:

- 14 1. I am the defending party in the above-entitled action.
- 15 2. I contend that the Order to Show Cause re Contempt should be denied based on the
- 16 following defenses to the charge of contempt and facts in support [check all that apply
- 17 and state facts in support of defense(s)]:
- 18 \_\_\_ The order or judgment is invalid.
- 19 \_\_\_ I did not have notice or knowledge of the order or judgment.
- 20 \_\_\_ I was unable to comply with the order or judgment.
- 21 \_\_\_ I acted in good-faith and am willing and able to comply with the order or judgment
- 22 at the time of hearing.
- 23 \_\_\_ Other.

24 Facts in Support of Opposition to Order to Show Cause re Contempt:

25 \_\_\_\_\_  
26 \_\_\_\_\_  
27 \_\_\_\_\_  
28 \_\_\_\_\_

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WHEREFORE, \_\_\_\_\_ (your name), the defending party,  
requests that the court find that the defending party has not willfully disobeyed the order or  
judgment of the court entered on \_\_\_\_\_ (date), and that this proceeding be dismissed.

I declare under penalty of perjury under the laws of the State of California that the  
foregoing is true and correct.

Dated \_\_\_\_\_

\_\_\_\_\_  
(name)  
Defending party in pro per



*A Local Non-Profit Counseling Agency*

1802 California Street, Eureka, CA 95501 Phone: (707) 443-7358 Fax: (707) 443-1092

**Children of Divorce Workshop Registration**

**Instructions:** Please fill in the information requested below. Return this form with either a **check for \$50.00 (per person)** or a **current fee waiver**, filed with the court within the last six months that contains all updated information about your income and expenses. **Please do not send cash through the mail.**

Make checks or money orders payable to either Humboldt Family Service Center or HFSC.

Mail to: **HUMBOLDT FAMILY SERVICE CENTER**  
**1802 CALIFORNIA STREET**  
**EUREKA, CA 95501**

**DATE:** \_\_\_\_\_

**NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**CITY:** \_\_\_\_\_ **ZIP:** \_\_\_\_\_

**HOME PHONE:** \_\_\_\_\_ **WORK:** \_\_\_\_\_

If you wish to be in a **separate** workshop from your spouse or domestic partner, please write spouse or domestic partner's name here:  
\_\_\_\_\_

***Dates of the workshop are kept confidential until you are registered.***

This registration form is valid to re-register for a maximum of six workshops or until you no longer qualify for a fee waiver.

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**SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT**

9

10 In Pro Per

CASE NO.

11

Petitioner

,

APPLICATION FOR WAIVER  
OF ATTENDANCE AT THE  
CHILDREN OF DIVORCE  
WORKSHOP; AND ORDER

12

vs.

13

14

Respondent.

,

15

16

I, \_\_\_\_\_, am the Petitioner/Respondent in this matter.  I have

17

attended,  I have not attended, and provided proof of completion of the required Children of

18

Divorce Workshop. The Petitioner/Respondent, has not attended the required workshop for the

19

following reasons:

20

I am asking the Court to allow entry of the Judgment of Dissolution with a provision that

21

Petitioner/Respondent may not modify any terms of child custody and/or visitation without first

22

attending, completing, and providing proof of completion of the required workshop.

23

Dated:

\_\_\_\_\_  
Petitioner/Respondent

24

IT IS SO ORDERED.

25

Dated:

\_\_\_\_\_  
Judicial Officer

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**SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT**

**In the Matter of:**

**Case No:**

**Petitioner:** \_\_\_\_\_

**Respondent:** \_\_\_\_\_

**ORDER APPOINTING COURT INVESTIGATOR AND/OR CHILD CUSTODY  
RECOMMENDING COUNSELOR AND RELEASING INFORMATION**

1. Having found good cause, the Court appoints Paul Landrum, Joseph Hale and/or \_\_\_\_\_ as Court Appointed Investigator(s) and/or Child Custody Recommending Counselor(s) in regard to the issues set forth in Family Code §§3110, et seq.

2. The court finds that the following records may have direct bearing on the issues of child custody, visitation, safety, health, welfare and the best interests of the child(ren) of the parties in this action. Copies of all documents contained in the file shall be provided to the Court's Court Appointed Investigator(s) and/or Child Custody Recommending Counselor(s) in order to assure that the court is able to perform the duties set forth in the law relative to the custody, visitation, safety, welfare and stability of the child(ren):

- a. Criminal history information including arrest records, probation reports, parole records and records relating to criminal acts that may show histories, or characteristics that interfere with the ability to offer safety and stability to children.
- b. Law enforcement records, such as contacts or field interrogations, not resulting in criminal history, showing domestic violence or incapacity to parent effectively, including issues related to drugs or mental health problems.
- c. Child Welfare Service records dealing with abuse or neglect by one or both parents and records regarding foster home or group home placement or placements with relatives.
- d. Alternative Response Team (ART) records.
- e. School records of each child involved in the litigation.
- f. Medical records of both parents and each child involved in the litigation and pharmacy records of the family.
- g. Mental health records of both parents and each child involved in the litigation. These may include drug or alcohol treatment records and records of any treatment in rehabilitation facilities or halfway houses.
- h. Mediator records.
- i. Military Service records of the parents.

3. Should counsel be appointed for the minor child(ren) of the parties, the above-noted records shall be released to Minor's Counsel upon written request to the Court Appointed Investigator(s) and/or Child Custody Recommending Counselor(s).

**CONSENTS**

I, \_\_\_\_\_, am the father in this case. I have read this order. I understand it. I consent to its terms and authorize access to all the requested records.

DATE: \_\_\_\_\_  
Father

I, \_\_\_\_\_, am the mother in this case. I have read this order. I understand it. I consent to its terms and authorize access to all the requested records.

DATE: \_\_\_\_\_  
Mother

I, \_\_\_\_\_, am the new spouse/an adult living with one of the parties in this case. I have read this order. I understand it. I consent to its terms and authorize access to all the requested records.

DATE: \_\_\_\_\_  
Other Adult

I, \_\_\_\_\_, am the new spouse/an adult living with one of the parties. I have read this order. I understand it. I consent to its terms and authorize access to all the requested records.

DATE: \_\_\_\_\_  
Other Adult

**ORDER**

Based on the applicable law and on the above consents, the Court appoints the Court Appointed Investigator(s) and/or Child Custody Recommending Counselor(s) as outlined in this order. Copies of the documents specified in this order shall be delivered to the custody of the Court Appointed Investigator(s) and/or Child Custody Recommending Counselor(s), who shall treat them as confidential records of the Court.

DATE: \_\_\_\_\_  
\_\_\_\_\_  
Judge/Commissioner of the Superior Court

**ATTACHMENT TO APPOINTMENT ORDER:**

1 NAMES, ADDRESSES, AND DATES OF BIRTH OF PERSONS SUBJECT TO THE  
APPOINTMENT ORDER.

2 **FATHER:**

3 Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

4 Aliases/Previous names: \_\_\_\_\_

5 Address: \_\_\_\_\_

6 Telephone (Home): \_\_\_\_\_ (Work) \_\_\_\_\_

7 (Cell): \_\_\_\_\_

8 **MOTHER:**

9 Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

10 Aliases/Previous names: \_\_\_\_\_

11 Address: \_\_\_\_\_

12 Telephone (Home): \_\_\_\_\_ (Work) \_\_\_\_\_

13 (Cell): \_\_\_\_\_

14 **MINORS:**

15 1. Name \_\_\_\_\_ Date of Birth: \_\_\_\_\_

16 2. Name \_\_\_\_\_ Date of Birth: \_\_\_\_\_

17 3. Name \_\_\_\_\_ Date of Birth: \_\_\_\_\_

18 4. Name \_\_\_\_\_ Date of Birth: \_\_\_\_\_

19 5. Name \_\_\_\_\_ Date of Birth: \_\_\_\_\_

20 6. Name \_\_\_\_\_ Date of Birth: \_\_\_\_\_

21 **OTHER (New Spouse or Other Adult Living in Home)**

22 Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

23 Aliases/Previous Names: \_\_\_\_\_

24 Telephone (Home): \_\_\_\_\_ (Work) \_\_\_\_\_

(Cell): \_\_\_\_\_

25 Name: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Aliases/Previous Names: \_\_\_\_\_

Telephone (Home): \_\_\_\_\_ (Work) \_\_\_\_\_

(Cell): \_\_\_\_\_



## SUPERIOR COURT OF CALIFORNIA COUNTY OF HUMBOLDT

### MEDIATION INFORMATION

**MEDIATION DATE:** \_\_\_\_\_ at \_\_\_\_\_, Room 305.

**RETURN TO COURT:** \_\_\_\_\_ at \_\_\_\_\_, Dept. \_\_\_\_.

***Before mediation you must:***

- Watch the Mediation Orientation Power Point Presentation.  
(Superior Court of Humboldt website: [www.humboldt.courts.ca.gov](http://www.humboldt.courts.ca.gov))
- If your child is 7 years of age or older, he or she will attend mediation.  
Arrangements must be made to have the child excused from school.
- Complete Mediation Data Sheet and return it to the Superior Court Clerk's Office (located on the ground floor of courthouse, "I" Street entrance.)

If you do not need the mediation appointment you must cancel it at least 48 hours prior to the appointment time. Please call 707-269-1210 for cancellations. ***If you do not cancel the appointment and/or fail to appear for the appointment you may be ordered by the court to pay a monetary sanction of up to \$1,500 pursuant to Code of Civil Procedure §177.5.***

825 Fifth Street ~ Eureka, California 95501 (707) 445-7256



**SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT**

**FAMILY COURT SERVICES (FCS) DATA SHEET  
(CONFIDENTIAL)**

PLEASE COMPLETE ALL THREE PAGES

Have you previously been to Family Court Services?  Yes  No

Case Name \_\_\_\_\_

Case No. \_\_\_\_\_

FCS Date \_\_\_\_\_

Next Court Date \_\_\_\_\_

**IF YOU ARE BEING PROTECTED BY A RESTRAINING ORDER OR IF YOU ALLEGE DOMESTIC VIOLENCE, YOU MAY BE SEEN SEPARATELY.** Are you requesting a separate session?  Yes  No  
If you want to be seen separately, please advise the Family Law Facilitator and/or your Mediator when you check in.

**SUPPORT PERSON:** If you are being protected by a restraining order, a support person may accompany you during your session. The support person must first sign a Family Court Services Domestic Violence Support Person Agreement. Please advise the Family Law Facilitator and/or the Mediator of your support person when you check in.

Are you requesting that your address and telephone number remain confidential?  Yes  No

CHECK ONE  Father  Mother  Grandparent  Other: specify relationship \_\_\_\_\_

FULL LEGAL NAME \_\_\_\_\_ AKA OR MAIDEN NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_  
Number and Street Apt. # City State Zip Code

HOME TEL. NO. \_\_\_\_\_ WORK TEL. NO. \_\_\_\_\_ WORK SCHEDULE \_\_\_\_\_

SOCIAL SECURITY NUMBER \_\_\_\_\_ BIRTH DATE \_\_\_\_ / \_\_\_\_ / \_\_\_\_ PLACE OF BIRTH \_\_\_\_\_

DRIVER LICENSE NUMBER \_\_\_\_\_ STATE \_\_\_\_\_ CURRENTLY VALID  Yes  No

ATTORNEY \_\_\_\_\_ TELEPHONE NO. \_\_\_\_\_

ADDRESS \_\_\_\_\_  
Number and Street Apt. # City State Zip Code

CHILD(REN)'S ATTORNEY (if any) \_\_\_\_\_ TELEPHONE NO. \_\_\_\_\_

ADDRESS \_\_\_\_\_  
Number and Street Apt. # City State Zip Code

**PARENTS:**

Date of Marriage \_\_\_\_\_ or Date Began Living Together \_\_\_\_\_ Date of Separation \_\_\_\_\_

If dissolution filed, when? \_\_\_\_\_

NAME OF MINOR CHILD(REN)

	First	Middle	Last	Date of Birth	Place of Birth	Parent with whom residing
1.	_____	_____	_____	_____	_____	_____
2.	_____	_____	_____	_____	_____	_____
3.	_____	_____	_____	_____	_____	_____
4.	_____	_____	_____	_____	_____	_____

MEDICAL AND DENTAL INFORMATION

Child(ren) Doctor's Name \_\_\_\_\_ Telephone No. \_\_\_\_\_

ADDRESS \_\_\_\_\_  
Number and Street Apt. # City State Zip Code

Please list medical/dental information to be discussed at the session: \_\_\_\_\_

EDUCATION

	Child	Name of School	Teacher/Counselor	Grade
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____

COUNSELING

Is  Child(ren)  Father  Mother in Counseling?  Yes  No

Counselor for: \_\_\_\_\_ Counselor for: \_\_\_\_\_

Counselor's Name \_\_\_\_\_ Counselor's Name \_\_\_\_\_

Address \_\_\_\_\_ Address \_\_\_\_\_

Telephone No. \_\_\_\_\_ Telephone No. \_\_\_\_\_

When did counseling begin? \_\_\_\_\_ When did counseling begin? \_\_\_\_\_

CHILD(REN)'S ACTIVITIES AND OTHER SPECIAL NEEDS (Such as special classes, team activities, transportation to and from these activities) \_\_\_\_\_

- Are there allegations of verbal intimidation or threats?  Yes  No
- Has there been physical violence between the parents?  Yes  No  
If yes, how long ago?  0 - 6 mos.  6 mos. - 1 yr.  1 yr. or more
- Has law enforcement been involved?  Yes  No

Please provide details: \_\_\_\_\_

4. Have there been allegations of abuse against the child(ren)?  Yes  No

a. If yes, when: \_\_\_\_\_

b. Who made the allegations? \_\_\_\_\_

- c. Who was the alleged abuser? \_\_\_\_\_
- d. Has Child Welfare Services (CWS) been involved?  Yes  No
- e. CWS worker's name and telephone number \_\_\_\_\_

**FAMILY COURT MEDIATION DATA SHEET**  
Please complete the following questions.

1. Which parent filed the current court action? \_\_\_\_\_
2. What is the action regarding? \_\_\_\_\_
3. Is there a court order regarding custody and visitation now?  Yes  No
- a. If yes, briefly summarize: \_\_\_\_\_
- b. When was it issued? \_\_\_\_\_
4. If there is no court order or a different schedule is being practiced, please summarize your current parenting schedule. \_\_\_\_\_
5. What parenting schedule would you like to have? \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Party Filling Out This Form

**NO ATTACHMENTS PLEASE**

<p><b>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number &amp; address):</b></p> <p>TELEPHONE NO.: _____ FAX NO. (Optional): _____</p> <p>EMAIL ADDRESS (Optional): _____</p> <p>ATTORNEY FOR (Name): _____</p>	<p><i>FOR COURT USE ONLY</i></p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT 825 Fifth Street Eureka, CA 95501</p>	
<p>PETITIONER: _____</p> <p>RESPONDENT: _____</p> <p>CLAIMANT: _____</p>	
<p><b>EX-PARTE REQUEST AND ORDER RE: DISQUALIFICATION OF MEDIATOR OR EVALUATOR</b></p>	<p>CASE NUMBER: _____</p>

1. I am the  Petitioner  Respondent  Other (affiliation with case): \_\_\_\_\_ in the action.
2. I move to disqualify (name of mediator or evaluator) \_\_\_\_\_ to act as Mediator or Evaluator in the matter herein for the following reasons:
  - a. Conflict of Interest. (Please state all facts which support this claim. You may attach additional pages as needed).
  
  
  
  
  
  
  
  
  
  
  - b. Other. (Please state all facts which support this claim. You may attach additional pages as needed).

Matter of: \_\_\_\_\_ Case No.: \_\_\_\_\_

**ORDER**

The Court hereby:

Denies the Order requested:

Grants the Order requested:

**IT IS SO ORDERED.**

\_\_\_\_\_  
Judicial Officer of the Superior Court

**PROOF OF SERVICE BY MAIL**

On \_\_\_/\_\_\_/\_\_\_\_\_, I served the above Ex-Parte Request and Order Re: Disqualification of Mediator or Evaluator by depositing a copy thereof, enclosed in a sealed envelope, with postage prepaid, in the United States mail to the following parties and/or their attorney of record at the following addresses:

At the time of service, I was at least 18 years of age and NOT a party to the action. My address is:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and this declaration is executed on *(insert date)* \_\_\_\_\_, at *(insert city)* \_\_\_\_\_, California.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature



For additional parties, please attach a separate sheet. See reverse side for certificate of mailing.

**MEMORANDUM THAT CIVIL CASE IS AT ISSUE**

I hereby represent to the court that all essential parties have been served with process or have appeared herein and that this case is at issue as to all such parties: that no amended or supplemental complaint or cross-complaint or other affirmative pleading remains unanswered: that to my knowledge no other parties will be served with a summons prior to the time of trial, and I know of no further pleading to be filed. My parties are ready and they desire to have the case set for trial. All discovery will be completed at least thirty days prior to trial except as may be allowed by order of court for good cause shown or as may be had by stipulation of the parties or through voluntary exchange of information as provide in Rule 3.1380 of the California Rules of Court.

Dated: \_\_\_\_\_

Attorneys for \_\_\_\_\_

Any party not in agreement with the information or estimates given in an at-issue memorandum shall within ten days after service thereof service and file a memorandum in his behalf.

**(PROOF OF SERVICE BY MAIL – 2015.5 C.C.P.)**

I am a citizen of the United States and a resident of the County of \_\_\_\_\_

I am over the age of eighteen years and not a party to the within above-entitled action; my residence/business address is:

\_\_\_\_\_

On \_\_\_\_\_, 20\_\_\_\_, I served the within documents \_\_\_\_\_

on the (Petitioner/Respondent/ \_\_\_\_\_) in said action, by placing a true copy thereof enclosed in a

sealed envelope with postage thereon fully prepaid, in the United States Post Office mail box located at \_\_\_\_\_

\_\_\_\_\_, addressed as follows:

**DECLARATION:**

I declare under the penalty of perjury under the laws of the State of California that the foregoing, including any attachment, is true and correct and that this declaration executed on (date) \_\_\_\_\_, 20\_\_\_\_

at (place): \_\_\_\_\_

\_\_\_\_\_

(Type or print name)

\_\_\_\_\_

(Signature of Declarant)

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT</b>  STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE:	<i>(Receive Stamp Only)</i>
PETITIONER/PLAINTIFF:	
RESPONDENT/DEFENDANT:	
<b>FAMILY LAW JUDGMENT CHECKLIST DISSOLUTION (DIVORCE), LEGAL SEPARATION AND DOMESTIC PARTNERSHIP</b>	CASE NUMBER:

Attorney

Self-Represented Party

### INSTRUCTIONS

Use this checklist to show the Court that you have turned in all the forms needed to get a Judgment in your case.

1. Default – no Response filed, no written agreement
2. Default with written agreement – no Response filed.
3. Uncontested – appearance by both parties and a written agreement.

Check the box below for your type of case (one of the three listed above). Then complete all the items in that checklist. You only need to complete the checklist for your case type. All items **must** be completed either by checking each line to indicate you have filed that form or by marking "N/A" to say that an item is not applicable.

So that we can return the judgment, please submit two envelopes addressed to each party that are of sufficient size and have sufficient postage.

**DEFAULT CASE (no response filed and NO WRITTEN AGREEMENT between the parties)**

1.  Proof of Service of Summons [FL-115] (check one of the following):
  - Personal Service [FL-115]
  - Notice and Acknowledgment of Receipt attached [FL-117]
  - Service out-of state by certified mail with receipt attached [FL-115 or out-of state form]
  - Other, (please describe) \_\_\_\_\_
2.  Request to Enter Default [FL-165] with one (1) self-addressed envelope with postage prepaid
  - Income and Expense Declaration [FL-150]  
(if you are requesting spousal support or attorney fees/costs)
  - Financial Statement (simplified) [FL-155]

(If you have a minor child, you are not requesting spousal support or attorney fees/costs, and you qualify for this form according to the instructions on page 2 of the form; if you have a minor child and you do not qualify, you must complete an Income and Expense Declaration)

- Property Declaration [FL-160]  
(if you have requested any property in your petition)
3.  Declaration for Default or Uncontested Dissolution/Legal Separation [FL-170}
4.  Declaration Regarding Service of Petitioner's (Preliminary) Declaration of Disclosure [FL-141]  
(submit endorsed-filed copy if previously filed)
5.  Judgment [FL-180]  
 If you are requesting property division include Property Order Attachment [FL-345]
6.  If there are minor children in the case attach a:
- Child Custody and Visitation Attachment [FL-341]
  - Child Support Order Attachment [FL-342]
  - Guideline Child Support Calculation (California Guideline Support Calculator)
  - Non-guideline Child Support Findings Attachment [FL-342(A)]
  - Notice of Rights and Responsibilities/Information Sheet on Changing a Child Support Order [FL-192]
  - Child Support Case Registry Form [FL-191]
  - Order/Notice to Withhold Income [FL-195]
  - Children of Divorce Workshop Certificate of Completion, Petitioner
  - Children of Divorce Workshop Certificate of Completion, Respondent
  - Children of Divorce Workshop Waiver
7.  Notice of Entry of Judgment [FL-190] and two (2) self-addressed stamped envelopes (one for each party)
- DEFAULT CASE WITH WRITTEN AGREEMENT (no response filed)**
1.  Proof of Service of Summons [FL-115] (check one of the following):
- Personal Service [FL-115]
  - Notice and Acknowledgement of receipt attached [FL-117]
  - Service out-of-state by certified mail with receipt attached [FL-115 or out-of-state form]
  - Other (please describe) \_\_\_\_\_
2.  Request to Enter Default [FL-165]  
 Income and Expense Declaration [FL-150]  
(if you are requesting spousal support or attorney fees/costs)

Financial Statement (simplified) [FL-155]

(if you have a minor child, you are not requesting spousal support or attorney fees/costs, and you qualify for this form according to the instructions on page 2 of the form; if you have a minor child and you do not qualify, you must complete an Income and Expense Declaration)

Property Declaration [FL-160]

(if you have requested any property in your petition)

Written Agreement

3.  Declaration for Default or Uncontested Dissolution/Legal Separation [FL-170]

4.  Declaration Regarding Service of Petitioner's and Respondent's (Preliminary) Declaration of Disclosure [FL-141]

5.  Judgment [FL-180] with written agreement  
(must address issues regarding spousal support and property division)

Signature is notarized for defaulted party. Family Code §2338.5

Attorney has signed and approved Judgment for represented parties.

5a. If there are minor children:

Child Support – State whether child support is at guideline amount or not and include language required in Family Code §4065

If below guideline, attach guideline support calculation (California Guideline Support Calculator)

Medical insurance and uninsured health care costs addressed

Notice of Rights and Responsibilities/Information Sheet on Changing a Child Support Order [FL-192]

Child Support Case Registry Form [FL-191]

Order/Notice to Withhold Income [FL-195]

Children of Divorce Workshop Certificate of Completion, Petitioner

Children of Divorce Workshop Certificate of Completion, Respondent

Children of Divorce Workshop Waiver

6.  Notice of Entry of Judgment [FL-190] and two (2) self-addressed stamped envelopes  
(one for each party)

**UNCONTESTED CASE (Response or Appearance, Stipulation and Waivers filed by Respondent and a written agreement)**

1.  Proof of Service of Summons [FL-115] (check one of the following):

Personal Service [FL-115]

- Notice and Acknowledgment of Receipt attached [FL-117]
- Service out-of state by certified mail with receipt attached [FL-115 or out-of state form]
- Other, (please describe) \_\_\_\_\_
- 2.  Response [FL-120 or FL-123].
- 3.  Appearance, Stipulations, and Waivers [FL-130] (along with Respondent's first appearance fee if not already paid)
- 4.  Declaration for Default or Uncontested Dissolution/Legal Separation [FL-170]
- 5.  Declaration Regarding Service of Petitioner's and Respondent's (Preliminary) Declaration of Disclosure [FL-141]
- 6.  Declaration regarding Service of Petitioner's and Respondent's (Final) Declaration of Disclosure [FL-141] or Waiver of Final declaration of Disclosure [FL-144]
- 7.  Judgment [FL-180] with written agreement (Spousal support and property division issues are addressed)
  - Signature(s) are notarized for unrepresented parties
  - Attorney has signed and approved Judgment for represented parties
- 6a. If there are minor children:
  - Child custody/visitation and Family Code §3048 issues are addressed
  - Child Support – State whether child support is at guideline amount or not and include language required in Family Code §4065
  - If below guideline, attach guideline support calculation (Dissomaster or X spouse)
  - Medical insurance and uninsured health care costs addressed
  - Notice of Rights and Responsibilities/Information Sheet on Changing a Child Support Order [FL-192]
  - Child Support Case Registry Form [FL-191]
  - Order/Notice to Withhold income [FL-195]
  - Children of Divorce Workshop Certificate of Completion, Petitioner
  - Children of Divorce Workshop Certificate of Completion, Respondent
  - Children of Divorce Workshop Waiver
- 8.  Notice of Entry of Judgment [FL-190] and two (2) self-addressed stamped envelopes (one for each party)

*I certify that all of the information indicated in this checklist has been provided to the court.*

Date: \_\_\_\_\_

\_\_\_\_\_  
Submitting party's signature

DO NOT WRITE BELOW THIS LINE

Date of Service or Jurisdiction for Respondent \_\_\_\_\_  
Date Default may enter (if applicable) \_\_\_\_\_  
Date Check List compared with file \_\_\_\_\_  
Date Rejection Letter sent \_\_\_\_\_

\_\_\_\_\_  
Reviewed by (Clerk's Name)

\_\_\_\_\_  
Reviewed on (Date)

SUPERIOR COURT OF CALIFORNIA

COUNTY OF HUMBOLDT

Guardianship of the Person of:

Minor(s)

) Case No.:  
 )  
 ) ORDER APPOINTING INVESTIGATOR  
 ) FOR THE GUARDIANSHIP OF  
 ) [ ] PERSON [ ] ESTATE  
 )  
 )  
 )  
 )  
 )  
 )  
 )  
 )

To:

Child Welfare Services

Court Investigators

You are hereby appointed Court Investigator in the above-entitled matter.

PRIOR TO APPOINTMENT OF A GUARDIAN:

YOU ARE DIRECTED TO make an investigation and file with the Court a report concerning this proposed guardianship. Said report shall include an investigation and discussion of the following:

Guardianship of the Person:

1. A social history o the guardian;
2. A social history of the proposed ward, including, to the extent feasible, an assessment of any identified developmental, emotional, psychological or educational needs of the proposed ward, and the capability of the proposed guardian to meet those needs.
3. The relationship of the proposed ward to the guardian, including the duration and character of the relationship.

4. A statement of the proposed ward's attitude concerning the proposed guardianship and whether that attitude is affected by the proposed ward's developmental, physical or emotional condition.

5. The anticipated duration of the guardianship and plans of the natural parents and the proposed guardians for the stable and permanent home for the child.

Guardianship of the Estate:

The need for, or desirability of, a guardian of the ward's estate and, if funds are to be expended from such estate, the nature of such expenditure.

YOU ARE FURTHER DIRECTED TO file your report at least five (5) days before the date set for hearing, and mail a copy of your report to the following:

1. The proposed guardian, or their attorney, if any.
2. The proposed ward if over the age of fourteen years, or the proposed ward's attorney, if any.
3. The natural parent(s) of the proposed ward, or their attorney, if any.
4.  Other persons ordered by the Court as specified in Attachment 1 hereto.

The report filed with the Court shall be sealed subject to being opened and inspected only by a judge of said court.

---

Dated

---

Judge/Judicial Officer of the Superior Court



## **SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT**

### **FAMILY COURT MEDIATION SERVICES COMPLAINT FORM**

Thank you for informing us of your complaint about the services provided by Family Court Mediation Services Staff and/or the procedures employed in the mediation process. The court takes complaints seriously. We are committed to providing quality service to mediation customers and complaints can help improve our service.

Attached is a set of questions that will help us better understand the nature of your complaint. Please complete the form and return it to the Family Law Facilitator in Room 305E, on the third floor of the courthouse. This office is located in the same location where your mediation took place. You can mail the form or submit it in person.

The Family Law Facilitator will process your complaint according to the following procedure, which is set forth in this court's Local Rule 826 and California Rule of Court 5.210. The local rules are available in the Court Clerk's Office, the Court's Human Resources Office and on the court's website at [www.huimboldt.courts.ca.gov](http://www.huimboldt.courts.ca.gov):

The Family Law Facilitator will:

- Review your complaint.
- Acknowledge receipt of your complaint
- Contact the mediator(s) involved and obtain his/her response to your concerns.
- Respond to your concerns in person or in writing
- Determine whether your complaint can be handled informally.
- If no informal resolution can be reached, the complaint will be referred to a court officer designated by the Presiding Judge to handle this type of complaint. If necessary, the matter may be referred to the Presiding Judge for review and decision

The following is some general information that may help you understand how Family Court Mediation Services and the court work. The mediation that you and the other parent participated in is called Child Custody Recommending Counseling. The reason it is termed that is because if parties are unable to reach an agreement regarding child custody and visitation (parenting time), the Child Custody Recommending Counselor must provide the Court with a recommendation regarding what he/she thinks is the best plan for you and your child(ren). The Child Custody Recommending Counselor can only offer recommendations and cannot make orders.

The Court is responsible for making binding orders about parenting arrangements. Only a judicial officer can change a court order. If you and the other parent cannot agree on a parenting plan, a Request for Order (Judicial Council Form FL-300) must be filed with the court for a review of the orders in your case. This form is available in the Court Clerk's Office at 421 I Street in Eureka on the ground floor in the courthouse. The Clerk's Office is open from 9 a.m. to 2 p.m. This packet may also be downloaded from this court's website at [www.humboldt.court.ca.gov](http://www.humboldt.court.ca.gov). Submitting a complaint through this office is not an appeal for a review of the court's order.

Again, thank you for bringing your concerns to our attention. We will review your complaint thoroughly and make every effort to respond to your concerns promptly. If you have any questions regarding your complaint, please contact the court's Family Law Facilitator at the phone number and/or address listed at the top of this document.





SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT  
FAMILY LAW FACILITATOR CUSTOMER COMPLAINT FORM

The Family Law Facilitator takes all customer complaints seriously. You are encouraged to notify the Family Law Facilitator of your complaint as early as possible. Every effort will be made to respond to your concerns in a prompt and thorough manner. If your complaint is about the Family Law Facilitator, it will be reviewed by his/her supervisor.

Please complete the following items to help us better understand your complaint. Mail or deliver your Completed form to:

Family Law Facilitator  
Humboldt Superior Court  
825 Fifth Street  
Eureka, CA 95501

Your Name: \_\_\_\_\_

Your Address: \_\_\_\_\_

Your Daytime Phone Number: \_\_\_\_\_

Court Case Number, if any: \_\_\_\_\_

- This complaint is about:
- an individual in the Family Law Facilitator's Office
  - a Family Law Facilitator's Office policy or procedure
  - both

If an individual is the source of your concern, please provide the name below, if known:

\_\_\_\_\_

When did the action about which you are concerned happen? Date: \_\_\_\_\_  a.m.  p.m.

What is your complaint? Describe: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

What other information do you think is important for us to know? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

Signature