

# **Sierra County**

## **SUPERIOR COURT RULES**

EFFECTIVE JANUARY 1, 2023

## TABLE OF CONTENTS

### **Rule 1      General Rules**

1.1	Name and Effective Date .....	1
1.2	Sanctions for Violation of Local Rules.....	1
1.3	General Policy Re: Courtroom Decorum .....	2
1.4	Courtroom Attire .....	2

### **Rule2      Law and Motion Matters**

2.1	Applicability.....	3
2.2	Form of Pleadings Presented for Filing .....	3
2.3	Proposed Orders.....	3
2.4	Calendar Matters.....	3
2.5	Continuances (Civil Law and Motion Only) .....	3
2.6	Application for Order Shortening Time and Ex Parte Orders .....	3
2.7	Discovery .....	4
2.8	Attorney Fees in Civil Actions or Proceedings.....	4

### **Rule3      Case Management**

3.1	Case Management Conference .....	6
3.2	Exemption from Trial Delay Reduction .....	6
3.3	Periods of Case Progression.....	6
3.4	Case Management Statement.....	7
3.5	Participation in Conference.....	7
3.6	Sanctions .....	7
	<b><u>Alternative Dispute Resolution (ADR)</u></b> .....	7
3.7	Mediation/Arbitration .....	7
3.8	Settlement Conferences .....	8

### **Rule4      Civil Trials**

4.1	Trial Settings .....	9
-----	----------------------	---

### **Rule5      Criminal Rules**

5.1	Pretrial Motions.....	10
5.2	Criminal Discovery .....	10
5.3	Continuance of Cases Set for Trial .....	10

### **Rule6      Family Law**

6.1	General Information.....	11
6.2	Mediation .....	11
6.2.1	CCRC .....	12
6.2.2	Change of Custody Counselors; General Problems Relating to CCRC .....	13
6.2.3	Conduct of CCRC .....	13
6.3	Contested Cases .....	14
6.4	Custody Evaluation .....	14
6.5	Child and Spousal Support/ Income and Expense Declaration .....	15
6.6	Tax Return .....	15
6.7	Spousal Support Modifications .....	15

Sierra County Superior Court

6.8	Family Law Facilitator/ Duties of Facilitator.....	15
6.9	Law and Motion.....	15
6.10	Order Shortening Time.....	16
6.11	Family Law Commissioner.....	16
6.12	Responsive Pleadings .....	16
6.13	Hearings .....	16
6.14	Ex Parte Orders.....	16
6.15	Orders After Hearing .....	17
6.16	Default or Uncontested Judgments .....	17
6.17	Submission of Agreements .....	18
6.18	Trial.....	18
6.19	Conduct of Trial .....	19

**Rule7      Juvenile Law Dependency Proceedings**

7.1	Adoption of Competency Standard .....	20
7.2	General Competency Requirement.....	20
7.3	Minimum Standards of Education and Training; Workloads.....	21
7.4	Appointments .....	21
7.5	Standards of Representation .....	22
7.6	Procedures for Reviewing and Resolving Complaints.....	22
7.7	Procedures for Informing the Court of the Interests of a Dependent Child.....	22
7.8	Discovery .....	23
7.9	Presentation Of Evidence .....	24
7.10	Settlement Conferences.....	24
7.11	Timelines.....	24
	<b><u>Infraction Proceedings</u></b>	
7.12	Offenses Included .....	27
7.13	Appearance .....	27

**Rule8      Electronic Filing**

8.1	Electronic Filing (eFiling) of Pleadings.....	28
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**Rule9      Reserved**..... 29

**Rule 10      Miscellaneous**

10.1	Court Communication .....	30
10.2	Guardianship Investigations .....	30
10.3	Appellate Division .....	30

**Topic Index**..... 31

**Certificate of Competency** .....

**RULE 1. GENERAL RULES**

**1.1 NAME, CITATION AND EFFECTIVE DATE**

(a) **Rules Citation.** These rules shall be known as the Sierra County Superior Court Rules and may be cited as SCR. These rules become effective on January 1, 2009, except for those rules stated to have another effective or amended date.

(b) **Construction and Application of Rules.** These rules shall be construed and applied in such a manner as to not conflict with the California Rules of Court and shall be liberally construed to serve the proper and efficient administration of justice in the Superior Court of Sierra County.

The Court may *sua sponte* or on motion change, dispense with, or waive any of these rules in the interest of justice.

(c) **Severability of Rules.** If any of these rules are found to be in conflict with any statute, rule or decision, the rule(s) shall be deemed to conform to said statute, rule or decision, and the remaining rules shall remain in force and effect.

(d) **Telephonic Appearance.** All counsel are required to be present at any contested hearing. Counsel may appear telephonically at all uncontested hearings, such as a Case Management Conference.

If counsel wish to appear telephonically for a contested hearing, permission must first be granted by the Court. Counsel may apply *ex parte* to the Court for such permission.

*(Eff.01/01/09; subd (a) amended eff. 01/01/23; subd (d) amended eff. 01/01/23.)*

**1.2 SANCTIONS FOR VIOLATION OF LOCAL RULES**

If a party or an attorney fails, refuses, or neglects to comply with these rules, the California Rules of Court, or any other rules or statutory requirements, the Court may, after notice and an opportunity to be heard, impose any and all sanctions authorized by law. *(Eff.01/01/09.)*

### **1.3 GENERAL POLICY RE: COURTROOM DECORUM**

(a) Courtroom Decorum rules have been adopted to foster orderly proceedings and respect for the Constitution of the United States, the Constitution of the State of California, the laws of this State, and the Superior Court.

(b) The rules of Courtroom Decorum set forth herein shall apply in all Superior Court proceedings unless a judicial officer orders otherwise in a particular circumstance. A judicial officer, upon appropriate application in a particular case, may waive the application of any particular rule or may impose additional rules applicable to such case.

(c) Each attorney who appears in court should:

(1) Pursuant to Business and Professions Code §6068(b) "maintain the respect due to the courts of justice and judicial officers."

(2) Be polite and considerate toward opposing counsel, opposing parties, witnesses, and members of the court's staff.

(3) Be familiar with the rules and guidelines set forth in this section as well as other applicable statutes and rules of conduct, ethics, and professionalism.

(4) Make reasonable efforts to advise clients, witnesses, and others accompanying them of these rules, and make a reasonable attempt to see that such persons abide by these rules. (*Eff. 01/01/09.*)

### **1.4 COURTROOM ATTIRE**

(a) All attorneys, litigants, witnesses and spectators shall be required to dress and conduct themselves in a manner consistent with the traditional dignity of the Superior Court.

(b) All persons in the courtroom should dress in a manner that is not offensive or distracting to others of usual sensibilities. Counsel shall so instruct parties they represent, witnesses they call and persons accompanying them. No persons shall appear in court without a shirt, barefoot or with a bare midriff. The following shall not be worn in court: shorts, tank tops, or any clothing that displays inappropriate words or pictures.

(c) Bailiffs will remove any person from court who violates this rule. This rule does not limit the power of any judicial officer to further prescribe appropriate attire in the courtroom. (*Eff. 01/01/09.*)

Sierra County Superior Court

**RULE 2. LAW AND MOTION MATTERS**

**2.1 APPLICABILITY**

This Rule applies to all civil Law and Motion proceedings. (*Eff. 01/01/09.*)

**2.2 FORM OF PLEADINGS PRESENTED FOR FILING**

All documents presented for filing must comply with California Rules of Court, in particular California Rules of Court rules 3.1110 - 3.1116. (*Eff. 01/01/09; amended eff. 01/01/23.*)

**2.3 PROPOSED ORDERS**

At the time a Motion is filed in a civil case, it shall be accompanied by a Proposed Order. If there is opposition to the Motion, a Proposed Order on behalf of the opposing party shall accompany the Opposition Memorandum. (*Eff. 01/01/09.*)

**2.4 CALENDAR MATTERS**

**Law and Motion.** Civil Law and Motion matters are heard in Department One generally on the second and fourth Wednesdays of the month at 1:30 p.m. and should be calendared accordingly. If counsel believe that the matter to be heard will take more than 10 minutes, counsel should contact the Court at (530- 289-3698) to schedule a longer hearing. (*Eff. 01/01/09; amended eff. 01/01/23.*)

**2.5 CONTINUANCES (CIVIL LAW AND MOTION ONLY)**

**Requests to Continue.** Requests to continue should be noticed for the case management conference calendar. If there is insufficient time to notice the request on a regular civil law and motion day, counsel should contact the Court at (530) 289-3698 to specifically set the request. Counsel may appear in person or telephonically for this request. A stipulation by the parties to continue the hearing/trial date is not sufficient. (*Eff. 01/01/09.*)

**2.6 APPLICATION FOR ORDER SHORTENING TIME AND EX PARTE ORDERS**

**(a) Good Cause.** All applications for *ex parte* orders, including orders shortening time, shall be supported by an affidavit or declaration showing good cause for the order, and, where applicable, shall comply with California Rules of Court rules 3.1200 – 3.1207.

**(b) Application for *Ex Parte* Orders.** An application for an order shall not be made *ex parte* unless it is supported by affidavit or declaration:

(1) That, within a reasonable time before the application, the party or counsel informed the opposing party or opposing party's counsel when and where the

application would be made; or,

(2) That the party in good faith attempted to inform the opposing party or the opposing party's counsel but was unable to do so, specifying the efforts made to inform them; or,

(3) That, for reasons specified, the party should not be required to inform the opposing party or the opposing party's counsel. (*Eff. 01/01/09; subd. (a) amended eff. 01/01/23; subd. (b) amended eff. 01/01/23.*)

## 2.7 DISCOVERY

**General Policy.** The policy of the law is one of liberality in allowing discovery. Doubt will be resolved in favor of permitting discovery. It is also the policy of this Court that discovery be conducted in the most expeditious and least expensive manner. To that end, the Court will entertain motions for protective orders seeking relief from oppressive discovery and may grant monetary and other sanctions against evasive, uncooperative and dilatory counsel who make or oppose motions without substantial justification. Similarly, the Court will expect counsel to attempt to resolve any differences prior to filing any motions and, if a motion is filed, prior to the hearing. (*Eff. 01/01/09.*)

## 2.8 ATTORNEY FEES IN CIVIL ACTIONS OR PROCEEDINGS

**(a) Promissory Notes and Contracts Providing for Fees.** In actions on promissory notes and contracts providing for payment of attorney fees, whenever a prevailing party is entitled to recovery of reasonable fees, then the following schedule will be considered by the Court in awarding such fees:

(1) **Default Action:** Exclusive of costs and interest.

- Twenty-five percent (25%) of the first two thousand dollars (\$2,000) awarded as damages with a minimum fee of three hundred dollars (\$300);
- Twenty percent (20%) of the next four thousand dollars (\$4,000);
- Fifteen percent (15%) of the next four thousand dollars (\$4,000);
- Ten percent (10%) of the next ten thousand dollars (\$10,000);
- Five percent (5%) of the next thirty thousand dollars (\$30,000); and
- Two percent (2%) of amounts in excess of the first fifty thousand dollars (\$50,000), on the next one hundred thousand dollars (\$100,000); and
- The Court, in its discretion, will fix fees for recoveries in excess of one hundred fifty thousand dollars (\$150,000).

- (2) **Contested Action:** The same amount as computed under subpart 2.8a(1) above, increased by reasonable compensation (computed on an hourly or per-day basis) for any additional research, general preparation, trial, or other services, as may be allowed by the Court.

(b) **Attorney Fees when Defendant is the Prevailing Party.** When the defendant is the prevailing party, the fees will be reasonable compensation (computed on an hourly or per-day basis) for research, general preparation, trial, or other services rendered, as may be allowed by the Court.

(c) **Clerk's Calculation of Reasonable Attorney Fees.** When a prevailing party is entitled to the recovery of reasonable attorney fees in an otherwise appropriate clerk's judgment, the clerk will include attorney fees computed pursuant to the fee schedule included in this Rule.

(d) **Determination of Attorney Fees in Excess of Schedule.** When a party claims attorney fees in excess of those allowed by this Rule, then an application for attorney fees must be made to the Court; the application must be supported by declarations setting forth the factual basis for the claimed fees. The fees will be fixed thereupon by the Court. (*Eff. 01/01/09.*)



**RULE 3. CASE MANAGEMENT**

**3.1 CASE MANAGEMENT CONFERENCE**

Pursuant to the California Trial Court Delay Reduction Act (Government Code § 68600, *et seq.*), the Court adopts the following rules.

The goal of the Court is to dispose of the cases subject to the Trial Court Delay Reduction Act within the standards for disposition adopted by the Judicial Council.

In order to achieve timely resolution of general civil actions, the Court will actively manage and supervise the pace of litigation from the date of the filing of the action to its final disposition.

Upon the initial filing of a civil action or proceeding, other than juvenile, probate, family law domestic violence, or civil harassment, the Clerk shall set the matter for a first case management conference on the case management calendar closest to, but not less than 135 days from the date of filing. The clerk shall issue a notice of case management conference with the summons. The plaintiff shall serve a copy of the notice of case management conference along with the summons and complaint. (*Eff. 01/01/09.*)

**3.2 EXEMPTION FROM TRIAL DELAY REDUCTION**

A request to exempt a case from the Delay Reduction Rules shall be by written motion, supported by declaration showing good cause. A stipulation does not establish good cause. (*Eff. 01/01/09.*)

**3.3 PERIODS OF CASE PROGRESSION**

In order to dispose of cases within the legislative standards, the Court adopts the following time periods for progression of all cases:

- (a) Service of the complaint within 60 days of filing.
- (b) Service of responsive pleading within 30 days after service of the complaint.
- (c) Discovery to commence at the earliest practicable date.
- (d) First case management conference to be held approximately 135 days after filing of a complaint.
- (e) All discovery, other than depositions of expert witnesses, to be completed by 240 days after filing of the complaint.

(f) Stipulated extensions of time as provided in Government Code § 68616 shall be in writing and filed with the Clerk. Any other extensions shall only be after a write motion, supported by a declaration of good cause. (*Eff. 01/01/09.*)

### **3.4 CASE MANAGEMENT STATEMENT**

All parties taking part in a case management conference must submit a completed Case Management Statement before the case management conference pursuant to California Rules of Court rules 3.720 – 3.730 all parties should use Judicial Council form CM-110. (*Eff. 01/01/09; amended eff. 01/01/23.*)

### **3.5 PARTICIPATION IN CONFERENCE**

Case Management Conferences are heard on the second and fourth Wednesdays of the month at 1:30 p.m. Counsel for each party, and each party not represented by counsel, shall attend the Case Management Conference. Appearance at the Case Management Conference may be made in person or via remote appearance. (*Eff. 01/01/09; amended eff. 01/01/23.*)

### **3.6 SANCTIONS**

The Court may impose any and all sanctions allowed by law upon any party or counsel who fails to participate in the Case Management Conference or who otherwise impedes the Trial Delay Reduction Rules. (*Eff. 01/01/09.*)

## **ALTERNATIVE DISPUTE RESOLUTION (ADR)**

### **3.7 MEDIATION/ARBITRATION**

(a) The Court enthusiastically supports Alternative Dispute Resolution (ADR), and this Court will make every effort to see that any case has the opportunity to go to mediation, arbitration or a settlement conference.

(b) Counsel for the parties will be given the opportunity to select a private mediator of their choice.

(c) The Clerk's office maintains an ADR resource file with the names, curriculum vitae and charges of local mediators and arbitrators as well as other ADR material.

(d) The Court recognizes that not all litigants or their counsel reside in Sierra County, and it may be more expeditious and economical to retain a private mediator or arbitrator from another area more convenient to the parties or their counsel.

(e) Subsequent to the date scheduled for the mediation/arbitration, there will be a follow- up Case Management Conference to confirm that the mediation/arbitration went forward.

(f) If the mediation/arbitration results in the resolution of the dispute, counsel will not be required to appear at the follow-up Case Management Conference but are to notify the Court of the resolution of the dispute. (*Eff. 01/01/09.*)

### **3.8 SETTLEMENT CONFERENCES**

(a) The Court will schedule a mandatory settlement conference for all cases.

(b) All parties, as well as their agents with authority to settle, will attend the mandatory settlement conference.

(c) Failure of a party to attend, or failure of an agent with authority to attend a settlement conference, may result in sanctions imposed by the Court.

(d) Telephone appearance generally will not be allowed without prior approval by the Court and will only be allowed under extraordinary circumstances.

(e) The parties shall submit a settlement conference brief not to exceed five *pages* no later than 5:00 p.m. on Friday the week before the settlement conference. A copy of the settlement conference brief shall be served upon the opposing counsel. (*Eff. 01/01/09; amended subd. (d) eff. 01/01/23; amended subd. (e) eff. 01/01/23.*)

**RULE 4. CIVIL TRIALS**

**4.1 TRIAL SETTINGS**

The trial date shall be determined by the Court, with due consideration for the convenience of the parties. (*Eff. 01/01/09.*)

**RULE 5. CRIMINAL RULES**

**5.1 PRETRIAL MOTIONS**

(a) All statutory and Rules of Court procedures control, and the Court hereby incorporates by reference the requirements of California Rules of Court, Rule 4.111, pertaining to the making and timing of pretrial motions and opposition thereto, in Superior Court.

(b) In the event that the moving papers are not timely filed for the assigned hearing date without good cause demonstrated, the motion may be deemed waived by the moving party.

(c) If any authority other than California cases, statutes, constitutional provisions or State or local rules is cited in any motion or memorandum of points and authorities, a copy shall be attached to the papers in which the authorities are cited and tabbed as exhibits. If a California case is cited before the time it is published in the Advance Sheets of the Official Reports, a copy of that case shall also be attached and tabbed. (*Eff. 01/01/09.*)

**5.2 CRIMINAL DISCOVERY**

Discovery in criminal actions is reciprocal in nature and is governed by Penal Code §§ 1054 *et seq.* There shall be a standing order in each criminal action requiring all parties and their attorneys to comply with Penal Code §§ 1054 *et seq.* The order is deemed to have been made and communicated to all counsel at the time of arraignment.

Before a party may seek Court enforcement of any of the disclosures required by law, the party shall make an informal request of opposing counsel for the desired materials and information in the manner required by Penal Code § 1054.5(b). Failure to make such a request shall be grounds for denial of a discovery motion. Informal requests should be presented to opposing counsel in writing.

Motions for discovery shall be focused upon specific items which remain in dispute after presentation of informal requests. "Boilerplate" discovery motions are disfavored. Counsel shall meet and confer in a good faith effort to resolve or narrow the disputed issues before the hearing of any discovery motion. (*Eff. 01/01/09.*)

**5.3 CONTINUANCE OF CASES SET FOR TRIAL**

Motions to continue the trial of a criminal case are disfavored and shall be denied unless the moving party, pursuant to Penal Code § 1050, establishes that the interests of justice require a continuance. (*Eff. 01/01/09.*)

**RULE 6. FAMILY LAW**

**6.1 GENERAL INFORMATION**

These Rules apply to all matters related to the Family Law Act, the Uniform Parentage Act, the Domestic Violence Prevention Act, and the Uniform Child Custody Jurisdiction Act. (*Eff. 01/01/09.*)

**6.2 MEDIATION**

All proceedings relating to the custody or visitation of children are governed by the following rules. As used in this chapter, the term “evaluation” includes both partial and full evaluations and is synonymous with “investigation”. The term “assessment” refers to a limited inquiry by Family Court Services (referred hereafter in these rules as “FCS” pursuant to Family Code § 3180.

As authorized by Family Code § 3183, the mediation process with FCS in the Sierra County Superior Court shall be referred to as Child Custody

Recommending Counseling (hereinafter referred to as CCRC). The CCRC process with FCS is not confidential. The mediator is referred to as a Child Custody Recommending Counselor (hereinafter referred to as “Counselor”).

A. Good faith support of the FCS process is mandated. The parties and their attorneys, if any, must make a good faith effort to support the FCS process. FCS conducts a mandatory and valuable process designed to reduce parental conflict and focus the parents’ attention on the child(ren)’s best interests. The purposes of the FCS process are the following:

1. To reduce acrimony that may exist between the parties and to remove the weight of conflict from the child(ren).
2. To develop an agreement assuring the child(ren) close and continuing contact with both parents that is in the best interests of the child(ren).
3. To settle the issue of a parenting plan that is in the best interest of the child(ren), that allows the child(ren) to benefit from the love and care of each parent, and that helps the child(ren) to be stable, secure, happy and healthy.

B. Who conducts CCRC, investigations and evaluations. FCS performs CCRC and § 3180 assessments when ordered by the Court. Generally, FCS will not be appointed for evaluations and does not perform assessments unless ordered by the Court. Whenever FCS does not conduct the evaluation, a qualified private provider shall perform the evaluation.

C. Ex parte communication. Except as permitted by Family Code § 216, there shall be no *ex parte* communication between the attorneys for any party to an action, including child’s counsel, and any court-appointed or court-connected evaluator, mediator, or

between a court-appointed or court-connected evaluator or mediator and the court.  
(*Eff. 01/01/09; amended eff. 01/01/23.*)

### **6.2.1 CCRC**

- A. CCRC required by Family Code § 3175. At the time of filing of a Notice of Motion, Request for Order, or Request for Trial on an issue involving a disagreement over child custody or visitation, the Court will schedule a CCRC appointment in order that the issue may be discussed in CCRC before the date of the court hearing or trial. The CCRC date and any requirement of CCRC orientation shall be plainly stated on the face of the pleadings or At Issue Memorandum. This CCRC is referred to in these rules as “mandatory CCRC.”

In the event the moving party fails to schedule a CCRC appointment as set forth above, upon service of the moving pleadings, the responding party shall promptly schedule CCRC for a date prior to the hearing, unless the

parties have by that time already reached an agreement regarding a parenting plan, in which case they need not contact FCS.

- B. Telephone Appearances. Upon a showing of good cause, telephonic CCRC may take place when either party resides outside of Sierra County and will suffer extreme hardship by traveling to the CCRC appointment. The request for telephone CCRC shall be made to FCS in advance of the CCRC appointment. Telephone CCRC may be authorized by the Court, the Director of Family Court Services, or any individual counselor to whom a CCRC assignment has been made.

(*Rule 6.2.1 adopted eff. 01/01/23.*)

### **6.2.2 CHANGE OF CUSTODY COUNSELORS; GENERAL PROBLEMS RELATING TO CCRC**

A court-employed child custody counselor may disqualify himself/herself from a case for good cause. A party does not have the right to disqualify a counselor. A party may request a different counselor by written request to FCS, stating the reason(s) for the request. Copies of the request must be delivered immediately to the counselor and all other parties and attorneys, if any. Requests based solely on disagreement with the counselor’s recommendations will not be honored.

(*Rule 6.2.2 adopted eff. 01/01/23.*)

### **6.2.3 CONDUCT OF CCRC**

- A. CCRC. The counselor may exclude attorneys from the counseling session at the sole discretion of the counselor. At the request of a party or attorney, the counselor may be subject to cross-examination.

- B. Domestic violence cases. In all cases in which domestic violence is alleged and the parties are involved in the FCS process, the parties are entitled to separate counseling sessions, and, whether or not either parent has requested a separate meeting, some time will be spent by FCS with each parent separately, early in the interviewing process, in order to assess this issue in accordance with Family Code § 3181 and the FCS Domestic Violence Protocol. The Domestic Violence Protocol is available from FCS.
- C. Agreement reached. In the event the parties reach an agreement, their agreement will be reduced to writing and submitted to the court. If either party is represented by counsel, the agreement will be submitted to counsel before it is provided to the Court for approval and made into a court order. If a party's attorney chooses to leave the courthouse prior to the completion of the CCRC session, the attorney will be responsible for advising the party and FCS as to how he or she may be contacted for review of the agreement; provided, however, that neither the parties nor the Court shall be unduly inconvenienced by the attorney's conduct.
- D. Agreement not reached. In the absence of an agreement, the counselor shall make a written status report and recommendation to the court. However, if no proceedings are pending, no recommendation will be made. If appropriate, the counselor's recommendation may include:
1. Restraining orders being issued pending determination of the controversy;
  2. A recommendation for a full or partial custody evaluation;
  3. Treatment and/or assessment services; and/or
  4. Parenting plans, including but not limited to supervised versus unsupervised.
- E. CCRC recommendation to court. If any counsel makes a recommendation to the Court, the parties and their attorneys may confer together with the counselor prior to the hearing or trial on the custody or visitation issue to discuss the counselor's recommendation, and they must make a good faith effort to settle the parenting plan issue by their agreement.
- F. Order for assessment. If resources are available and if the counselor or the Court determines an assessment could be helpful to reach an agreement or that it may assist in arriving at a recommendation, the court may order an assessment pursuant to Family Code § 3180. "Assessment" means a limited investigation into the needs and interests of the child(ren) that would center on one or two issues relating to their health and safety.
- G. Admission into Evidence. The status report and recommendation of the CCRC counselor are admitted into evidence without the necessity of the Family Court Services author laying the foundation. However, upon request, the author will be made available for cross-examination at any contested hearing.



(Rule 6.2.3 adopted eff. 01/01/23.)

### 6.3 CONTESTED CASES

Following mediation, if there are still unresolved issues regarding custody and visitation, the Court may schedule a hearing. The Court may order a custody evaluation before hearing the case. Following a hearing, the Court may make temporary orders pending the completion of a custody evaluation. The parties will be ordered to pay for the cost of the custody evaluation.

The Court may close the courtroom to allow only parties and necessary persons in certain custody and visitation proceedings where it would not be in the best interest of the children to have their issues heard in public. (Eff. 01/01/09.)

### 6.4 CUSTODY EVALUATION

If a custody evaluation is ordered by the Court, the Clerk will inform FCS for assignment of a child custody evaluator. The parties or their attorneys will be informed of the assignment of the evaluator by written notice.

**(a) Challenge of Evaluator.** If a person wishes to change the assignment of the child custody evaluator, he/she should do so by contacting the head of the FCS Department who will make a determination regarding the request. If such a request for a change of evaluator is made, the request must be made within 10 calendar days of receiving the notice of assignment of evaluator from the FCS Department.

**(b) Evaluation Process.** The child custody evaluator will contact the parties directly to request information to begin the process. The parties will respond promptly; any delay in response may create delays in completing the evaluation and thus delay resolution of the custody dispute.

**(c) Ex Parte Communications.** The child custody evaluator will not conduct *ex parte* communication with the Judge regarding a particular case except where there are questions regarding procedure in that case. If any substantive issues are discussed with the Judge, the evaluator shall so inform each of the parties of the communication.

**(d) Evaluation Report.** A Court date will be set to receive the report of the child custody evaluator. The report will be sent to the Court, the parties, and their attorneys prior to that date. The parties may stipulate to accept the recommendations of the child custody evaluator, or the Court may set the matter for a contested hearing.

**(e) Payment for Custody Evaluation.** Both parties will be referred to the County Treasurer's office to set up payment arrangements for the custody evaluation. The court will periodically review the costs incurred in performing the custody evaluation and will set the custody evaluation fee accordingly. If a party should fail to set up payment arrangements or should fail to make periodic payments for the

custody evaluation, then the custody evaluator may unilaterally cancel the custody evaluation. In such event, the custody hearing may go forward without the custody evaluation, and the court may take into consideration a party's non-compliance with the payment arrangements.

*(Eff. 01/01/09; amended eff. 01/01/23.)*

## **6.5 CHILD AND SPOUSAL SUPPORT/ INCOME AND EXPENSE DECLARATION**

Within 30 days of the hearing or trial, a current Income and Expense Declaration must be filed by each party where support is at issue. If current facts are temporary, both the actual current facts and estimated prospective facts may be shown if properly identified. If attorney's fees and/or costs are requested, the paragraph pertaining to attorney's fees must be completed.

Wage earners must attach legible copies of their paycheck stubs for the most recent two months. In the event no paycheck stubs are available, other appropriate documentation must be attached. *(Eff. 01/01/09.)*

## **6.6 TAX RETURNS**

The parties may be asked to provide legible copies of their last three state and federal income tax returns, including all attachments. Self-employed parties shall bring their most recent profit and loss statements, balance sheets, quarterly sales tax reports, the last filed tax return, or similar documentation evidencing income from all sources. *(Eff. 01/01/09.)*

## **6.7 SPOUSAL SUPPORT MODIFICATIONS**

Every motion to modify support shall set forth the date of the prior order and the amount of the prior order.

*(Eff. 01/01/09; amended eff. 01/01/23.)*

## **6.8 FAMILY LAW FACILITATOR/ DUTIES OF FACILITATOR**

The Family Law Facilitator shall provide those services set forth in Family Code § 10004. *(Eff. 01/01/09.)*

## **6.9 LAW AND MOTION**

Unless otherwise assigned by the Clerk, Law and Motion hearings, where parties are represented by counsel, are held on the second and fourth Thursday of the month at 1:30 p.m.

The papers of the moving party shall be filed and served at least 21 days prior to the time of the hearing. Proof of service shall be filed prior to the date of the hearing. *(Eff. 01/01/09; amended eff. 01/01/23.)*

**6.10 ORDER SHORTENING TIME**

An order shortening time for service of the notice of a hearing will not be granted if the request for that order is not accompanied by a supporting declaration under penalty of perjury which states the need for that order. (*Eff. 01/01/09.*)

**6.11 FAMILY LAW COMMISSIONER**

The Family Law Commissioner shall hear all Title IV-D support cases, support enforcement, and other family law matters as assigned. These cases will be heard on the second and fourth Thursday at 1:30 p.m. (*Eff. 01/01/09; amended eff. 01/01/23.*)

**6.12 RESPONSIVE PLEADINGS**

Unless an order shortening time has been issued, responsive papers shall be served and filed at least 10 days prior to the date of the hearing. (*Eff. 01/01/09.*)

**6.13 HEARINGS**

The attorneys and parties shall be present in Court when their case is called for hearing unless they have previously checked in with the Court clerk and requested the matter be passed for settlement discussion outside the Courtroom.

Failure of the moving attorney or moving self-represented party to be present at the hearing or to inform the Courtroom Clerk of his or her presence shall result in the matter being removed from the calendar. If the responding party has appeared, but the moving party has not, attorney's fees and costs may be awarded to the appearing party. In the event the responding party fails to appear, the Court may continue the matter and award attorney's fees or enter an order on the pleadings and/or the testimony of the moving party.

If the attorney or client is unable to be present at the time of the hearing, the Court and opposing party shall be notified immediately by telephone of the reasons for and extent of the delay. (*Eff. 01/01/09.*)

**6.14 EX PARTE ORDERS**

(a) The moving attorney or moving self-represented party must give notice of any *ex parte* applications to the opposing attorney or self-represented party in accordance with California Rules of Court rules 3.1200-3.1207; "notice shall be given no later than 10:00 a.m. on the court day before the *ex parte* appearance, absent a showing of exceptional circumstances." A Declaration re: Notice of Ex Parte Application for Order shall be filed with the Court prior to, or at the time of, the hearing.

(b) An *ex parte* order for exclusive use of a vehicle will not be granted unless the declaration demonstrates that the opposing party has suitable transportation available, or requires no such transportation, or other good cause for such an order.

(c) An *ex parte* order removing a party from a residence will not be issued without supporting declarations as required by law. (*Eff. 01/01/09; subd. (a) amended 01/01/23.*)

## 6.15 ORDERS AFTER HEARING

Counsel should come to a hearing with a written Order After Hearing (OAH), prepared to present it to the Court at the conclusion of the hearing. If the Court makes decisions that require the further drafting of the OAH, the Court shall designate one counsel to prepare the written OAH. This draft OAH should be submitted to opposing counsel for approval as to form and forwarded to the Court. Faxed OAH's are acceptable. All OAH's must be submitted to the Court within 14 days following the hearing. Failure to do so may result in the imposition of sanctions. If opposing counsel does not respond to the request for approval as to form within five days, the proposed OAH may be submitted directly the Court with an attached declaration indicating counsel's attempts at notifying opposing counsel. (*Eff. 01/01/09.*)

## 6.16 DEFAULT OR UNCONTESTED JUDGMENTS

(a) **Judgment by Default/ Notice and Acknowledgment of Receipt.** Unless the Court orders otherwise, a default will not be entered based on a Notice of Acknowledgment of Receipt signed by a person other than the party to whom it is directed.

(b) **Child Support, Spousal Support or Attorney's Fees Awards.** No award of child support, spousal support or attorney's fees will be granted unless there is either an attached written agreement 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 Income and Expense Declaration (with information on both parties where available).

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

(d) **Visitation.** Where the judgment is taken by default, if there is no attached written agreement of parties concerning custody and visitation, and either supervised visitation or a denial of visitation is requested, an attached factual Declaration under penalty of perjury shall be submitted with the judgment and shall set forth the following:

**(1) Where the party is seeking to deny visitation between the child(ren) and the defaulting party:** The specific reasons visitation should be denied; the last time there was visitation between the child(ren) and the defaulting party; and whether the whereabouts of the defaulting party is known, and, if so, his or her address.

**(2) Where the party is seeking supervised visitation between the child(ren) and the defaulting party:** The reasons such visitation should occur; the person or agency to do the supervision; and how the supervision is to be paid for.

**(3) Other information:** The declaration shall inform the Court when the parties separated, who has been the primary caretaker of the child(ren) during the last six months and the extent of contact between the child(ren) and the non-caretaker parent during that time.

The declaration shall be mailed to the defaulting party with the Request to Enter Default, and proof of mailing shall be filed with the Court. (*Eff. 01/01/09.*)

## **6.17 SUBMISSION OF AGREEMENTS**

If the parties have reached an agreement resolving all issues in the case, either party may present the signed written agreement to the Court (*Eff. 01/01/09.*)

## **6.18 TRIAL**

**(a) Settlement Conference.** All contested dissolutions will be set for a settlement conference. The parties and the attorneys shall attend the conference.

**(b) Settlement Conference Statement/ Time Requirements.** At least 10 days before the settlement conference, or 15 days if service is by mail, each party or their attorney shall prepare, file and serve on the other party or the opposing attorney, a Settlement Conference Statement with contents as indicated below.

**Caption.** The caption shall contain the times and dates of the settlement conference and the Trial.

**Income and Expense Declaration.** A current signed and dated Income and Expense Declaration shall be prepared on the Judicial Council form. Copies of current pay stubs or other income verification shall be attached.

**Community Property (assets and liabilities).** A current signed and dated Schedule of Assets and Debts shall be prepared on Judicial Council forms. The Settlement Conference Statement shall indicate the claimed values of the assets and the proposal for division. The Statement should also include a proposed division of the community property debts.

**Separate Property.** Where one party claims that an asset is his or her separate property, and if the other party has not stipulated to that fact, the Statement should include a description of the assets, the date of acquisition, the encumbrance at the time of acquisition, the present encumbrance and a statement as to how the title is held.

**Support.** Each party shall set forth specific proposals regarding child and/or spousal support.

**Statement of Facts and Legal Arguments.** On any contested legal issue, the Statement should include a recitation of the relevant facts and a brief discussion of the relevant law. (*Eff. 01/01/09.*)

## **6.19 CONDUCT OF TRIAL**

The trial will be conducted in accordance with rules and procedures for all other civil trials. (*Eff. 01/01/09.*)

**RULE 7. JUVENILE LAW**

**DEPENDENCY PROCEEDINGS**

**7.1 ADOPTION OF COMPETENCY STANDARD**

This rule, Rule 7 of the Local Rules of Sierra County Superior Court, is adopted to comply with Rule 5.660 of the California Rules of Court. (*Eff. 01/01/09; amended eff. 01/01/23.*)

**7.2 GENERAL COMPETENCY REQUIREMENT**

(a) All attorneys appearing in juvenile dependency proceedings must meet the minimum standards of competence set forth in these rules. These rules are applicable to attorneys representing public agencies, attorneys employed by public agencies and attorneys appointed by the Court to represent any party in a juvenile dependency proceeding.

(b) Every party in a dependency proceeding who is represented by counsel is entitled to competent counsel. [California Rule of Court rule 5.660] "Competent counsel" means a state bar member in good standing who is trained in the juvenile dependency law, and who demonstrates adequate forensic skills, knowledge and comprehension of the substantive law of juvenile dependency, the purposes and goals of dependency proceedings, and the procedures for filing extraordinary writ petitions. [California Rule of Court rule 5.660]

(c) Attorneys are expected to meet regularly with clients, including children; contact social workers and other professionals associated with the client's case; work with other counsel and the Court to resolve disputed issues without hearing; and adhere to mandated timelines. The child's attorney is not, however, required to assume the responsibilities of a social worker or to perform services for the child unrelated to legal representation. [California Rule of Court rule 5.660]

(d) All attorneys retained, assigned or appointed are required to adhere to the timelines and the procedures stated elsewhere in these rules or as provided by Statute of California Court Rules of Court for settlements, discovery, protocols and other issues related to contested matters. (*Eff. 01/01/09; subd. (b) amended eff. 01/01/23; subd. (c) amended eff. 01/01/23.*)

**7.3 MINIMUM STANDARDS OF EDUCATION AND TRAINING; WORKLOADS**

(a) Each attorney appointed in a dependency matter before the Juvenile Court shall complete the following minimum educational and training requirements:

(1) Eight hours of education and training in juvenile dependency law, covering such areas as child abuse and neglect; child development; domestic violence; or,

(2) Previous experience in dependency proceedings as determined by the

presiding Juvenile Judge in which the attorney has demonstrated competence. A Certificate of Competency may be obtained from the Court Clerk. (Appendix A)

**(b)** A Certificate of Competency shall be completed by the attorney of record for the dependency matter and submitted to the Court within 20 days of his or her first appearance in a dependency matter.

**(c)** Failure to submit a Certificate of Competency will cause the Court to notify the attorney that his or her right to practice in dependency proceedings is revoked. The attorney shall have 30 days from mailing of the notice to submit a Certificate of Competency. If the attorney, after such notice, fails to submit a Certificate of Competency, the Court shall issue an order prohibiting the attorney from practicing in dependency proceedings.

**(d)** The attorney for a child must have a caseload that allows the attorney to perform the duties required by Welfare and Institutions Code § 317(e) and the California Rules of Court. (*Eff 01/01/09.*)

#### **7.4 APPOINTMENTS**

**(a)** The Court will only appoint counsel who have been certified by the Court to represent parents or children in the Juvenile Dependency Court.

**(b)** Billing shall be forwarded to the Court with appropriate documentation for approval. (*Eff 01/01/09.*)

#### **7.5 STANDARDS OF REPRESENTATION**

Attorneys appearing in juvenile dependency proceedings shall meet the following minimum standards of representation:

**(a)** The attorney shall thoroughly and completely investigate the accuracy of the allegations of the petition or other moving papers and the Court reports filed in support thereof. This shall include conducting a comprehensive interview with the client to ascertain his or her knowledge of, and/or involvement in, the matters alleged or reported. The attorney shall contact social workers and other professionals associated with the case to ascertain that allegations and/or reports are supported by accurate facts and reliable information.

**(b)** The attorney is not required to meet, either directly or through an agent (*e.g.* an investigator), with a client who is incarcerated or committed out of Sierra County. If the attorney believes, however, that such contact is essential to representing the interests of the client, application may be made to the Court. The attorney shall advise the client of the possible course of action and the risks and benefits of each. This shall include advising the client of the risk and benefits of resolving disputed matters without the necessity of a hearing and of the necessity for adhering to Court-mandated timelines. (*Eff 01/01/09.*)



## **7.6 PROCEDURES FOR REVIEWING AND RESOLVING COMPLAINTS**

(a) Any party to a Juvenile Court proceeding may lodge a written complaint with the Court concerning the performance of his or her appointed attorney in a Juvenile Court proceeding. In the case of a complaint concerning the performance of an attorney appointed to represent a minor, the complaint may be lodged on the child's behalf by the social worker, a caretaker relative or a foster parent.

(b) Upon receipt of a written complaint, the Court shall notify the attorney in question of the complaint, shall provide the attorney with a copy of the complaint, and shall give the attorney 15 days from the date of the notice to respond to the complaint in writing.

(c) After response has been filed by the attorney, or the time for the submission of a response has passed, the Court shall review the complaint and the response, if any, to determine whether the attorney acted contrary to rules or policies or has acted incompetently. The Court may ask the complainant or the attorney for additional information prior to making a determination on the complaint.

(d) If, after reviewing the complaint, the response, and any additional information, the Court finds that the attorney acted contrary to the rules or policies of the Court or incompetently, the Court shall take appropriate action.

(e) The Court shall notify the attorney and complaining party, either in writing or by oral ruling at a closed hearing, of its determination of the complaint. The Court's determination will be final. (*Eff. 01/01/09.*)

## **7.7 PROCEDURES FOR INFORMING THE COURT OF THE INTERESTS OF A DEPENDENT CHILD**

(a) At any time during the pendency of a juvenile dependency proceeding, any interested person may notify the Court that a minor who is the subject of the proceeding may have an interest or right which needs to be protected or pursued in another judicial or administrative forum.

(b) Notice to the Court may be given by the filing of Judicial Council form N-180 or by filing of a declaration. The person giving notice shall set forth the nature of the interest or right which needs to be protected or pursued; the name and address, if known, of the administrative agency or judicial forum in which the right or interest may be affected; and the nature of the proceedings being contemplated or conducted there.

(c) If the Court determines that further action on behalf of the child is required, the Court shall:

(1) Authorize the minor's attorney to pursue the matter on the child's behalf;

(2) Appoint an attorney for the child if the child is unrepresented;

(3) Notice a joinder hearing pursuant to W & I Code § 632 compelling the responsible agency to report to the Court with respect to whether it has carried out its statutory duties with respect to the child;

(4) Appoint a guardian *ad litem* for the child for the purposes of initiating or pursuing appropriate action in the other forum(s);

(5) Take any other action the Court may deem necessary or appropriate to protect the welfare, interest and rights of the child. (*Eff. 01/01/09.*)

## 7.8 DISCOVERY

(a) The discovery provisions of California Rules of Court rule 5.546 are hereby adopted and incorporated.

(b) Pre-hearing discovery shall be conducted informally. Except as protected by privilege, all relevant material shall be disclosed in a timely fashion to all parties involved in the litigation.

(c) **Formal Discovery.** Only after all informal means have been exhausted may a party petition the Court for discovery. Any noticed motion shall state the relevancy and materiality of the information sought and the reasons informal discovery was not adequate to secure such information. The motion shall be served on all parties at least 5 judicial days before the hearing date. The date for the hearing shall be obtained from the clerk.

(d) **Civil Discovery.** In order to coordinate the logistics of discovery in dependency cases, there shall be no depositions, interrogatories, subpoenas of juvenile records or any other similar types of civil discovery without approval of a Judge of the Juvenile Court upon noticed motion.

(e) **Case Records and Reports** (California Rules of Court rule 5.546). In contested proceedings, the social worker's narratives and other relevant case records shall be made available to all counsel at least 10 calendar days before the hearing and any updated records 2 calendar days before the hearing. In all other cases, such documents shall be made available at least 2 calendar days prior to the hearing.

(f) Upon timely request, parents, guardians and *de facto* parents shall disclose to all other parties such non-privileged material and information within the parent's, guardian's, or *de facto* parent's control that is relevant. (*Eff. 01/01/09; subd. (a) amended eff. 01/01/23; subd. (e) amended eff. 01/01/23.*)

## **7.9 PRESENTATION OF EVIDENCE**

Social study reports prepared by Children's Services shall be made available to all counsel before the hearing in accordance with the following time limitations unless otherwise ordered by the Court:

- (a) Jurisdictional and/or dispositional reports are due at least 48 hours before the hearing.
- (b) Review of dependency status and status review reports are due at least 10 calendar days before the hearing.
- (c) All other reports shall be due a reasonable number of days before the hearing but in no event less than 48 hours before the hearing.
- (d) All proposed modifications to the petition shall be exchanged 48 hours prior to the jurisdiction hearing.
- (e) If any discovery, reports or proposed modifications have not been made available to all counsel, then any affected party or the Court may request a continuance of the hearing to the extent permitted by law.
- (f) The names of any experts to be called by any party and copies of their reports (if not part of a social study report prepared by Children's Services) shall be provided to all counsel at least 10 days before the hearing unless a shorter time is ordered by the Court. (*Eff. 01/01/09.*)

## **7.10 SETTLEMENT CONFERENCES**

- (a) A settlement conference shall be calendared and held prior to every contested hearing unless deemed unnecessary by the judicial officer setting the contested hearing.
- (b) The attorneys and all parties shall be present at the settlement conference unless excused by the Court. All excused parties shall be readily available either in person or by telephone at the direction of their attorneys. A representative of Children's Services with authority to settle cases shall be present at the settlement conference.
- (c) Whenever possible, the Department of Child Protective Services shall prepare and provide to all parties a proposed Stipulation to Jurisdiction and Disposition to assist in resolving the case. (*Eff. 01/01/09.*)

## **7.11 TIMELINES**

Attorneys for parties are required to adhere to the statutory timelines for all hearings. Time waivers will be accepted and continuances granted only on a showing of good cause.

**(a) Detention Hearings.** Detention Hearings shall be heard no later than the end of the next Court day after a petition has been filed (W & I Code § 315; California Rules of Court rule 5.666.)

**(b) Jurisdiction Hearing.** If the child is not detained, the hearing on the petition shall be begun within 30 calendar days from the date the petition was filed. If the child is detained, the hearing on the petition shall be begun within 15 Court days from the date of the detention order. (W & I Code § 334; California Rules of Court rule 5.680.)

**(c) Disposition Hearing.** If the child is detained, the hearing on disposition must be begun within 10 days from the date the petition was sustained. If the child is not detained, the disposition hearing shall be begun no later than 30 calendar days after jurisdiction is found. (W & I Code § 358; California Rules of Court rule 5.686.)

**(d) Six-Month Review.** The Court is required to review the status of every dependent child within six months of the declaration of dependency and at least every 6 months thereafter. (W & I Code §§ 364,366,366.21; California Rules of Court rule 5.710.)

**(e) Twelve-Month Review.** The Court is required to review the status of every child who has been removed from the custody of a parent or guardian within 12 months of the declaration of dependency. (W & I Code § 366.21; California Rules of Court rule 5.715.)

**(f) Eighteen-Month Review.** If the child is not returned at the 12-month review, the Court shall conduct a review no later than 18 months from the date of the original detention. (W & I Code §§ 366.21, 366.22; California Rules of Court rule 5.720.)

**(g) Notice Of Intent To File Writ Petition.** A Notice of Intent to file a petition for extraordinary writ shall be filed within 7 days of the date of the order setting a hearing under W & I Code § 366.26, with an extension of 5 days if the party received Notice of the Order only by mail. (California Rules of Court rule 8.450.)

**(h) Petition For Writ.** A petition seeking writ review of orders setting a hearing under W&I Code shall be served and filed within 10 days after the filing of the record in the reviewing Court. (California Rules of Court rule 8.452.)

**(i) Response To Writ Petition.** Any response to a writ petition shall be served and filed within 10 days after the filing of the writ petition or within 10 days of receiving a request for a response from the reviewing Court. (California Rules of Court rule 8.452.)

**(j) Selection Hearing.** Selection hearing for permanent plan shall begin within 120 days of the review at which reunification services are terminated and a hearing under W & I Code § 366.26 ordered. (W & I Code §§ 366.31, 399.22; California Rules of Court rules 5.715, 5.720.)

**(k) Notice Of Appeal.** A Notice of Appeal shall be filed within 60 days after the rendition of the judgment. (California Rules of Court rule 8.308.) (*Eff. 01/01/09; subd. (a) amended eff. 01/01/23; subd. (b) amended eff. 01/01/23; subd. (c) amended eff. 01/01/23; subd. (d) amended eff. 01/01/23; subd. (e) amended eff. 01/01/23; subd. (f) amended eff. 01/01/23; subd. (g) amended eff. 01/01/23; subd. (h) amended eff. 01/01/23; subd. (i) amended eff. 01/01/23; subd. (j) amended eff. 01/01/23; subd. (k) amended eff. 01/01/23;*)

**INERACTION PROCEEDINGS**

When juveniles are issued citations for infractions, they will be ordered to appear in juvenile court. (*Eff. 01/01/09.*)

**7.12 OFFENSES INCLUDED**

Infractions include those offenses defined in Penal Code §§ 19.6 and 19.8. (*Eff. 01/01/09.*)

**7.13 APPEARANCE**

The Juvenile Court will require the appearance of the juvenile and at least one parent. For good cause shown, the parent's appearance and/or the juvenile's appearance may be excused. (*Eff. 01/01/09.*)

**RULE 8. ELECTRONIC FILING (eFILING) OF PLEADINGS**

**8.1 ELECTRONIC FILING**

Submission of pleadings and documents through electronic filing (eFiling) is permitted in all case types. Documents filed via electronic submission are subject to all of the conditions set forth in Code of Civil Procedure Section 1010.6(b) and any requirements set forth in CRC Rule 2.250 et seq. (Trial Court Rules, Division 3, Chapter 2).

The procedure for submitting pleadings and documents electronically is as follows:

1. Electronic filing of pleadings and documents must be sent by email to the court at the following email address ONLY: [superiorcourt@sierracourt.org](mailto:superiorcourt@sierracourt.org).
2. Any pleading and document received by the court by way of the above email address before 4:00 p.m. on any court day must be deemed filed, if accepted, on that court day. Any document that is received electronically after 4:00 p.m. on a court day or on a non-court day must be deemed filed, if accepted on the next court day. This rule concerns only the method and effective date of filing. Any document that is electronically filed must still satisfy all other legal filing deadlines and requirements, including, but not limited to, case specific orders of the court and all applicable service of process requirements.
3. eFiled documents MUST be submitted in PDF (Portable Document Format), and viewable on any standard PDF Viewer. Photos of documents by phone or otherwise will be rejected.
4. All pleadings and documents in excess of 20 pages, including attached exhibits, MUST be filed either in person or by mail. The court's physical address is 100 Courthouse Square, Downieville, CA 95936. The court's mailing address is P.O. Box 476, Downieville, CA 95936
5. All pleadings and documents ordered by a judicial officer to be filed in person or by mail MUST be filed in that manner.
6. Other email rules are:
  - a. Only one case per email
  - b. The email "Subject" must state the case name and number where applicable, and the type of case, e.g. Civil, Family Law, Probate, Criminal, etc.
  - c. Each separate pleading or form number must be in a separate PDF, unless a pleading consists of a number of forms, such as in a Family Law Judgment.
  - d. Exhibits attached to a pleading must be filed as a part of the PDF containing the pleading.
  - e. The only message in the email body can be: "please file and return filed documents by email".
  - f. Copies of eFiled documents will be returned via the sending email address.
7. eFilings that do not conform to these rules will be rejected. (*Rule 8.1 adopted eff. 01/01/23.*)

**RULE 9. RESERVED**



**RULE 10: MISCELLANEOUS**

**10.1 COMMUNICATION**

Until the court has an operational case management system capable of automatically coordinating domestic violence orders, the court shall, whenever possible, communicate and exchange information with each other prior to issuing protective orders and child custody and visitation orders to determine if any such orders have already been issued as to the same parties or children in any other department. (*Eff. 01/01/09.*)

**10.2 GUARDIANSHIP INVESTIGATIONS**

Upon the filing of a Petition for guardianship, the Court shall order the appropriate level of guardianship investigation. Petitioner shall be required to pay for the actual cost of the guardianship investigation. (*Eff. 01/01/09.*)

**10.3 APPELLATE DIVISION**

All appeals to the Sierra County Superior Court Appellate Division will be processed pursuant to the rules of the combined Appellate Division of Sierra, Plumas, Lassen, and Modoc counties. (*Eff. 01/01/09; amended eff. 01/01/23.*)

**TOPIC INDEX**

**Alternative Dispute Resolution**  
Meditation / Arbitration .....7  
Settlement Conferences.....8

**Appellate Division**.....27

**Attorney Fees**  
Contested Action .....5  
Default Action .....4

**Case Management**  
Case Management Statement .....7  
Case Management Conference .....6  
Exempted Cases .....6  
Participation in Conference .....7

**Civil Trials**  
Trial Settings .....9

**Continuances**  
Criminal Cases.....10  
Law and Motion.....3

**Court Call**  
Case Management Conference .....7  
Telephonic Appearance .....1

**Criminal Trials**  
Continuances .....10  
Criminal Discovery .....10  
Pretrial Motions .....10

**Discovery**  
Civil Matters .....4  
Criminal Cases .....10  
Juvenile Proceedings .....20

**Ex Parte Matters**  
Application ..... 3  
Family Law..... 11

Sierra County Superior Court

**Family Law**

Commissioner ..... 16  
Contested Cases ..... 14  
Custody Evaluation ..... 14  
Default Judgments ..... 17  
Ex Parte Orders ..... 16  
Facilitator ..... 15  
Hearings ..... 16  
Income and Expense Declaration ..... 15  
Mediation ..... 11  
Orders After Hearing ..... 17  
Submission of Agreements ..... 18  
Tax Return..... 15  
Trial ..... 18

**Forms**

Certificate of Competency ..... 31

**Guardianship Investigations** ..... 27

**Juvenile**

Appointments ..... 21  
Competency Standards ..... 20  
Discovery ..... 23  
Infractions ..... 27  
Procedures for Complaints ..... 22  
Procedures for Informing the Court of the Interests of a Dependent Child .. 22  
Settlement Conferences..... 24  
Timelines..... 24

**Motions**

Family Law Motions ..... 15  
Law and Motion (Civil) ..... 3

**Pleadings**

Form of Pleadings ..... 3  
Proposed Orders ..... 3

**Rules**

Citation ..... 1  
Sanctions for Violations ..... 1

**Telephonic Appearance** ..... 1

**Timelines**

Case Management Progression .....	6
Juvenile Matters .....	20
Responsive Pleadings (Family Law).....	16

**Appendix A**

**SUPERIOR COURT OF SIERRA COUNTY**

**CERTIFICATION OF ATTORNEY**

**COMPETENCY**

(Juvenile Dependency Proceeding)

I, \_\_\_\_\_  
Attorney's Name                      Office Address                      Telephone Number

am an attorney licensed to practice in the State of California. My State Bar Number is \_\_\_\_\_

I hereby certify that I meet the minimum standards for practice before a Juvenile Court set forth in California Rules of Court, Rule 1438, and SCR 7.3, and that I have completed the minimum requirements for training, education and/or experience as set forth below.

**Training and Education:**

<u>Course Title</u>	<u>Date Completed</u>	<u>Provider</u>
---------------------	-----------------------	-----------------

**Summary of Juvenile Dependency Experience:**

Dated: .....

\_\_\_\_\_  
Signature

**APPROVED**

Dated: .....

\_\_\_\_\_  
Superior Court Judge