

PROPOSED NEW RULES:

JUVENILE

5.04.1 Juvenile Delinquency Law and Motion

Law and Motion dates must be reserved with the courtroom clerk of the assigned department prior to filing.

GENERAL

1.14 Mandatory Electronic Filing

The following rules shall apply to electronic filing of documents with the Court.

A. Mandatory Electronic Filing

1. All parties filing documents electronically are referred to and shall also comply with all requirements and conditions for electronic filing (e-filing) and service as set forth in Code of Civil Procedure section 1010.6 and California Rules of Court, rules 2.250-2.261, unless this Local Rule provides otherwise.
2. Except as provided in subsections (G) and (H), all documents presented for filing in all civil cases, including limited, unlimited, complex, small claims, family law, and probate, must be electronically filed (e-filed) with the Court as provided in Code of Civil Procedure section 1010.6 and California Rules of Court, rules 2.250 through 2.261.
3. Self-represented parties are not required to file documents electronically. However, self-represented parties are encouraged to utilize e-filing.
4. A party required to file documents electronically may request an exemption from the requirement by showing undue hardship or significant prejudice by filing a Request for Exemption from Mandatory Electronic Filing and Service (Judicial Council Form EFS-007) with a Proposed Order (Judicial Council Form EFS-008).
5. During trial, a party may submit to the Courtroom Clerk and serve by hand any pleadings, as long as the pleadings are also filed electronically before the close of business no later than the following court day.

6. The Court may order a party to provide courtesy copies of e-filed documents.

B. E-Filing Procedures

Documents must be e-filed with the Court using one of the Court's approved e-filing service providers. Information concerning the Court's approved e-filing service providers, including the procedure for e-filing documents with the Court, is available on the Court's website at www.stanct.org.

C. Service Requirements

Unless otherwise ordered by the Court, electronic service of e-filed documents is optional as provided in California Rules of Court 2.251 and 2.253.

D. E-Filing Fees

E-filing service providers may charge reasonable fees in addition to any filing fees required by the Court. Any party who has received a fee waiver from the Court is exempt from the fees and costs associated with electronic filing. A party may request a fee waiver by filing an application for waiver of court fees and costs (Judicial Council Forms FW-001 and FW-002).

E. Confidential Documents

Except as provided by the California Rules of Court, rules 2.500-2.507, an e-filed document is a public document at the time it is filed unless it is ordered sealed or filed as a confidential document pursuant to law.

The responsibility for redacting personal identifiers and privileged or confidential information rests solely with counsel and the parties. The clerk will not review pleadings or other documents for compliance with the law. The Court may impose sanctions for violation of these requirements.

F. Where required, a motion to file documents under seal shall be e-filed.

Confidential documents shall be lodged or filed with the Court by electronic submission in the manner described in Rule of Court 2.551(d). Such records must not be submitted in paper form, unless an exception to the mandatory electronic filing rules applies or has been granted. A cover sheet that identifies the lodged or sealed documents shall be electronically filed. Redacted versions of any lodged or sealed documents shall be filed electronically at the same time.

G. Documents Not Eligible for E-Filing

The following documents are exempt from the mandatory e-filing requirement and shall not be e-filed:

1. Abstracts of Judgment and Writs of Execution submitted for certification and issuance by the Court
2. Original documents required for a proceeding, including bench warrants, subpoenaed documents, affidavits re: real property of small value, bonds, undertakings, account statements submitted by a conservator, letters (probate, guardianship, conservatorship), and wills and codicils (for filing or safekeeping).
3. Citations issued by the Probate Court.
4. Orders for deposits of money.
5. Applications for temporary restraining orders (TRO) in Domestic Violence Protection Act (DVPA) matters.
6. Requests for Orders in Family Law cases seeking temporary orders, orders shortening time, orders continuing a hearing, or when there has been no prior general appearance by the respondent.
7. Notices of Appeal in Unlimited/Complex Civil, Family Law, and Probate cases.
8. Out of State Commissions.
9. Subpoenas for Out of State Actions.
10. Trial documents and exhibits per Local Rule 3.09.

In addition, documents and other materials that are not feasibly converted to electronic form by scanning, imaging or other means shall not be electronically filed. Such a document or exhibit may be manually filed with the Clerk of the Court and copies served upon the parties by conventional non-electronic means.

From time to time the list of documents which are not eligible for electronic filing may change. For a complete list of documents which cannot be electronically filed, please consult the Court's website at www.stanct.org.

H. Documents that May Be Electronically Filed

At the election of a party, the following documents may be e-filed:

1. Proposed Judgments in Family Law cases.
2. Requests for Entry of Default in Family Law cases.
3. Sister State Judgments.
4. Except for the initial charging documents, e.g. complaint, documents in Criminal cases.

From time to time the list of documents which may be filed electronically may change. For a complete list of documents which may be filed electronically, please consult the Court's website at www.stanct.org.

I. Format of Electronically Filed Documents

All electronically filed documents must be in text searchable format and must comply with the formatting and content requirements of the California Rules of Court for electronic documents, including particularly Rules 2.256(b) and 3.1110(f)(4) requiring electronic bookmarks. Parties shall bookmark each heading, subheading and component (including the table of contents, table of authorities, petition, verification, points and authorities, declaration, and proof of service, if included within the document) in the document, as well as any exhibits and/or attachments to the document. For specific formatting requirements, please consult the Court's website at www.stanct.org.

Compliance with all of the formatting requirements for electronic documents is extremely important for the Court's timely consideration of the documents. In cases of non-compliance with the Court's formatting requirements, the Court may, in its discretion, order any, or all, of the following in addition to any other sanction(s) permitted by law:

1. The non-compliant document may be stricken as improperly filed;
2. The hearing to which the non-compliant document pertains may be continued, or;
3. Monetary sanctions may be imposed for violation of the California Rules of Court or these Local Rules related to formatting of electronically filed documents, following adequate notice and an opportunity to be heard.

J. Effective Filing Date

No document transmitted to the Clerk of the Court electronically is deemed filed unless it is accepted for filing by the Clerk. Any document that is received electronically by the Court between 12:00 a.m. and 11:59:59 p.m. (Pacific Standard Time) on a court day shall be deemed filed on that same court day. Any document that is received electronically on a non-court day shall be deemed filed on the next court day. For the purposes of this rule, a document is "received electronically" on the date and time it is received by the Court and a confirmation of receipt is created. California Rules of Court, rule 2.259(a)(1).

Nothing in this Local Rule shall limit the Clerk of the Court's ability to reject electronically filed documents.

This rule does not affect the timing requirements for any document(s) that, pursuant to an order of the Court, must be filed by a set time on the due date. (1/1/19)

Rule 1.15. Contacting Court's Legal Research Staff

No party, or attorney for a party, in any action or proceeding pending in this court shall contact or attempt to contact any member of the court's legal research staff concerning such pending matter, without the prior approval of the judge to whom the matter has been assigned, or if the matter has not been assigned, the Presiding Judge. (1/1/19)

PROPOSED CHANGES TO EXISTING RULES:**GENERAL****1.01 Sanctions for Failure to Comply with Local Rules**

The Court may, after notice and an opportunity to be heard, impose sanctions on any attorney, party represented by an attorney, or self-represented litigant, who fails to comply with any of the requirements set forth in these Rules or the California Rules of Court. (Code Civ. Proc. § 575.2; Cal. Rules of Court, rules 2.30 and 5.14.) (1/1/19)

1.02 Effective Date of Rules

These rules shall take effect on January 1, 2019. (1/1/19)

1.03 Construction and Application of Rules

These Rules shall be construed and applied so as not to conflict with the California Rules of Court. These Rules shall be liberally construed to promote the efficient administration of the business of the Court and the interests of justice. (1/1/19.)

1.09 General Authority -Superior Court Commissioners

The Superior Court Commissioners shall perform the duties and shall have the powers prescribed by Code of Civil Procedure section 259, the duties and powers of a juvenile court referee as specified in Welfare & Institutions Code section 247, and the duties and powers of a probate commissioner appointed pursuant to Government Code section 69897.

The Presiding Judge shall assign to the commissioners, sitting either as a commissioner or as a referee or as a judge pro tempore or as a juvenile court referee, such matters as the needs of the Court may require. (1/1/19)

(RESERVED FOR FUTURE USE)

CIVIL**3.00 Application of Rules**

These rules apply to all civil cases, limited and unlimited. The term "civil case" does not include criminal, traffic, family law, small claims, probate, with the exception of compromise of personal injury claims of minors and incompetent persons, mental health, adoption nor juvenile cases.

The Civil Clerk's Office is located at the City Towers Building, 801 10th Street, Fourth Floor, in Modesto, California. The official mailing address is:

Stanislaus County Superior Court – Civil Division
City Towers Building
801 10th Street, 4th Floor
Modesto, CA 95354

The telephone number is (209) 530-3100.

Unless otherwise required by law, the Clerk's Office will conform a maximum of two (2) copies.

3.00.1 Direct Calendaring

- A. Except as otherwise ordered, when a civil case is filed or received and filed as a transfer from another county, the Court shall **randomly** assign the case to a judicial officer for all purposes including trial, except or otherwise as provided or required by law.
- B. At the time of initial filing or initial receipt of the file, the Clerk's Office shall affix to the face of the complaint or petition and to the notice of case management conference, the following notice:

"THIS CASE HAS BEEN ASSIGNED TO JUDGE -----,
DEPARTMENT -----FOR ALL PURPOSES INCLUDING TRIAL".

In the event of unavailability, another judge or an assigned or temporary judge may handle cases directly assigned to the unavailable judge, but the case shall remain directly assigned to the unavailable judge who shall handle all matters related to the case upon his or her return.

- C. Plaintiffs, including cross complainants, shall notify all parties of the direct assignment when so notified by the Court and said parties shall notify all parties who later enter the case of the direct assignment. Plaintiffs and cross complainants shall file a proof of service of their notification of the direct assignment within **five (5)** days after the notice is served.

- D. In all civil cases assigned to a judge for all purposes, the face page of each filed document, under the case number, shall state the name and department of the judge assigned for all purposes.
- E. Time limits for peremptory challenges for plaintiffs shall be within **fifteen (15)** days after the filing of the complaint and receiving notice of the assignment and, for defendants, within **fifteen (15)** days after filing the first pleading or appearance. See CCP §170.6(a)(2). (1/1/19)

3.01 Law and Motion/Ex-Parte Hearings

- A. Law and motion is heard Tuesday through Friday at 8:30 am. If Monday is a Court holiday, then Wednesday through Friday. If you would like to schedule a law and motion matter for hearing, call (209) 530-3162, 11:00 a.m. – 4:00 p.m.
- B. Any reserved law and motion date will be vacated if the moving documents are not filed within **five (5)** Court days after reserving the date.
- C. Tentative rulings will be issued on law and motion matters the Court day prior to the hearing date. Tentative rulings can be accessed on the Internet at www.stanct.org after 1:30 p.m.

You may request a hearing by calling the calendar line at (209) 530-3162 or the main line at (209) 530-3100, prior to 4:00 p.m. – OR-by e-mailing at civil.tentatives@stanct.org. E-mail requests must be made prior to 4:00 p.m. AND confirmed by return e-mail. If you do not receive confirmation e-mail from the clerk, you MUST call (209) 530-3162 to request your hearing.

- D. If a Superior Court staff reporter is not available, then the party, at their own expense, may arrange for the presence of a certified shorthand reporter to serve as an official pro tempore reporter pursuant to California Rules of Court, rule 2.956. A party with an approved fee waiver may request an official court reporter within the time limits set forth in Rule 3.12(A)(4) at no expense to the party. Only one such reporter will be allowed per hearing. Parties should check with the Supervising Court Reporter regarding the availability of a staff court reporter. Contact can be made via e-mail: civilreporters@stanct.org, Court web address: www.stanct.org or by phone at (209) 530-3105. (1/1/19)
- E. Parties requesting an ex-parte hearing shall contact the assigned department. The bailiff/clerk of the department will schedule the hearing. The moving party shall deliver its moving papers to the assigned department no later than 2:00 p.m. on the Court date prior to the scheduled hearing. Notice of the ex-parte hearing shall be given as prescribed in California Rules of Court rule 3.1203. (1/1/19)

3.02 Case Management

A. Case-disposition Time Goals

The goal of this Court is to manage general civil cases from filing to disposition as provided under Section 2.1 and 2.2 of the Standards of Judicial Administration.

B. Case Management Conference

In each non-exempt general civil case, the Court will set the case for a case management conference approximately **one hundred twenty (120) to one hundred fifty (150)** days after the date of filing. Plaintiff and any cross-complainant shall give notice of the case management conference to the defendant(s) or cross-defendant(s) at the time of service.

The case management conference shall be conducted pursuant to California Rules Court, rules 3.720-3.751.

C. Limited Jurisdiction Collection Cases

Limited jurisdiction civil collection cases will not be scheduled for a case management conference unless one is specifically ordered by the Court. At the time of filing, the Plaintiff shall file the local Case Management Conference Waiver form and the Clerk's Office will assign a trial date for each such case. The plaintiff shall thereafter give notice of the trial date to each defendant at the time of service.

D. Telephone Appearances

Unless specifically ordered to appear in person, parties may appear telephonically through Court Call, (888) 882-6878 or (310) 572-4670. CourtCall is the agent for the calling party and is not an agent of the Court.

Notice to use Court Call for a Case Management Conference must be given to Court Call and all counsel or unrepresented litigants no later than two (2) court days prior to the Case Management Conference date.

If such advanced notice is not timely given, personal appearance at the case Management Conference is mandatory.

Notice to use Court Call for Court's Motion to Dismiss, OSC to counsel, or Law and Motion hearings must be given to Court Call and all counsel or pro pers by no later than 4:00 p.m. the Court day before the hearing.

E. Sanctions

The Court may impose a monetary sanction for the following:

1. Failure to appear at Case Management Conference (per party and attorney or party without an attorney): \$150.00 - \$300.00.
2. Appearance without a Case Management Conference Statement on file: \$150.00.
3. Case Management Conference Statement not timely filed: \$25.00.
4. Failure to meet and confer: \$100.00. (1/1/19)

3.04 Orders to Show Cause

When the Court issues an Order to Show Cause, responsive papers to the Order to Show Cause must be filed and served no less than **five (5)** court days before the hearing. The Court may issue monetary or evidentiary sanctions and/or dismiss the complaint/ cross-complaint, answer, or other pleading. (1/1/19)

3.05 Mandatory Settlement Conferences

- A. All "general civil cases" are required to have a mandatory settlement conference approximately **fifteen (15)** days prior to trial. Short cause matters (one day or less) will not ordinarily be set for a settlement conference.

The procedures for mandatory settlement conferences set forth in California Rules of Court, rule 3.1380, apply. (1/1/19)

The Court may impose monetary sanctions for the following:

Failure to appear at Settlement Conference (per party and attorney or party in pro per)	\$300
Appearance without a Settlement Conference Statement on file	\$150
Appearance with unfiled Settlement Conference Statement or Settlement Conference Statement filed day of the Settlement Conference.	\$100
Settlement Conference Statement not timely filed	\$25

B. Conditional Settlement

If a case is conditionally settled, the case shall be dismissed without prejudice. If a default occurs in the settlement, the non-defaulting party may have the matter returned to the case management conference calendar by filing a declaration setting forth the default. 1/1/19)

3.06 Alternative Dispute Resolution (ADR)

A. Voluntary Mediation - Court Policy

Mediation is an effective method of resolving disputes. The Court administers a voluntary mediation program, which is available to parties in all general civil cases (as defined in California Rules of Court Rule 1.6(4)).

B. Rules Governing Mediation

The Court adheres to the rules set forth in California Rules of Court 3.850 et seq. governing mediation and arbitration.

C. Panel of Mediators

The Court shall maintain a panel of mediators participating in the program. The ADR committee (see California Rules of Court, Rule 10.783) shall review applications from potential mediators, evaluations of panel members, and make recommendations to the Presiding Civil Judge on the designation of panel mediators. The Presiding Civil Judge shall designate the panel, and may add or remove mediators from the panel at any time.

D. Qualifications

The panel shall consist of trained attorneys and specially trained and experienced non-attorney mediators. To be on the panel a mediator must meet all of the following requirements:

- a. Be of good character; and
- b. Be an attorney in good standing with at least five (5) years of civil litigation experience, or, if not an attorney, have served professionally as the mediator in at least ten cases in the two (2) years immediately preceding submission of the panel application; and
- c. Have completed a training program approved of by the Court's ADR committee, or have equivalent experience and be approved by the Supervising Judge of the Civil Departments;
- e. Comply with all applicable ethics requirements and rules of court; and
- f. Serve as an ADR neutral on a pro bono or modest-means basis in at least one case per year, not to exceed eight hours, if requested by the court. The court shall establish the eligibility requirements for litigants to receive, and the application process for them to request, ADR services on a pro bono or modest-means basis. (See Judicial Administration Rule)

E. Voluntary Mediation Process

1. Assignment to Mediation

All parties must be prepared at the CMC to consider whether the voluntary mediation program is appropriate for their case.

- i. All general civil cases may be assigned to the Court's voluntary mediation program if:
 - (1) Parties or their counsel stipulate in writing and the Court so orders at the Case Management Conference or any time within **twenty-five (25)** days thereafter; and
 - (2) All parties agree to maintain the confidentiality of the mediation, and to sign confidentiality agreement forms provided by the mediator; and
 - (3) All fees are paid; and
 - (4) All parties agree to appear for the mediation and participate in good faith in the mediation.
- ii. Cases may be assigned to the court's voluntary mediation program in lieu of judicial arbitration, upon stipulation of the parties.

2. Attendance at Sessions

The parties themselves, their counsel and any insurers whose agreement would be necessary to achieve settlement are expected to attend the mediation session unless all parties and the mediator specifically agree otherwise before the session. A party other than a natural person satisfies this attendance expectation if represented by a person (other than outside counsel) who has authority to settle and who is knowledgeable about the facts of the case.

3. Fees and Filing Forms

The voluntary mediation program is self-funded. Parties selecting a mediator from the Court panel shall pay \$200 per side to the Court at the time of filing the *Stipulation & Order form*. Each side shall pay the \$200 fee, which shall be paid to the court to cover the first **two (2)** hours of mediation. For purposes of paying the mediation fee, all plaintiffs are considered to be one side and all defendants are considered one side. There will only be two (2) sides for the purpose of mediation fees. If the Court does not receive the entire fee upon filing of the *Stipulation and*

Order form, the case may be ordered to mandatory judicial arbitration. Parties using private mediators, and parties requesting additional time from panel mediators, shall pay the mediators' hourly fees for such services directly to the mediator.

Parties shall forfeit mediator fees if they fail to complete the scheduled mediation, or fail to notify the mediator of a settlement within **five (5)** days before the scheduled mediation.

4. Selection of Mediator

The parties shall have **twenty-five (25)** days after the CMC to designate a mediator, obtain the mediator's signature on the *Stipulation & Order form* and return it to the Court. Upon request of the parties, the Court shall appoint a mediator within **thirty (30)** days of the Case Management Conference. Mediators shall be selected from a panel list provided by the court.

5. Completion

The mediation must be completed no later than **sixty (60)** days before the trial date, unless the Court designates a different time frame. Mediation shall not affect the time periods of the trial. Within **ten (10)** days of completion of the mediation, the mediator will file a *Mediator's Report* with the Court, which will indicate whether the case settled. Counsel shall complete and submit evaluation forms to the ADR administrator.

F. Deadlines and Tracking

The Court through the ADR Administrators Office shall track compliance with every deadline date in the voluntary mediation program by contacting the principal attorneys for each party, or parties in pro-per.

1. Deadlines

- a. Within **sixty (60)** days of filing the complaint the plaintiff, or cross-plaintiff, must serve on all defendants or cross-defendants the court's ADR information package. (See California Rule of Court Rule 3.221)
- b. Within **twenty-five (25)** days of the Case Management Conference, parties must return, to the court:
 - (1) The completed *Stipulation and Order to ADR form*; and (2) The mediator's fee, \$200 per side (\$400 total).
- c. No fewer than **sixty (60)** days before trial mediation must be completed.

- d. No more than **ten (10)** days following the completion of mediation, the mediator must submit a *Mediator's Report*.

2. Tracking

- a. **Thirty (30)** days after the Case Management Conference, the ADR Administrator shall review cases for the *Stipulation and Order to ADR form*, and fees. If parties have not completed the form indicating the mediator, or if no mediator has been appointed, or the fees have not been paid, then the case may be assigned to judicial arbitration (See Local Rules 3.12) or the Court may issue an OSC.
- b. **Ninety (90)** days before trial, the ADR Administrator shall review the case in the voluntary mediation program, to see if the *Mediator's Report* has been filed. If the form is not in the file, the ADR Administrator shall call lead counsel to determine whether the mediation is complete, or when it is scheduled. If counsel is non-responsive or no date for mediation has been set, the ADR Administrator shall notify the Court and an OSC may be issued.
- c. **Fifty (50)** days before trial, or **ten (10)** days after the scheduled mediation, the ADR Administrator shall review cases for the *Mediator's Report*. If the *Mediator's Report* is not present, ADR will immediately notify the Court. An OSC will be issued as to why mediation has not been completed.

3.12 Court Reporters –Staff and Pro Tempore

A. Staff Court Reporters

Court reporter fees will be assessed on all civil trials and proceedings where a Superior Court staff court reporter reports the proceedings.

1. Counsel or parties without counsel will be billed for this service. The billing statements will include the date, case number, time charged and amount due.
2. Unless otherwise ordered by the Court, all parties, regardless of who requested the reporter, shall pay their proportionate share of reporter fees per the fee schedule in subsection (6) below.

When there is more than one party per side, each side will be billed 50%. That is, one party from each side will pay or be billed. The billed party will be responsible to collect from the other parties.

1. Non-payment of any court reporter fees shall result in the denial of future court reporter services to the non-paying party or attorney and the assessment of collection charges.
2. Staff Court reporters may be provided for unlimited civil matters as staffing allows. Parties requesting a court reporter must independently notify the Office of the Superior Court Reporters at the time of the request for hearing that they are requesting reporting services. Availability of staff reporters will be pursuant to subsection (9) below.
3. Parties may choose to waive a court reporter but may not use recording systems for unlimited civil matters. The Court reserves the right to order proceedings reported if both sides waive reporting services and reporting services are deemed necessary by the Court. In that event, all parties will be ordered to share the cost. Billing will be pursuant to subsection (2).
4. The fee schedule below includes an administrative fee of \$10.00.
1 day \$450.00
1/2 day (over 1 hour) \$225.00
5. **Daily Transcripts**
Request for daily transcripts in civil cases must be made at least one week in advance of trial. Parties requesting such daily transcript will be required to pay daily transcript rates and the per diem rate for an official court reporter.
6. **Transcripts of Trial or Proceedings**
Whenever a party requests a court reporter to furnish a transcript of all or part of a trial or proceedings, the court reporter shall forthwith inform all other parties of such request and inquire whether any of such parties desires, at his own expense, a copy of such transcript.
7. **Availability of Staff Reporters - Civil Matters**
If there are insufficient staff court reporters to report civil trials, or civil law and motion matters, a party may arrange for the presence of a certified shorthand reporter at their own expense pursuant to California Rules of Court 2.956. A party with an approved fee waiver may request an official court reporter within the time limits set forth in Local Rule 3.12(A)(4) at to expense to the party. Parties should check with the Supervising Court Reporter regarding the availability of a staff court reporter. Contact can be made via e-mail: civilreporters@stanct.org, Court web address: www.stanct.org or by phone at (209) 530-3105. (1/1/19)
8. **Court Requested Civil Transcripts**

Pursuant to Government Code section 69953, in any case where a verbatim record is not made at public expense pursuant to Government Code section 69952, the cost of making any verbatim record shall be paid by the parties in equal proportion. Either party, at his own option, may pay the whole cost. Civil proceedings do not fall under the parameters of Government Code section 69952. (7/1/17)

A. Pro Tempore Reporters

If staff court reporters are unavailable to report a civil hearing or civil trial, then pursuant to California Rules of Court section 2.956, a party may request the presence of a certified shorthand reporter to serve as an official pro tempore reporter. Such reporter will be compensated by the requesting party; the stenographic notes of such reporter will be handled pursuant to Government Code § 69955; in addition, any such pro tempore reporter reporting a jury trial will remain within 10 minutes of the courthouse during jury deliberations and up to the time the verdict is received by the Court. (1/1/19)

(1/1/19)

3.19 Dismissal for Failure to Appear At Hearing

If a party does not appear at the hearing, his or her claim may be dismissed, and/or the trial may proceed in the party's absence. (7/1/16)

(RESERVED FOR FUTURE USE)

JUVENILE DEPENDENCY AND DELIQUENCY

5.04 Dependency and Delinquency: Time Lines

Attorneys for the parties are required to adhere to the statutory time lines for all hearings. Time waivers will be accepted and continuances granted only on a showing of exceptional circumstances in Dependency cases or good cause in Delinquency cases. (1/1/19)

5.19 Direct Calendaring of Juvenile Delinquency Cases

A. The Juvenile Delinquency departments shall consist of judges as may be assigned by the Court's Presiding Judge. All felony and misdemeanor delinquency cases shall be directly assigned to the juvenile delinquency department judge for all purposes at the time of the arraignment/detention hearing on the petition. The judge so assigned will preside at the jurisdictional hearing of the matter and process the case in its totality following the arraignment/detention hearing. (7/1/17)

- B. After a minor’s case has been assigned to a particular judge for all purposes, all subsequent petitions and other proceedings involving the same minor shall be assigned the same case number as the original case. In the event the minor is a co-responsible in a case involving other minors, the rule set forth in section (b) above shall govern the assignment of the new case.
- C. In the event of unavailability, another delinquency judge or an assigned or temporary judge may handle cases directly assigned to the unavailable judge, but the case shall remain directly assigned to the unavailable judge who shall handle all matters related to the case upon his or her return.
- D. All delinquency files shall be stamped by the clerk with the following notice:
- E. THIS CASE HAS BEEN ASSIGNED TO JUDGE _____, DEPARTMENT _____ FOR ALL PURPOSES.

FAMILY LAW

7.04 Case Management Conference

In proceedings for dissolution of marriage, nullity of marriage, legal separation of the parties, dissolution of domestic partnerships, and proceedings to establish parent and child relationship, a party seeking to set the case for trial shall submit a request to the Family Law Clerk to set a case management conference. Upon assignment of a date for the case management conference, the requesting party shall serve all parties with notice of the case management conference and a blank Case Management Conference Statement. The requesting party must file a proof of service of these documents within **five (5)** days after the documents are served. The Notice of Case Management Conference shall be filed and served on lime green paper.

In proceedings for dissolution of marriage, nullity of marriage, legal separation of the parties, dissolution of domestic partnerships, proceedings to establish parent and child relationship, the Court will set each case for a case management conference approximately **one hundred fifty (150)** days after the date of filing. Petitioner shall serve the notice of the case management conference and a blank case management conference statement on the respondent. (7/1/17)

A. Subjects to be considered at the case management conference.

At the case management conference, the parties must address, if applicable, and the Court may take appropriate action with respect to the following:

1. Whether there are any related cases;

2. Whether any additional parties may be joined in the proceeding;
3. Whether there are any other matters (e.g. out of state custody orders) that may affect the court's jurisdiction or processing the case;
4. Whether the parties have agreements on issues such as child custody, child support, spousal support, or division of property;
5. Whether discovery has been completed and, if not, by when it will be completed;
6. Whether certain issues (e.g. marital status, date of separation, or date of valuation) should be bifurcated;
7. Whether the case is entitled to any statutory preference, and if so, the statute granting the preference;
8. If the trial date has not been previously set, the date by which the case will be ready for trial and the available trial dates;
9. The estimated length of trial;
10. The nature of the disputed issues;
11. Any other matters that should be considered by the court or addressed in its case management order.

B. Meet and confer requirement.

Unless the Court orders another time period, no later than **thirty (30)** days before the initial case management conference, the parties must meet and confer, **unless there exists a current restraining order prohibiting personal contact with the other party and both parties are self-represented**, in person or by telephone, to consider each of the issues identified in subdivision A, and, in addition, to consider the following:

1. Identifying and, if possible, informally resolving any anticipated motions;
2. Identifying the facts and issues in the case that are uncontested and may be stipulated to;
3. Identifying the facts and issues in the case that are in dispute;
4. Determining whether the issues in the case can be narrowed by eliminating any claims or defenses by means of a motion or otherwise;

5. Possible settlement; and
6. Other relevant matters.

C. Case Management Statement.

No later than **fifteen (15)** calendar days before the initial case management conference date, each party must file an initial case management statement with the Clerk of the Court.

The parties must use the Mandatory Case Management Statement, Local Form FL-005, which is available on the Court's website under the "Forms" link and is also available at the Family Law Court Clerk's Office. All applicable items on the form must be completed. In lieu of each party filing a separate case management statement, any two or more parties may file a joint statement.

In summary dissolution proceedings, the parties will not be required to file Case Management Conference Statements. However, the parties shall be prepared to explain to the Court why they have not submitted to the Court an application for judgment.

D. Appearance by attorneys whose offices are located outside Stanislaus County

If a party is represented by an attorney whose office is located outside Stanislaus County, neither the party nor the attorney will be required to attend the initial or any subsequent Case Management Conference, unless ordered by the Court. In lieu of a personal appearance the attorney will be required to do the following:

1. Comply with the meet and confer requirements as set forth in section **B**.
2. File a Case Management Conference Statement in compliance with section **C**. In the statement, counsel shall set forth dates that he/she is not available for trial and/or settlement conference. The earliest the Court may set such hearings would be 90 days after the Case Management Conference.

The courtroom clerk will mail a copy of the Case Management Conference order to the attorney. This order will constitute notice of trial. Absent good cause for continuing a trial date, the Court will not grant a continuance to a party whose attorney has chosen not to make a personal appearance pursuant to this section.

E. Case management order.

The Court will issue a case management order in each case. The order will set a schedule for subsequent proceedings and otherwise provide for the management of the case.

F. Order to Show Cause.

The Court may issue an Order to Show Cause to any party violating any provision of this rule. Responsive papers to the Order to Show Cause may be filed and served no later than five (5) court days before the hearing. The court may issue monetary sanctions and/or dismiss the petition and/or strike the response. (1/1/19)

7.05.1 Tentative Rulings

Parties are not required to give notice of intent to appear to preserve the right to a hearing. The tentative ruling will not become final until the hearing. (7/1/17)

- A.** Tentative rulings will be provided by the Court in Family law matters for the following specific types of motions that have been identified as eligible for the tentative ruling process:
1. Motion to Compel Discovery
 2. Motion to Be Relieved as Attorney of Record
 3. Motion for Alternate Valuation Date
 4. Motion to Set Aside Default/Judgment
 5. Motion for Reconsideration of Order
 6. Motion for Bifurcation of Marital Status/Economic Issues
 7. Motion for Joinder of Parties
 8. Motion to Amend Pleadings (added 1/10/06)
 9. Motion for Change of Venue
 10. Motion for New Trial
 11. Motion to Enforce Judgment
 12. Motion to Award or Divide Omitted Assets or Debts
 13. Motion to Modify Judgment
 14. Any Motion Specifically Determined at Judge's Discretion with notice to the parties.
 15. Motion to Continue a Trial
 16. Motion for Vocational Examination (added 7/1/17)
 17. Motion for Appointment of Elisor (added 7/1/17)
 18. Motion Regarding Family Law Attorney Real Property Lien (Fam. C. §§2033, 2034.) (added 7/1/17)
 19. Motion to Compel Compliance with Property Orders (added 7/1/17)
 20. Motion for Attorney's Fees and Costs (conduct-based sanctions only) (7/1/17)
 21. Motion to Quash Service of Summons, to Quash Proceedings, to Stay or Dismiss for Inconvenient Forum, or to Strike the Petition (added 7/1/17)

22. Motion for *Pendente Lite* Property Control, Sale, or Restraint (Fam. C. §§2045, 2047, 2108, 2010.) (added 7/1/17)
23. Any motion, other than those involving contempt, support, custody, visitation, domestic violence or elder abuse, pursuant to the stipulation of the parties and approved in the Court's discretion, including the option to issue a tentative ruling requiring notice of intent to preserve the right to a hearing, or to offer live testimony, analogously to Cal. Rules of Ct., rule 3.1308(a)(1). (Fam. C. §217; Cal. Rules of Ct., rule 5.113; *Reifler v. Superior Court* (1974) 39 Cal.App.3d 479, 484-485; *Elkins v. Superior Court* (2007) 41 Cal.4th 1337, 1354; *Mendoza v. Ramos* (2010) 182 Cal.App.4th 680, 687; *In re Marriage of Shimkus* (2016) 244 Cal.App.4th 1262, 1270-1271.) An approved stipulation and order must be submitted to use this procedure.
24. Motion for Informal Discovery Conference (IDC) (Code Civ. Pro. §2016.080.) (1/1/19)

Other types of motions may also be considered by the Court in the future.

Parties shall file motions listed above using a Request for Order (FL-300) or other mandatory Judicial Council form, as required.

- B. A party filing any pleading on a tentative ruling matter within five (5) calendar days of the hearing should, immediately after filing the pleading, deliver a courtesy copy to the Courtroom Clerk and the Court's Family Law Research Attorney by placing a copy of the pleading in the drop box outside the Research Attorney's office (Room 223). In calculating the five (5) calendar day limit referenced above, holidays shall not be included.

Failure to do so may result in the continuance of the hearing or disregard of the pleadings if untimely under the applicable rules. Additionally, the Court may consider any attendant delay or needless expense in the award of conduct-based fees and costs.

Tentative Ruling Announcements will generally be posted by 1:30 p.m. of the court day prior to the hearing in the following manner:

1. Court's website:
http://www.stanct.org/Content.aspx?page=family_tentative_rulings.
2. Clerk's Office Lobby: A posting will be placed on the bulletin board in the Clerk's Office.
3. Courtroom Doors: A posting will be placed on the outer doors of each family law courtroom.

- C. Notice of intent to appear may be made phone by calling (209) 530-3107 or by e-mailing at famlaw.tentatives@stanct.org prior to 4:00 p.m. of the court day prior to the hearing. The requesting party should contact the opposing counsel or the opposing self-represented party and then notify the clerk of their request for hearing. E-mail requests should also be confirmed by return e-mail. If a party does not receive a confirmation e-mail from the clerk, the party may call to notify of the intent to appear.

When giving notice of intent to appear, a party should indicate as to which issue(s) and/or motion(s) a hearing is being requested. If requesting a hearing for a clarification of a tentative ruling, the party should specify what matter(s) and/or issue(s) need clarification. (7/1/17)

- D. Pursuant to Cal. Rules of Ct., rule 5.98, on all requests for orders or motions under this rule, excluding any matters involving domestic violence, each party, or that party's counsel, shall meet and confer in person or by phone before the hearing date, and shall make a good faith attempt to settle all issues, even if a complete settlement is not possible and only conditional agreements are made. The failure to abide by this rule may result in a continuance of the hearing date, or may serve as the basis for subsequent conduct-based sanctions pursuant to Fam. C. §270 et seq., Code. Civ. Proc. §§128.5, 128.7, or both. (7/1/17)

E. Informal Discovery Conferences (IDC):

- 1. Court Motion:** The Court may order an IDC when a discovery motion is filed, or otherwise upon reasonable notice to the parties with opportunity to respond.
- 2. Party Motion:** Parties requesting an IDC shall file a Request for Order (FL-300), but are advised to seek an Order Shortening Time for the hearing due to the ten (10) calendar day limit on granting an IDC. Service and responsive declarations shall be as ordered.
- 3. IDC Procedure:** The IDC shall be scheduled at or after 1:30 pm, in order to utilize available conference rooms. Represented parties shall appear by counsel only, though clients must be available, either in person or by telephone, for the duration of the IDC. Unrepresented parties shall appear in person. Failure to appear, or to participate in good faith, may result in monetary or other sanctions. The IDC shall be conducted as the Court determines, including the appointment of a judge pro tem to supervise the conference. (1/1/19)

7.59 Joint Settlement Conferences and Statements

- A. A Joint Settlement Conference must be held in all family law matters requiring a case management conference before the case will proceed to settlement conference and trial. A Joint Settlement Conference is mandatory requiring, except in cases where there exists a current restraining order prohibiting personal contact with the other party and both parties are self-represented, the parties and their respective attorneys to meet together to attempt to settle all issues in the case. Attendance by the attorneys and parties is mandatory; attendance by experts and professional advisors is permitted at the option of each party. The Joint Settlement Conference shall take place no sooner than **ninety (90)** days and no later than **thirty (30)** days before the date initially set for the settlement conference.

At its conclusion, a Settlement Conference Statement signed by each party or his/her attorney shall be filed. Said Settlement Conference Statement shall be fully completed utilizing Local Form FL-008, which is available on the Court's website under the "Forms" link and is also available at the Family Law Court Clerk's Office. Parties may submit a Settlement Conference Statement. Issues not so specified in the Settlement Conference Statement may be added later only with the consent of the trial judge, who has discretion to refuse or permit the addition of such issues with whatever qualifications or restrictions the Court deems appropriate.

In the event a party/ attorney fails to meet or fails to submit a Settlement Conference Statement, that party will then be precluded from requesting the addition of issues not set forth in the other party's Settlement Conference Statement. In addition, sanctions may be imposed at the time of the mandatory court settlement conference or trial for the unwarranted refusal to meet or the failure to submit a Settlement Conference Statement.

In cases where there exists a current restraining order prohibiting personal contact with the other party and both parties are self-represented, each party is required to submit a settlement conference statement utilizing Local Form FL-008 as mentioned above which is available on the Court's website under the "Forms" link and is also available at the Family Law Court Clerk's Office.

- B. The Settlement Conference Statement must be filed with the Court at least **ten (10)** Court days prior to the Settlement Conference.
- C. All proceedings listed in paragraph A., above, are required to have a settlement conference within approximately **fifteen (15)** days of trial. In each case, counsel who attends the conference shall be thoroughly familiar with the case and shall be prepared to discuss it. The attorney responsible for the preparation and trial of the case should attend in each case.

Experience has demonstrated the importance and necessity of the presence of all persons whose consent will be required for a binding settlement agreement. Only on good cause prior to the time of the settlement conference may the Court allow such persons to be available telephonically.

For a meaningful conference, all attorneys and/or the parties must agree to participate in good faith. Any failure of an attorney or party to prepare for, appear at, and participate in a settlement conference, unless good cause is shown for any such failure, may be considered as an unlawful interference with the proceedings of the Court.

If, at the time of the scheduled settlement conference, petitioner or respondent fails to appear at the settlement conference and good cause is not shown, the Court may impose sanctions including dismissal when permitted by law, order the trial date vacated, impose monetary sanctions, including attorney fees and actual costs or order the case to proceed to trial on the date assigned.

Any sanctions, monetary or otherwise, shall only be ordered by the Court after issuance of an Order to Show Cause, or other reasonable notice and opportunity to be heard for the party and/or attorney to be sanctioned. However, no represented party shall be sanctioned for any violation that is solely based on the act or omission of that party's attorney. (1/1/19)

7.71.1 Grandparent Visitation

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A. During the pendency of the family law proceeding, a grandparent may file a motion for joinder to seek grandparent visitation. This applies to requests pursuant to Family Code section 3103. The motion for joinder will be subject to the Court's Tentative Ruling process. Since joinder is mandatory in matters involving visitation pursuant to California Rules of Court, rule 5.24, the standard tentative ruling will be to grant the joinder, to direct the grandparent to file the Request for Order, and to have the matter set for hearing.

B. After judgment or a final determination of child custody and visitation, joinder motions for grandparent visitation are governed by Family Code section 3104. In these cases, the Court will not order the joinder of the grandparent until the Court decides whether the Court should grant visitation. (See, i.e., Cal. Rules of Ct., rule 5.24(e)(1)(B); *In re Marriage of Harris* (2004) 34 Cal.4th 210.) Therefore, the Notice of Motion and Declaration of Joinder and Request for Order shall be filed simultaneously and shall be set for the same hearing date. (1/1/19)

7.71.3 Court Reporters

Court reporters are not normally available for family law proceedings during regular court hours. A party shall file a written statement before the trial or hearing date indicating whether the party requests the presence of an official court reporter. Said request shall be filed 30 days before the trial or long cause hearing. In all other proceedings, the request shall be filed 10 days prior to the hearing. If it appears that no court reporter will be available, the clerk shall notify the party of that fact as soon as possible before the trial date or hearing. A party with an approved fee waiver may request an official court reporter at no expense to the party within the preceding time limits. (1/1/19)

Pursuant to California Rules of Court rule 2.956, if services of an official court reporter are not available for a hearing or trial, a party may arrange for the presence of a certified shorthand reporter to serve as an official pro tempore reporter. It is that party's responsibility to pay the reporter's fees for attendance at the proceedings, unless the party has an approved fee waiver, but the expense may be recoverable as part of the costs, as provided by law. (1/1/19)

7.73 Domestic Violence Protocol

The Court has adopted a Domestic Violence Protocol in conformity with Penal Code section 136.2 and California Rule of Court 5.450. The Domestic Violence Protocol is set forth in Stanislaus County Superior Court Criminal Rule 4.31, and this rule.

- a. When the Court issues any order involving child custody or visitation, the Court shall make reasonable efforts, including inquiry of the parties, to determine whether there exists a criminal court protective order that involves any party to the action.
- b. Where a criminal court protective order has issued, and the Court has issued a subsequent child custody or visitation order, the judges of the Criminal Department and the Family Law Department shall consult with a view towards modification of the criminal court protective order to allow or restrict contact between the person restrained by the order and his or her children, as the Court in its discretion deems appropriate for safety of the protected party or parties and as determined to be in the best interest of the children at issue.
- c. An order that permits contact between the restrained person and his or her children shall provide for the safe exchange of the children and shall not contain language either printed or handwritten that violates a "no-contact order" issued by a criminal court. The safety of all parties shall be the Court's paramount concern. The family or juvenile

court judge shall specify the time, day, place, and manner of transfer of the child, as provided in Section 3100 of the Family Code. (Pen. Code § 136.2(f)(1), (2); Cal. Rules of Court, rule 5.445(c)(3).) (1/1/19)