

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF TRINITY
LOCAL RULES OF COURT**



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SUPERIOR COURT OF CALIFORNIA
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SECTION 1. GENERAL RULES

RULE 1. CITATION OF RULES -- EFFECTIVE DATE

These rules are effective on the date above and shall be known and cited as the "Local Rules of Court" for the Trinity County Superior Court.

[Effective date: Jan. 1, 2015]

RULE 2. REQUIRED ATTORNEY NOTIFICATION FOR UNOPPOSED AND MATTERS TAKEN OFF CALENDAR

If an attorney will not oppose a motion filed by opposing counsel or, if the moving counsel decides to drop the matter from calendar, that attorney shall promptly so notify opposing counsel and the Court Clerk. Violation of this rule may subject the attorney to sanctions.

[Effective date: Jan 1, 2015]

RULE 3. COURT REPORTERS

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

B. Non-Criminal Matters: Court reporters are generally not provided at the expense of the Court. In accordance with California Rules of Court (currently Rule 2.956) each party to a civil trial as defined in said rule must serve and file a statement seven calendar days in advance of the trial date stating whether that party requests the presence of an official court reporter. Parties

requesting an official court reporter in a civil trial will be charged court reporter fees in accordance with California Rules of Court. Parties requesting an official court reporter for the trial of a civil case will be required to deposit fees for the anticipated length of the trial or a full-day fee, whichever is less, at the time of filing said statement. Request for a reporter may be made on the record at the time of setting, and fees shall be due on the day of that request. A failure to post fees as required may result in a discontinuance of the proceeding, an absence of a court reporter at the proceeding, a court order or citation to the attorney who failed to pay, or such other orders as necessary.

[Effective date: Jan 1, 2015]

RULE 4. PHOTOGRAPHING OR RECORDING COURT PROCEEDINGS

Photographing or recording any court proceeding is prohibited unless a written request made in advance of the proceeding is provided and approved pursuant to law. The form for requesting such permission is Judicial Council Form No. MC-800; copies are furnished in the Court Services office on request. The Court will not differentiate requests made by media or non-media individuals. [Effective date: Jan 1, 2015]

RULE 5. RESTRAINING ORDERS

A. General. Restraining orders shall be governed by the California Statutes and Rules of Court, except as clarified below.

B. Ex-Parte Orders. Ex-parte temporary orders are considered daily, in chambers. No ex-parte order will be granted without a declaration showing notice was given or attempted or excused, as set forth in the statutes, Rules of Court, and these local rules. A party seeking an ex-parte order must notify all parties no later than 10:00 a.m. the court day before the ex-parte appearance, absent a showing of exceptional circumstances that justify a shorter time for notice. The person giving such notice shall state with specificity the nature of the relief to be requested and the date, time, and place for the presentation of the application; and shall attempt to determine whether the opposing party will appear to oppose the application. The declaration regarding notice shall include the date, time, and manner of notice, and shall identify the name of the party informed and any response. If notice was not completed, the declaration shall further state that the applicant in good faith attempted to inform the opposing party but was unable to do so, specifying the efforts made to inform the opposing party or that, for reasons

specified, the applicant should not be required to inform the opposing party. A judge makes determinations re notice, and no clerk shall reject a filing because of inadequate notice.

(Current California Rules of Court controlling notice include: 3.1203 – 3.1205)

C. Duty of Party Requesting Order. Any party seeking a restraining order (temporary, preliminary or permanent and including but not limited to Domestic Violence and Harassment restraining orders) shall in its first filed paper identify any unexpired restraining orders in any criminal, family law, juvenile, and orders of any other court, in which any party requesting relief has: (1) previously obtained a restraining order against any other party and (2) previously been restrained by any other party. The Court may issue sanctions against any party not complying with this requirement.

D. Conflict. Current California Rule of Court, Rule 5.450, is referenced as to conflicts. Courts issuing restraining orders shall make reasonable efforts to determine whether there are any current, unexpired restraining orders against or in favor of any party seeking relief, and the clerk shall place such information in the file for the Court's information prior to the initial hearing.

[Effective date: Jan. 1, 2015]

SECTION 2. CIVIL CASES

RULE 6. CIVIL CASE DISPOSITION TIME STANDARDS AND GOALS

A. Case Disposition Standards: Consistent with existing law, it is the policy of this Court to encourage prompt disposition of all matters. Attorneys shall endeavor to complete discovery and motions with the purpose of completing cases within the time limits established in the Code of Civil Procedure and Rules of Court as statewide delay reduction standards.,

B. Case Disposition Goals: Consistent with the California Rules of Court and the Case Disposition Standards set forth above, the goal of this Court should complete all cases as follows. Civil completion goals are measured from the date of filing.

- (1) Unlimited civil cases: (a) 75 percent within 12 months; (b) 85 percent within 18 months; and (c) 100 percent within 24 months.
- (2) Limited civil cases: (a) 90 percent within 12 months; (b) 98 percent within 18 months; and (c) 100 percent within 24 months.

- (3) Small claims cases: (a) 90 percent within 75 days; and (b) 100 percent within 100 days.

These case management goals are guidelines. To enable the fair and efficient resolution of all cases, each case should be set for trial as soon as appropriate for that individual case.

[Effective date: Jan 1, 2015]

RULE 7. SERVICE, RESPONSE, AND DEFAULT

Service and response shall be as follows, unless specifically required or allowed by Code or Court Rule. The Court, on its own motion or on the application of a party, may extend or otherwise modify the times provided in this rule. An application for a court order extending the time to serve a pleading shall be filed before the time for service has elapsed. The application shall be accompanied by a declaration showing why service has not been completed, documenting the efforts that have been made to complete service, and specifying the date by which service is proposed to be completed.

A. Entry of Default: If no response has been filed, and the parties have not previously agreed on an extension of time to respond, a request to enter default should be submitted within 60 days after the date the response was due.

B. Judgment: A party who enters a default against any party shall finalize the judgment against the defaulted party within 45 days of entry of default, absent specific extension by the Court.

C. Sanctions: The Court may issue an order to show cause why sanctions should not be imposed for any failure to follow the mandates of this rule.

[Effective date: Jan. 1, 2015]

RULE 8. CONTINUANCES

Motions to Continue, Advance, or Reset Civil matters shall be made on written notice to all parties who have appeared, and shall be noticed for hearing at the Civil Law and Motion calendar. Motions for continuance of a trial date shall be noticed promptly upon the necessity for continuance being ascertained. No continuance will be granted except upon an affirmative showing of good cause. This rule does not disallow a stipulation by the parties, but such stipulation does not result in a change of time limits unless a judge accepts said stipulation.

[Effective date: Jan 1, 2015]

RULE 9. DUTIES IF CASE SETTLES

Whenever a civil case assigned a trial date settles, the attorneys or in pro per parties shall immediately notify the Court. Primary obligation to notify the Court shall be plaintiff's through his or her attorney or, if in pro per, in person. Notification may be by telephone to the clerk, but, in such case, shall be followed within five days by a confirming letter copied to all parties and the Court. Notification of settlement to the Court shall result in the vacating of any trial date and the removal of the action from the master calendar and civil active list. A future existing case management conference will be left on calendar, and if there is none the Court shall set one. The purpose of the post settlement case management conference is to assure that the case has been dismissed or judgment entered. Parties need not appear at such case management conference if the entire matter has been dismissed or if a judgment has been filed that finally settles all issues. [Effective date: Jan. 1, 2015]

RULE 10. ATTORNEY FEES IN CIVIL ACTIONS OR PROCEEDINGS

Whenever a prevailing party is entitled to the recovery of reasonable attorney fees, those fees will be fixed by reasonable compensation computed on an hourly basis. When fees are to be fixed by court fee schedule they shall be as follows, exclusive of costs and interest.

1. 25% of the first two thousand dollars (\$2,000) of the amount of the judgment
2. 20% of the next four thousand dollars (\$4,000);
3. 15% of the next four thousand dollars (\$4,000);
4. 10% of the next ten thousand dollars (\$10,000);
5. 5% of the next thirty thousand dollars (\$30,000); and
6. 2% of amounts in excess of the first fifty thousand dollars (\$50,000).

A request for fees in excess of this schedule shall be allowed only upon legal authority and a declaration provided by the prevailing party supporting same. Where a prevailing party is entitled to the recovery of reasonable attorney fees in an otherwise appropriate clerk's judgment, the clerk shall include attorney fees computed pursuant to the fee schedule contained in this rule. [Effective date: Jan. 1, 2015]

RULE 11. UNLIMITED CASES MANAGEMENT AND SETTLEMENT CONFERENCES IN CIVIL CASES

A. Case Management Conferences: All attorneys shall attend scheduled case management conferences in person or by telephone, and all parties shall have a completed case management statement filed and served at least five days before the case management conference. The initial case management date shall be provided by the Court to each party making an initial filing, and that party shall serve notice of the first case management conference on all served Parties. Parties filing a cross-complaint shall notify each cross-defendant of the next case management conference. Each case management conference shall address the disposition goals set out in these rules and shall include plans to achieve those goals as well as propose trial dates. Each case management conference shall conclude with an order identifying a further case management conference until the matter has been declared at issue and the trial date is set.

B. Settlement Conferences:

- (1) Setting and Attendance: Upon setting a jury trial or a court trial set for one day or more, a settlement conference shall be set approximately one month before the date set for trial; the Court may set further settlement conferences. These conferences are mandatory and shall be attended by the parties, by the trial attorney, and by any person(s) who has (have) full authority to settle the case. All participants, shall execute a waiver that allows ex-parte' communications, so as to facilitate settlements on the court's form.
- (2) Settlement Conference Statement: At least five days before the settlement conference, each party shall serve and file a settlement conference statement, which shall identify the positions of the various parties, shall include settlement positions and demands, shall itemize economic and noneconomic damages, and shall recite a brief summary of the facts and law upon which the filing party relies. Parties are hereby notified that settlement conferences often require significant investment of time, and parties shall be available for the entire day of a scheduled settlement conference unless otherwise directed by the court.
- (3) Sanctions: The settlement conference judge may issue sanctions for failure to comply with rules applying to settlement conferences. Said sanctions may include monetary sanctions alone, or in any combination of the following: striking out all or any part of any pleading of the offending party and/or dismissal of the action or striking an answer to allow default. If the motion for sanctions is made by a party, the Court may

allow attorney fees and costs relating thereto. Terminating sanctions shall be used only after the Court has directed a party to remedy the failure to comply with the rules. Terminating sanctions shall not be used against a party as a result of the failure of counsel to comply with rules, and the Court in such case shall take appropriate action against the offending counsel.

C. Tentative Rulings: Any judge may adopt the practice of making tentative rulings. Such rulings shall be accomplished per Rule of Court, currently Rule 3.1308.

[Effective date: Jan. 1, 2015]

RULE 12. SANCTIONS

Sanctions in civil cases may be assessed per existing law and rule (including current Rule 2.30, CCP 177.5, CCP 575.2).

[Effective date: Jan. 1, 2015]

RULE 13. MEDIATION AND JUDICIAL ARBITRATION

The Court hereby elects to apply Title 11.6 of Part 3 of the Code of Civil Procedure commencing at § 1775 to general civil actions filed in the court.

[Effective date: Jan. 1, 2015]

RULE 14. FACSIMILE FILING; ELECTRONIC FILING/E-FILING

Fax filing is permitted and shall be accomplished pursuant to law and California Rules of Court (currently Rule 2.303). E-filing is not permitted at this time.

[Effective date: Jan. 1, 2015]

RULE 15. SCHEDULING EX-PARTE MOTIONS AND APPLICATIONS

To secure a date and time for hearing ex-parte motions and other ex-parte applications for which personal appearances are required consistent with the California Rules of Court, the party making the application shall contact the court services offices for assignment to the department in which the matter is to be heard.

[Effective date: Jan. 1, 2015]

RULE 16. PAYMENT OR WAIVER OF FEES

Fee waivers shall be granted under the provisions of sections 68630 through 68641 of the Government Code or successor statutes. The Court grants to the Court Executive Officer or the court's designated clerk the power to approve fee waivers which are documented and qualify under the law. (G.C. § 68634)

[Effective date: Jan. 1, 2015]

RULE 17. CLAIMS FOR PAYMENT TO COURT APPOINTED COUNSEL AND EXPERTS

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

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

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

- (1) The file number(s) and party name(s) (except in Juvenile appointments);
- (2) The type of service being requested;
- (3) Why such services are reasonably necessary to the case of counsel's client, which
- (4) The identity, billing address, hourly rate, any flat charges that may apply;
- (5) A statement of the expert's qualifications to provide the requested services;
- (6) An estimate of total cost of services should be included where possible, as well as a not-to-exceed cap.

- (7) If the expert is required by law to possess a license or other qualification, then the application must identify the license or qualification, the date it was obtained, the office or institution from which that license or qualification was obtained, and a statement that the expert is current and in good standing thereunder.

[Effective date: Jan. 1, 2015]

SECTION 3. FAMILY LAW CASES

RULE 18. CIVIL RULES/FAMILY LAW APPLY UNLESS CONTRADICTED

A. General: The rules for civil cases shall apply unless contradicted by more specific Family Code provisions and rules. These rules do not attempt to repeat all Family Code and California Rules of Court that may apply; all parties are referred thereto.

B. Appointment of Counsel for a Child: Appointments of counsel for a child shall be in the trial court's discretion as described in and subject to California Rule of Court, Rule 5.240 or its successor rule. [Effective date: Jan. 1, 2015]

RULE 19. EVALUATORS AND CHILD CUSTODY RECOMMENDING COUNSELORS

A. Evaluators: (custody/visitation) If an evaluator is appointed, he or she shall be provided, prior to commencing the evaluation process, with a copy of the court order which specifies the appointment of the evaluator under relevant statutes, including the following statutes in effect at the time of adoption of these rules or their successor statutes: (Evidence Code § 730, Family Code § 3110, or CCP § 2032.) The evaluator shall comply with this rule and applicable law and shall submit form FL-326 (or its successor form) with regard to training and educational requirements. Any fees proper under law shall be assessed and apportioned by the judge managing the case, and paid by the parties unless the court orders otherwise.

B. Mandatory Mediation: All matters pertaining to custody and/or visitation shall be referred to the Child Custody Recommending Counselor (CCRC) for mediation at the earliest possible time. The Court's CCRC is hereby authorized to render a recommendation to the court as to the appropriate form of custody or visitation of the child, or children, involved. The Court may, without further foundation, consider the report and recommendation of the CCRC. Parties referred to CCRC shall promptly keep all appointments with the mediator and make a good faith effort to come to an agreement on custody and visitation. Notice of appointment may be

accomplished by service on the CCRC and parties of the minute order appointing him/her. In-court notice to an appearing party is sufficient without written additional notice. The CCRC shall also adhere to California Code and California Rules pertaining to CCRC/mediators.

C. Investigation by the CCRC: The Court CCRC is a "court appointed investigator" as that term is used in Family Code § 3110. The CCRC may, without further court order, conduct an investigation regarding the issues of child custody and visitation pursuant to Family Code § 3110 et seq. in any proceeding where the parties fail to agree on the issues of custody and visitation or where it may otherwise be warranted.

D. Ex-parte communications with CCRC: As more fully stated in the Rule 5.235 of the California Rules of Court, when ex-parte communications are permitted by the CCRC, any such communications shall be in writing and shall be served on opposing party. This requirement does not apply to communications by parties made to the CCRC during a mediation session or to ex-parte communications initiated by the CCRC.

E. Removal / Withdrawal of the CCRC: The CCRC may remove him or herself from a case should mediation ethics require. The assignment of a CCRC being a court function, there shall be no challenge allowed to the CCRC by a party unless same is specifically allowed by law. The Director of Family Court Services, the Court Executive Officer, the Presiding Judge, or the judge presiding over the proceedings may in his/her discretion appoint another CCRC to conduct mediation, which may be a mediator from another court, a probation officer, or such other person whom the Director, Court Executive Officer or judge finds qualified to act in such capacity.

F. Recommendations of the Child Custody Recommending Counselor: The CCRC is authorized to render a recommendation to the Court re custody and visitation. The Court may, without further foundation, consider the report and recommendation of the CCRC.

H. Testimony / Confidentiality of File: Should any party seek to examine the CCRC at a hearing regarding a mediator recommendation, it shall be that party's responsibility to secure the CCRC's attendance as a witness. Any information received by the CCRC including, but not limited to, information included in the mediation report shall be confidential and may be disclosed by the CCRC only as necessary to continue his/her investigation, to complete his/her report, and to testify in any court hearing.

[Effective date: Jan. 1, 2015]

SECTION 4. CRIMINAL CASES

RULE 20. CASE DISPOSITION TIME STANDARDS AND GOALS

A. Case Disposition Standards: It is the policy of this Court to encourage prompt disposition of all matters. Attorneys shall endeavor to complete discovery and file motions within the limits established by law and consistent with this Court's policy.

B. Case Disposition Goals: The goals of this Court are to complete all cases as follows, with such goals measured from the date of arraignment on the initial complaint.

- (1) Felony trials: Except for capital cases, no more than one year after arraignment on the information.
- (2) Preliminary Hearings, from arraignment on the complaint and excluding death penalty cases: (a) 90 percent within 30 days; (b) 98 percent within 45 days; and (c) 100 percent within 90 days;
- (3) Misdemeanor cases: (a) 90 percent within 30 days; (b) 98 percent within 90 days; and (c) 100 percent within 120 days.

RULE 21. MOTIONS AT TRIAL; CONTINUANCE OF TRIAL

A. Motions: Out of the ordinary or unusual (e.g. complex motions or extensive motions in limine) shall be made in writing and scheduled to be heard before the judge assigned to the trial no less than five days before trial, pursuant to a noticed request to calendar. All motions that may not be heard and disposed of within ½ hour on the morning of trial must be so scheduled.

B. Continuances: On the Court's own motion, when the ends of justice or the court's own schedule requires, the judge may continue a trial after it is begun. However, a defendant may not request to continue a jury trial on the day set for trial unless the defendant pleads guilty or no contest to all pending counts in the charging document.

[Effective date: Jan. 1, 2015]

RULE 22. CRIMINAL JURY INSTRUCTIONS

Jury instructions shall comply with the California Rules of Court and, unless stipulated to the contrary by all parties and accepted by the trial judge, shall be CALCRIM instructions. The parties shall provide their requested instructions, with one separate copy for the Court and one separate copy for each opposing counsel, on the morning of the first day of trial unless the trial judge has directed to the contrary. No instruction shall identify the party making the request.

Special instructions shall be accompanied by points and authorities on separate paper from the proposed instruction. All blanks on form instructions shall be filled in so that the proposed instruction is complete.

[Effective date: Jan. 1, 2015]

RULE 23. PRELIMINARY HEARINGS

It shall be the policy of this Court to expedite preliminary hearings. Motions to continue the preliminary examination are disfavored and shall be denied unless the moving party, pursuant to and in accordance with Penal Code §1050 and the particular statutes pertaining to continuances of preliminary examinations, presents affirmative proof that the ends of justice require a continuance.

[Effective date: Jan. 1, 2015]

SECTION 5. PROBATE AND CONSERVATORSHIP

RULE 24. RELIANCE ON STATE LAW AND RULES

The Court does not elect to create additional local rules at this time. California statutes, case law, and the California Rules of Court should be consulted by parties.

[Effective date: Jan. 1, 2015]

SECTION 6. JUVENILE COURT RULES

RULE 25. LOCAL RULES DO NOT SUPPLANT STATE LAW

Statutory law, case law, and the California Rules of Court extensively regulate the Dependency (Welfare and Institutions Code, § 300) and Delinquency (Welfare and Institutions Code, § 602) actions brought before the Court. Counsel shall refer to those sources for guidance. Nothing in this rule prevents the Juvenile Presiding Judge or any Juvenile Judge from establishing additional policies and procedures that do not violate state law and rules.

[Effective date: Jan. 1, 2015]

Dated: _____, 2014

ELIZABETH W. JOHNSON,
Presiding Judge

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