

## CHAPTER 9 - FAMILY LAW MATTERS

### Rule 900 – Subject Matter of the Family Law Division; Application of Rules; and Sanctions

- (a) All of the following types of proceedings must be filed in the Family Law Division of the Court:
- (1) Dissolution or Legal Separation of marriage or domestic partnership;
  - (2) Nullity of marriage or domestic partnership and determination of rights of putative spouses under the Family Code;
  - (3) Proceedings under the Uniform Child Custody Jurisdiction and Enforcement Act;
  - (4) Proceedings under the Uniform Parentage Act;
  - (5) Proceedings under Parent and Child Relationship;
  - (6) Proceedings under the Domestic Violence Prevention Act;
  - (7) Proceedings under the Uniform Interstate Family Support Act;
  - (8) Proceedings for Child Support, under Part 2 of Division 9 of the Family Code;
  - (9) Proceedings for visitation rights of non-parents pursuant to the Family Code.
- (b) These Rules apply in all departments of the Tulare County Superior Court hearing family law matters, and take precedence over other Local Rules which are in conflict with the rules set forth herein.
- (c) These Rules must be read and applied in conjunction with the applicable law, including federal and state statutes, and the California Rules of Court: Titles One, Two, Three, and Five.
- (d) Failure to comply with these Rules may result in an award of attorney's fees and costs pursuant to California Rules of Court 5.14. All requests made for sanctions shall comply with California Rules of Court 5.14. (07/01/97) (Revised 01/01/18)

### Rule 901 – Notice of Assignment and Setting Matters for Hearing

- (a) New cases are assigned to a specific judicial officer for all purposes. The case assignment will be stamped on the first page of the petition when it is filed. All appearances in the case must be made before the assigned judicial officer, unless otherwise ordered.
- (b) When any matter involves child custody or visitation, all parties and attorneys must arrive in the assigned courtroom promptly at 8:00 a.m. Failure to be in the courtroom on time may result in a continuance and sanctions as set forth in Rule 900. (01/01/07) (Revised 01/01/18)

### Rule 902 – Presentation of Documents

All documents submitted in family law matters must comply with California Rules of Court 2.100, 2.102, 2.103, 2.104, 2.105, 2.106, 2.107, 2.108, 2.109, 2.110, 2.114, 2.115, 5.111, and 5.112.1. (01/01/07) (Revised 07/01/11) (Revised 01/01/16) (Revised 01/01/18).

### Rule 903 – Matters Off Calendar

After service of the moving papers, but before responsive pleadings are served, no matter will be taken off calendar without notice to the responding party or attorney. If responsive pleadings have been served and relief is requested by the responding party, the responding party or attorney must consent before the matter may be taken off calendar. (07/01/97) (Revised 01/01/18)

### Rule 904 - Continuances

All requests to continue must comply with California Rules of Court 5.94. (07/01/97) (Revised 01/01/18)

### Rule 905 – Hearings Estimated to Take More Than 20 Minutes

If it is apparent to the assigned judicial officer, after consulting with counsel for the parties or self-represented party, that a matter will take more than 20 minutes the court will inquire of counsel for the parties or self-represented party to obtain a time estimate for the hearing, and the matter will be set for a hearing on the earliest available date given the time estimate. (01/01/07) (Revised 01/01/18)

### Rule 906 – Family Centered Case Resolution

All Dissolution of Marriage, Dissolution of Domestic Partnership, Legal Separation, Nullity of Marriage, and Uniform Parentage Actions shall be set for a judicially supervised family centered case resolution conference, entitled “Case Management Conference,” pursuant to California Rules of Court 5.83, and Family Code sections 2450-2452.

- (a) Case Management Conferences will be heard by a judicial officer. On the court’s initiative, or at the request of parties, to enhance access to the court, the Conference may be held in person, by telephone, by videoconferencing, or by other appropriate means of communication.
- (b) At the Case Management Conference counsel for each party and each self-represented litigant must be familiar with the case and must be prepared to discuss the party’s positions on the issues.
- (c) Any inclusion of alternative dispute resolution (ADR) in a case resolution plan under Family Code section 2451(a)(2) must comply with California Rules of Court 5.83 (d)(4).
- (d) All cases will be set for Case Management Conference 120 days following the filing of a Petition. By the time of the first Case Management Conference the parties shall be in compliance with the mandates of Family Code section 2104. The Petitioner shall have a Proof of Service of the Preliminary Declaration of Disclosure (Judicial Council Form FL

141) filed and served; the Respondent is to have a Proof of Service of the Preliminary Declaration of Disclosure (Judicial Council Form FL 141) filed and served, provided that service of summons was effected on the Respondent more than 60 days prior to the Case Management Conference.

- (e) At the Case Management Conference the case status including discovery will be discussed, alternative dispute resolution ordered as appropriate, and mandatory settlement conference and trial dates will be assigned unless settlement of all issues is imminent.
- (f) If an answer or response has not been filed within 120 days of the filing date of the action, and no default or judgment has been entered, the court will order a review hearing in accordance with California Rules of Court 5.83(c)(2).
- (g) Case Management Conferences shall thereafter be set in the court's discretion, but at least every 180 days thereafter until disposition.
- (h) If, after 18 months from the date the petition was filed, both parties have failed to participate in the case resolution process as determined by the court, the court's obligation for further review of the case is relieved until the case qualifies for dismissal under Code of Civil Procedure section 583.210 or 583.310, or until the parties reactivate participation in the case.
- (i) In deciding whether a case is progressing in an effective and timely manner, the court will consider the procedural milestones set forth at California Rules of Court 5.83(c)(4) and the additional factors for consideration set forth at California Rules of Court 5.83(c)(7).
- (j) Unless a case is deemed to be complex, as determined by the assigned judicial officer, trial will be set to commence no later than one calendar year from the date of the filing of the petition. (01/01/07) (Revised 07/01/11) (Revised 01/01/14) (Revised 01/01/18)

#### Rule 906.1 – Service of Case Information Sheet

Upon the filing of a first paper in all dissolution of marriage, legal separation, and nullity of marriage cases, the clerk shall provide Petitioner with two (2) copies of the court's Case Information Sheet. Petitioner shall serve one copy of the Case Information Sheet on the Respondent with the initial pleadings. Petitioner must include the Case Information Sheet on the Proof of Service of the Summons and Petition. (01/01/2016)

#### Rule 907 - Emergency Short Notice Hearings

- (a) All parties requesting an emergency short notice hearing must contact the clerk in Room 201 of the Tulare County Superior Court in Visalia or the Counter Clerk at the South County Justice Center in Porterville, depending upon where the case has previously been

filed or is being filed concurrently with the request, to schedule an emergency hearing. Hearings will not be set by individual department courtroom clerks. The clerk will set the matter for hearing before the assigned judge, unless the assigned judge is not available in which case an available judicial officer will hear the matter. The hearing will be set on a date not to exceed two court days from the date of the request and at a time established by the judicial officer hearing the matter.

- (b) The procedure and notice of an emergency short notice hearing must be pursuant to California Rules of Court 5.151 through 5.169.
- (c) A short notice order granting 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 such order is necessary for the immediate best interests of the child/ren.
- (d) A short notice order removing a party from a residence will not issue without facts demonstrating violence, and the date or dates thereof, and that physical harm would result if the short notice order is not granted.
- (e) A short notice order requiring the payment of obligations will not issue without financial facts justifying the order, plus an attached and fully completed Income and Expense Declaration with at least an estimate of opposing party's gross income. Only in unusual circumstances will a payment of an obligation order be issued on short notice.
- (f) Where an emergency short notice hearing is being requested related to a matter in the AB1058 child support court, that request may be made directly through the AB1058 court assigned clerks. (01/01/07) (Revised 01/01/09) (Revised 01/01/10) (Revised 01/01/18)

Rule 908 – Omitted 01/01/18

Rule 909 - Omitted 01/01/18

Rule 910 - Omitted (07/01/11)

Rule 911 - Omitted (07/01/11)

Rule 912 - Omitted (07/01/11)

Rule 913 - Omitted (07/01/11)

#### Rule 914 - Failure to Appear/Tardiness

- (a) Failure of the moving party or attorney to be present at the calendar call, or failure to have informed the bailiff or clerk of his or her location, may result in the matter being removed from the calendar; and if the responding party has appeared, attorney fees and costs may be awarded to the appearing party.
- (b) In the event the responding party or attorney fails to appear or fails to have informed the bailiff or clerk of his or her location, the court may continue the matter, award attorney fees, or enter an order on the pleadings and testimony of the moving party. (07/01/89) (Revised 01/01/18)

#### Rule 915 - Preparation of Order After Hearing

- (a) Findings and Order After Hearing prepared on quadruplicate forms provided by the court shall be completed prior to the attorneys and/or parties leaving the courtroom on the day of the hearing.
- (b) In the alternative, the court in its discretion may order preparation of the Findings and Order After Hearing to be made in compliance with California Rules of Court 5.125. (01/01/07) (Revised 07/01/11) (Revised 01/01/14) (Revised 01/01/18)

#### Rule 916 - Adoption of Schedule for Temporary Spousal Support Awards

Except for good cause shown, temporary spousal support shall be calculated by using the computation method commonly known as the “Kings County formula” programmed into the support software certified by the Judicial Council. (01/01/07) (Revised 01/01/18)

#### Rule 917 - Income and Expense Declaration

- (a) All requests for child support, spousal or domestic partner support, attorney's fees and costs, or other orders relating to the parties' property or finances must comply with California Rules of Court 5.92 (b) and must be accompanied by the filing of an Income and Expense Declaration that is fully completed as set forth in California Rules of Court 5.92(b).
- (b) If production of documents under this rule is requested or ordered, both parties must comply with this rule and the order must state, “Both parties are ordered to comply with Local Rule 917, a copy of which is attached. Willful failure to comply with this rule may result in sanctions, if requested.”

- (c) Other discoverable items not to be filed with the court, but to be timely served on the other party include:
- (1) Copies of tax returns for the immediately preceding year (state and federal).
  - (2) Copies of all records reflecting income (whether the income has been received or not) since the last tax return.
  - (3) Copies of partnership Schedule K-1's filed within the last three years by any partnership in which either party has any interest.
  - (4) Copies of financial statements received by either party regarding any legal entity in which either party had an interest during the last three years.
  - (5) Copies of all loan applications or financial statements submitted to financial institution(s) within the last three years, whether or not a loan was obtained.
- (d) If documents are not available (i.e., they are in the possession and control of the other party), a declaration under penalty of perjury must state that fact. (01/01/07) (Revised 01/01/18)

#### Rule 918 - Child Support and the Tulare County Department of Child Support Services

The following language must appear in all orders or judgments, or as ordered by the court in any proceeding where child support, child support arrearages, or enforcement of child support is at issue in these circumstances: If a party is awarded custody of minor child/ren and is receiving, or is likely to receive, Temporary Assistance to Needy Families for the benefit of the child/ren; if the Department of Child Support Services has an open case and is either establishing or enforcing an order of support for the minor child/ren; if the issue of child support has not yet been addressed at the time the judgment is submitted for the court's review and filing; and/or if it is requested by either party that the Department of Child Support Services establish and enforce an order of support:

“The issue of child support is referred to the Department of Child Support Services for an investigation and report. This report is to be mailed to the parties or attorneys within 120 days from the referral. The parties have 15 days after the mailing of this report to object in writing to the calendar clerk, with a copy of the objection to the Department of Child Support Services. In the absence of such objection, the recommendation will be adopted as an order of this court.”

The Department of Child Support Services will enforce payment of support as ordered above. All child support payments must be made to the California State Disbursement Unit, P. O. Box 989067, West Sacramento, CA 95798-9067. Parties must notify the Department of Child Support Services in writing within 10 days of any change of residence, income, or employment. (01/01/07) (Revised 01/01/09) (Revised 01/01/18)

Rule 919 - Mandatory Child Custody Recommending Counseling and Confidential Voluntary Mediation Sessions in Child Custody and/or Visitation Matters

Child Custody Recommending Counseling and Voluntary Mediation Sessions will be held in private, and all written and verbal communication will be deemed "official information" (Evidence Code, §1040). Any information may, however, be disclosed to the court.

- (a) Orientation – Prior to their Session the parties shall complete the on-line Family Dispute Resolution Orientation program, including the Additional Interactive Resources ("Families Change" for parents and adults and "Changeville" for children) on-line at <http://www.tularesuperiorcourt.ca.gov>. Under the Divisions Tab, Select Family Court Services and Click on the Banner at the top middle of the page. Upon completion, the parents shall file a copy of the certificate of completion in Room 201 at the Superior Court of California, Visalia Division or with the Counter Clerk at the South County Justice Center located in Porterville.
- (b) Family Court Services Locations – Family Court Services' main offices are located in Room 203 of the Visalia Courthouse. Family Court Services conducts Voluntary Mediation Sessions and Child Custody Recommending Counseling Sessions at their Visalia location and at the Self Help Resource Center of the South County Justice Center. All Voluntary Mediation Sessions are to be scheduled through the Visalia office, but may be conducted at that office or at the South County Justice Center. The location of all Child Custody Recommending Counseling Sessions will be set by the assigned judge.
- (c) Child Custody Recommending Counseling Sessions
  - (1) Date of Hearing Sessions - In all matters set for hearing involving disputed issues of custody and visitation of minor children, the parties will be referred to Family Court Services for mediation so long as a written response has been timely filed and served. A child custody recommending counselor will work to assist the parties in settling the issues by agreement. If an agreement is reached, the child custody recommending counselor will prepare a stipulation, which will be submitted to the court for endorsement after the parties and their attorneys, if applicable, have reviewed and signed the document. If no agreement is reached, the child custody recommending counselor will so inform the court and will prepare a written recommendation and reasons for the recommendation to the parties and their attorneys, if applicable. The parties will be directed to return to the courtroom and the matter will proceed that day or be set for a contested hearing. The assigned judge will consider the recommendation at the time of the hearing.
  - (2) Sessions Set by the Court - If a matter has been set for hearing and continued by the court, and the parties are referred to Family Court Services regarding their custody and visitation issues, they will participate in an afternoon child custody recommending counseling session. If no agreement is reached, the child custody

recommending counselor will prepare a written recommendation and reasons for the recommendation to the parties and their attorneys, if applicable. The recommendation will be available to the parties prior to hearing. The assigned judge will consider the recommendation at the time of the hearing.

- (d) Voluntary Mediation Sessions Without the filing of a noticed motion, confidential Voluntary Mediation Sessions are available through Family Court Services. If an agreement is reached in mediation, a stipulation will be prepared and when signed by the parties, their attorneys, and the court, it will be filed in the court's file. If no agreement is reached and a party desires that the court address the disputed issues of custody and visitation, a noticed motion must be filed by one of the parties and the matter must be set for hearing. At the hearing the case will be referred to Child Custody Recommending Counseling. A different Family Court Services staff member will be assigned to the case.
- (e) Challenge to a Child Custody Recommending Counselor – A request for change of child custody recommending counselor shall be addressed to the Family Court Services director, or his or her designee if the director is not present. The request for change of child custody recommending counselor shall be made prior to the beginning of the child custody recommending counseling session. If the request for change is not satisfactorily resolved, it may be directed to the assigned judge.
- (f) Complaint Procedure - Any objections that may arise in conjunction with a court-ordered child custody recommending counseling session must be presented to the director of Family Court Services. If the director or the director's designee is not available, the matter may be presented to the assigned judge for resolution.
- (g) Participation of Children - Children should not be present for court hearings or child custody recommending counseling unless ordered by the court. The assigned judge and/or Family Court Services will determine whether and under what conditions a minor will be interviewed pursuant to Family Code section 3042, and the terms and conditions under which counsel will be appointed for the child/ren.
- (h) Domestic Violence Procedures - If the matter is referred by the court to Family Court Services for a Child Custody Recommending Counseling Session, the party holding a restraining order, or who has made allegations of domestic violence occurring within the past five years in his or her moving papers, shall be interviewed separately while the other party remains in the courtroom. The other party will then be sent to Family Court Services to separately participate in the Child Custody Recommending Counseling Session. This court follows procedures outlined in California Rules of Court, rule 5.215.
- (i) Presence in Family Court Services - Only the parties involved in the Voluntary Mediation or Child Custody Recommending Counseling Session are to be present in the offices of Family Court Services in Visalia or at the Self Help Resource Center at the South County Justice Center in Porterville. With the exception of a support person in a domestic violence matter or any attorney for a party, friends and relatives of the parties shall not be in the waiting room or in the area outside of either location while the parties are in their

Voluntary Mediation or Child Custody Recommending Counseling Session. (01/01/07)  
(Revised 01/01/09) (Revised 07/01/11) (Revised 01/01/18)

Rule 920 - Custody Evaluations

- (a) California Rules of Court 5.220 is implemented.
- (b) In all cases referred for evaluation or limited investigation for which there is no previous stipulation as to the evaluator or the process for selection of an evaluator, the parties will nominate three qualified professionals, and the court will choose from that list. No preemptory challenge will be allowed once the name of the evaluator is so chosen.
- (c) A court-appointed evaluator may petition the court to withdraw from a case.
- (d) Ex parte communication between the parties, counsel, and the court shall be governed by applicable statutes and Rules of Court.
- (e) A party may obtain information about finding a qualified evaluator by consulting directories in the local area.
- (f) A party to the action may present a complaint about the performance of a child custody evaluator to the Supervising Family Law Judge. Said complaint shall be in writing and copies of the complaint shall be served on all parties. A proof of service evidencing service of the complaint on all parties is required. A response to the complaint, if any, shall be presented to the Supervising Family Law Judge within seven (7) days of service of the complaint. Said response shall be in writing and copies of the response shall be served on all parties. A proof of service evidencing service of the response on all parties is required. Upon receipt of the complaint and the response, if any, the Supervising Family Law Judge may respond to the complaint as the Supervising Family Law Judge deems appropriate. (01/01/07) (07/01/11) (Revised 01/01/18)

Rule 921 - Custody Orders and Agreements

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

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

policy of this court that the parent contemplating the move is responsible for obtaining a modified parenting plan by either written agreement or order of the court.”

Compliance with this notice requirement is not sufficient to change an existing order of custody and visitation. (01/01/07) (07/01/11)

#### Rule 922 - Settlement Conference Statement

All parties and attorneys must attend a mandatory settlement conference prior to trial on a date designated by the court, unless exempted from compliance with this rule. An exemption will be granted only upon a showing of good cause and leave granted by the court. A motion for leave to dispense with any mandatory settlement conference requirement must be filed, calendared, and heard on or before the date of the settlement conference.

At least five days before the settlement conference, each party must file with the court and serve on the opposing party a Settlement Conference Statement that must contain the following:

- (a) A list of all community assets and encumbrances, including the date of acquisition, purchase price, and present fair market value. If there is a dispute as to whether the asset is, in fact, community property, a tracing of the funds should be included.
- (b) A list of all property that the party claims is separate property, including the date and method of acquisition. The fair market value of separate assets should also be included.
- (c) Factual data upon which the parties rely in support of (or in opposition to) a claim for child support, and/or spousal support, and attorney fees. Any request for spousal support must be supported by a statement addressing all relevant facts as listed in Family Code section 4320.
- (d) Where the parties possess real property, the same must have been appraised before the date of the settlement conference, and a copy of the appraisal must be attached to the statement.
- (e) Where the furniture has not been divided, a complete inventory of the furniture must be attached along with the appraisal.
- (f) Motor vehicles listed must be accompanied by the Kelly Blue Book valuations.
- (g) When the asset is a pension or retirement plan, unless the parties have agreed regarding the pension division, or anticipate it will be an in-kind division, an appraisal of the same must be attached to the statement; provided however, that if a party is willing to accept the “vested cash value,” such party may furnish a certified statement by the holder of the pension giving the “vested cash value” of the pension.

- (h) A list of the community obligations existing at time of separation. If a spouse is claiming credit for payment after separation, an itemized list, with proof of payment, must be attached.
- (i) Any party contending that community property or quasi-community property of the parties should be valued at a date after separation and before the trial must comply strictly with the provisions of Family Code sections 2550-2552 with respect to notice to the other party. Such motion must have been made and heard before the date of the settlement conference.
- (j) A statement that the value of an asset or liability is unknown (without a showing that a good faith appraisal thereof could not be made), or that a valuation of the asset is not made because a party seeks a sale, a deferred sale of home order, or equal division of the asset, will be deemed a material failure to comply with these rules.
- (k) Where it is urged that the family home be retained pursuant to Family Code section 3800, all facts relevant to this issue must be included in the statement. (01/01/07)

#### Rule 923 - Court's Dismissal Pursuant to Delay Reduction Guidelines

Dismissals of Family Law matters shall be made without prejudice and in accordance with the mandates of Code of Civil Procedure sections 581, 583.161, 583.250, 583.310, 583.360, 583.410, 583.420, and California Rules of Court 3.1340 and 3.1342, as applicable. (01/01/07)  
(Revised 01/01/18)

#### Rule 924 - Entry of Default

Envelopes provided to the superior court clerk for mailing to parties in default in a dissolution matter must contain the return address of the superior court clerk, not the address of the moving party. The court's address for cases assigned to the Visalia Court is: Clerk of the Superior Court, County Civic Center, Room 201, Visalia, CA 93291, Case No.: \_\_\_\_\_; the court's address for cases assigned to the Porterville Court is: Clerk of the Superior Court, 300 E. Olive Avenue, Porterville, CA 93257, Case No.: \_\_\_\_\_ (07/01/00)  
(Revised 01/01/18)

#### Rule 925 – Omitted 01/01/10

#### Rule 926 - Parties Not Represented

Any proposed Marital Settlement Agreement in which only one party has legal counsel should contain language which is in substantial conformity with the following:

“Petitioner/Respondent acknowledges by the initials at the end of this paragraph that she/he has been advised to obtain independent legal counsel and that she/he has voluntarily chosen not to do so; that she/he has read and understands the contents and legal effect of this agreement and has entered into it and signed it freely and voluntarily. (initials of party)”  
(07/01/97) (Revised 01/01/18)

#### Rule 927 - Early Disposition Conferences

The purpose of an early disposition conference (EDC) is to expedite and simplify family law litigation. Participation in an EDC is not in lieu of a mandatory settlement conference and will not relieve either party of the duty to participate in a regularly scheduled settlement conference.

Parties and counsel must mutually agree on an EDC date and must contact the appropriate family law courtroom clerk with the requested date. (07/01/11) (Revised 01/01/18)

#### Rule 928 - Procedures for Entry of Judgment and Common Child Support Orders

- (a) All proposed judgments or findings and orders after hearing where child support is ordered shall include a copy of Judicial Council Form FL 192 entitled “Notice of Rights and Remedies - Health Care Costs and Reimbursement Procedures,” and shall contain the following language:
- (1) “The parent ordered to pay support must pay additional monthly support for reasonable child-care costs, as follows: \_\_\_ one-half or \_\_\_% (specify amount) per month of the costs. Payments must be made to the \_\_\_ other parent \_\_\_ State Disbursement Unit \_\_\_ child-care provider (select one).”
  - (2) “The parent ordered to pay support must pay reasonable uninsured health-care costs for the children as follows: \_\_\_ one-half or \_\_\_% (specify amount) per month of the costs. Payments must be made to the \_\_\_ other parent \_\_\_ State Disbursement Unit \_\_\_ healthcare provider (select one).”
- (b) All proposed judgments or findings and orders after hearings where there is a stipulation to set child support below the guideline amount of child support shall contain the following:
- (1) A clear recitation of the provisions of Family Code section 4065(a), and the parties’ understanding of and agreement to each of those provisions.
  - (2) A copy of the guideline calculation of child support.
- (c) All judgments or findings and orders after hearings where a child support order is contained and whereupon Tulare County Department of Child Support Services (TDCSS) is enforcing the order shall have attached to it Form FS01, “Standard Orders Attachment.” A supply of forms as mentioned above in this rule shall be maintained and

distributed by the courtroom clerks as well as be available on the court's web site ([www.tularesuperiorcourt.ca.gov](http://www.tularesuperiorcourt.ca.gov)) and for purchase from room 201 of the Visalia courthouse and from the Counter Clerk of the Porterville Courthouse. (01/01/07)  
(Revised 01/01/18)

Rule 929 - Family and Juvenile Court Management of Child Abuse Cases

(This rule is repeated in the Juvenile Court rules as rule 1122.)

It is the policy of the superior court to identify and coordinate custody proceedings involving the same child, which may appear in multiple legal settings. It is further the policy of the superior court to coordinate the efforts of the different court systems so that the child/ren's and family's needs are served and the resources of the family and the court are not wasted. To these ends the superior court and the agencies serving the court must cooperate to increase the exchange of information and to determine the most appropriate forum for the resolution of the issues relating to the child/ren. (Pursuant to Welfare & Institutions Code section 827.10.)

- (a) Report Pursuant to Penal Code section 11166 - If, during the pendency of a family law proceeding, a child abuse allegation against one of the child's parents comes to the attention of a Family Court Services staff member or other evaluator, that person must first determine whether the allegation must be reported to a child protection agency, pursuant to Penal Code section 11166. If that person determines the allegation does not fall within the description of section 11166, he/she need not make a report. However, any other person may report the allegation to a child protection agency.
- (b) Child Abuse Investigation - When the Health and Human Services Agency, Child Welfare Services Branch (CWS), receives a report of suspected child abuse during the pendency of a family law proceeding, it must investigate the matter immediately, or within 10 days, unless the judicial officer from family court requests an earlier investigation. CWS, and the law enforcement agency having jurisdiction, must coordinate their investigative efforts. If CWS becomes aware that a family law case is ongoing concerning a child who is the subject of a suspected child abuse investigation, CWS must inform Family Court Services of the pending investigation and any decisions it makes concerning the child abuse investigation. If CWS, or the law enforcement agency having jurisdiction, determines that further investigation is necessary, the agency making that determination must contact the other agency immediately so that all investigative efforts may be coordinated.
- (c) Welfare and Institutions Code section 329 Application - If CWS decides not to intervene, or fails to report to the reporting party within 10 days, any person may apply to the social worker pursuant to Welfare and Institutions Code section 329. In that application, the affiant must give notice and identifying information of any pending family law proceeding. A copy of the application must be sent to Family Court Services by the moving party. The social worker must respond to the application as soon as possible, or within three weeks after submission of the application (Welf. & Inst. Code, § 329). (See Appendix 4 for application and order form or use Judicial Council form JV-215, Application to Review Decision by Social Worker Not to Commence Proceedings.)

- (d) Suspension of Family Court Proceedings Pursuant To Welfare and Institutions Code section 300 Petition Filed In Juvenile Court - Upon the filing of a petition pursuant to Welfare and Institutions Code section 300 in the juvenile court, all custody and visitation proceedings in the family court are suspended. The juvenile court clerk will determine whether there is a family law court file concerning the child/ren named in the petition. If there is a family law court file, the juvenile clerk will send a copy of the notice required under Welfare and Institutions Code section 335 to the family law court. Upon receipt of such notice, the family law clerk will place such notice in the family law file. Thereafter, custody and visitation issues will be determined by the juvenile court. The family court will resume jurisdiction over custody and visitation issues only after termination of jurisdiction of the juvenile court. Upon termination of jurisdiction of the juvenile court, the clerk of the juvenile court will lodge a copy of the order terminating jurisdiction and any juvenile court custody order in the family court file.
- (e) Review of Dependency Decision - If CWS decides to initiate dependency proceedings after reviewing the application under Welfare and Institutions Code section 329, any person may apply to the juvenile court to review that decision pursuant to Welfare and Institutions Code section 331. The application for court review must include a copy of the application made pursuant to Welfare and Institutions Code section 329. The juvenile court will rule on the application as soon as possible, and in no event later than 30 days after receipt of the application.
- (f) Informal Supervision Agreement - If, during the CWS worker's investigation, one or both parents reach an informal supervision agreement pursuant to Welfare and Institutions Code section 331, a copy of that agreement must be sent immediately to CWS, to Family Court Services, to family court, and to each parent.
- (g) Family Code section 3150 Appointment of Counsel - During family court proceedings in which allegations of child abuse have been made, the family court judge may appoint counsel for the child/ren (Fam. Code, § 3150) to protect the child/ren's interests and/or to expedite the policy stated herein and carry out the terms of this protocol.
- (h) Coordination of Cases - At any time during the process described herein, the supervising judges and bench officers of the family and juvenile courts are encouraged to discuss, generally, problems relating to the coordination of cases involving child abuse allegations. Nothing in this section will be construed to permit judicial officers to discuss the specific facts of any certain case. (01/01/07) (07/01/11)

Rule 930 - Self Help Resource Center/Family Law Facilitator - Resource for People Who Represent Themselves

- (a) The services provided by the Family Law Facilitator are pursuant to the Family Law Facilitator Act, Family Code section 10000 et seq., including the additional duties set forth in Family Code section 100005.

- (b) To the extent adequate funding is provided the duties set forth in Family Code section 10005, in addition to those mandated by Family Code section 10004, are adopted as a local rule of court. These duties include that the Family Law Facilitator's office may meet with litigants to draft stipulations to include all issues agreed to by the parties, which may include issues other than those specified in Family Code section 10003; and may prepare formal orders consistent with the court's announced order in cases where both parties are unrepresented.
- (c) The Family Law Facilitator has offices located at 3400 W. Mineral King, Suite C, Visalia, California 93291, and at the Self Help Resource Center of the South County Justice Center located at 300 E. Olive Avenue, Porterville, California 93257. Parties may call (559) 737-5500 for information regarding the services of the Family Law Facilitator. (01/01/07) (Revised 01/01/09) (Revised 01/01/10) (Revised 01/01/18)

#### Rule 931 – Domestic Violence Coordination Rules

- (a) It is the clerk's responsibility, prior to any hearing requesting protective orders and/or child custody and/or visitation orders, to determine if any such orders have already been issued as to the same parties or children in any other department by accessing the court's case management system and California Court Protective Order Registry (CCPOR).
- (b) The court's criminal, family, and juvenile law departments shall use all reasonable efforts to communicate and exchange information with each other regarding any domestic violence orders.
- (c) No department of the family or juvenile court shall knowingly issue a protective order or custody order in conflict with an order of the criminal court. If such an order issues inadvertently, the orders of the criminal law proceeding shall have priority. A court issuing a criminal protective order may, after review of any existing family or juvenile court orders, modify the criminal protective order to allow or restrict contact between the restrained person and his or her children, spouse, or other protected person.
- (d) A family or juvenile court order may coexist with a criminal court protective order, subject to the following:
  - (1) Any order that permits contact between the restrained person and his or her children shall provide for the safe exchange of the children and shall not contain language either printed or handwritten that violates a "no contact order" issued by a criminal court.
  - (2) Safety of all parties shall be the courts' paramount concern. The family or juvenile court order shall specify the time, day, place, and manner of transfer of the child, as provided in Family Code section 3100.

- (e) Upon granting of relief (through initial petition, modification, or termination), the clerk shall convey within 24 hours a file-endorsed copy of the order to the Tulare County Sheriff's Department (TCSO) for input into CLETS (a statewide computerized registration system for restraining orders), or to the court CLETS administrator upon that program becoming operational. (01/01/07) (Revised 07/01/11) (Revised 01/01/18)

#### Rule 932 – Complaints Regarding Minor's Counsel in Family Law

The court maintains a list of attorneys who may be appointed counsel for children in family law matters. These attorneys must sign the Judicial Council Form FL322 stating they have completed the required training outlined in California Rules of Court, rule 5.240. The court uses a rotation system to appoint the attorneys. If an attorney is appointed who is not on the list, the court will state on the record the reason for the appointment (Cal. Rules of Court, rule 5.240(d)(3)).

In a family law proceeding in which the court has appointed counsel for minor children, any party or counsel or minor child may present a written complaint about the performance of appointed counsel pursuant to California Rules of Court, rule 5.240(e). The complaint must be filed and served on all counsel and self-represented parties, and a copy must be delivered to the courtroom clerk for the Presiding Family Law Judge. The court will respond to the complaint within 30 days, either by setting the matter for hearing or by issuing a written response. (Cross reference Local Rule 1007(q).) (01/01/10) (07/01/11)

#### Rule 933 - Appointment of Elisor

- (a) A court order for the appointment of an elisor must be made by a Request for Order.
- (b) The RFO must include at least one supporting declaration with a list of the exact documents the elisor is being asked to sign.
- (c) Copies of the documents to be signed must be filed with the RFO. The original documents presented to the elisor for signature must be identical to the copies of documents attached to the RFO.
- (d) An order appointing an elisor must designate "The Clerk of the Court or Clerk's Designee" as the elisor. (01/01/18)

#### Rule 934 - Venue

- (a) Initial pleadings in a family law matter may be filed either at the Visalia Courthouse or the South County Justice Center in Porterville.

(b) Venue may be transferred in the following circumstances, and consistent with Code of Civil Procedure section 397:

- (1) The parties may stipulate to transfer venue.
- (2) A party may file a Request for Order to Transfer Venue, and if granted venue will be transferred.
- (3) The court, in it's discretion, may transfer venue. (01/01/18)