Local Rules of

Superior Court of California

County of Yolo

Effective January 1, 2007; As amended, eff 01/01/08; As amended, eff 01/01/09; As amended, eff 01/01/10; As amended, eff 07/01/10; As amended, eff 01/01/11; As amended, eff 01/01/12; As amended, eff 01/01/13; As amended, eff 01/01/15

The following rules of court for the Superior Court of Yolo County are adopted January 1, 2015 and replace the rules previously adopted by the Superior Court of Yolo County.

In addition to these local rules, Yolo Superior Court enforces all applicable state statutes and the California Rules of Court. Counsel and self-represented litigants are responsible for knowing and complying with applicable state statutes and the California Rules of Court. In general, the local rules do not contain rules that are duplicative of state statutes or the California Rules of Court.

List of Current Effective Dates

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1.1	Name, Citation and Effective Dates	01/01/2007	
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1.3	Severability of Rules	01/01/2007	
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3.4	Submission on Briefs	01/01/2007	01/01/2011
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RULE 1: GENERAL RULES

1.1 NAME, CITATION AND EFFECTIVE DATE

These rules shall be known as the Local Rules of the Superior Court of California, County of Yolo, referred to herein as Yolo Superior Court. The rules may be cited as YCR, followed by the appropriate number. These rules become effective on January 1, 2007, and supersede all other local rules previously adopted by the Yolo Superior Court. *(Effective January 1, 2007)*

1.2 CONSTRUCTION

These rules shall be construed and applied in such a manner as to avoid conflict with the California Rules of Court and shall be liberally construed to serve the efficient administration of justice in Yolo Superior Court.

The California Rules of Court are not printed as part of the Yolo Superior Court Rules, but are incorporated within them. Proceedings in the Yolo Superior Court are governed by the California Rules of Court as supplemented by these rules, and shall be read in conjunction with them. *(Effective January 1, 2007)*

1.3 SEVERABILITY OF RULES

If any of these rules conflict with any statute, rule or decision, the rule(s) shall be deemed amended by said statute, rule or decision, and the remaining rules shall remain in force and effect. *(Effective January 1, 2007)*

1.4 SANCTIONS FOR VIOLATION OF LOCAL RULES

If a party or an attorney fails, refuses, or neglects to comply with these rules, the California Rules of Court, or any other rules or statutory requirements, the Court may, after notice and an opportunity to be heard, impose sanctions as authorized by law. *(Effective January 1, 2007)*

RULE 2: LOCATION AND ORGANIZATION

2.1 COURT LOCATION

The Yolo Superior Court is located in the City of Woodland. For exact locations and phone directory see the court's website at www.yolo.courts.ca.gov. *(Effective January 1, 2007; As amended, eff 01/01/10)*

2.2 FILINGS AND MAILED FILINGS

All documents, for whatever department, shall be filed with the appropriate clerk. For exact locations and phone directory see the court's website at www.yolo.courts.ca.gov . *(Effective January 1, 2007; As amended, eff 01/01/08; As amended, eff 01/01/10)*

2.3 COURT DOCUMENTS AND FILES

All documents in court files are public record, with the exception of those items deemed confidential by statute, regulation, court rule, court order or other law. Under no circumstances will anyone other than court personnel be allowed to disassemble documents in court files or remove files from the clerk's office. See Appendix 5 Record Viewing and Copying Policy. *(Effective January 1, 2008; Renumbered Effective January 1, 2015)*

2.4 FORM OF PAPERS PRESENTED FOR FILING

When filing any document, the parties shall furnish the court with both: (1) a single sided original that is unbound and binder-clipped or unbound and rubber-banded together; and (2) one bound copy. Judicial Council and local court forms, records on appeal in limited civil cases, and briefs filed in appellate divisions need not be single-sided, but must be submitted unbound. *(Effective January 1, 2015)*

RULE 3: APPELLATE DIVISION

3.1 ASSIGNMENT

Four judges of the Superior Court are assigned as judges of the Appellate Division. The Presiding Judge of the Superior Court will recommend to the Presiding Judge of the California Supreme Court the final assignment of one of these judges to act as the Presiding Judge of the Appellate Division. The Appellate Division Presiding Judge will select and appoint the members for each panel. *(Effective January 1, 2007)*

3.2 REGULAR AND SPECIAL SESSIONS

Regular sessions of the Appellate Division of the Yolo Superior Court shall be held each calendar month as necessary. Special sessions may be held at the call of the Presiding Judge of the Appellate Division. *(Effective January 1, 2007)*

3.3 APPELLATE RECORD

Unless the trial court orders otherwise, in accordance with Rule 8.914(a) of the California Rules of Court, the Appellate Division hereby elects to use the original trial court file in lieu of a clerk's transcript. *(Effective January 1, 2011)*

3.4 SUBMISSION ON BRIEFS

Unless the Appellate Panel reviewing an appeal orders oral argument, all appeals to the Appellate Division are decided on the written briefs. Parties may apply for an oral argument when they file an initial written brief, but they must state their reasons. The Appellate Panel has sole discretion to grant oral argument. *(Effective January 1, 2007; renumbered eff 01/01/11)*

3.5 BRIEFS/DISMISSAL

Each party shall file with the Clerk of the Court an original brief with three copies in appeals or writs from limited civil cases and misdemeanors and an original brief and one copy in an appeal from an infraction. Briefs shall be prepared, served and filed as provided in Rule 8.706 of the California Rules of Court. Failure to file a written brief or to procure an adequate record on appeal, or any other grounds set forth in Rules 8.762 and 8.792 of the California Rules of Court, may result in the dismissal of the appeal. *(Effective January 1, 2007; renumbered eff 01/01/11)*

3.6 CALENDAR AND NOTICE FOR HEARING

If a hearing of an appeal to the Appellate Division is ordered, the hearing shall be calendared and notice given by the Clerk as provided by Rule 8.885(c) (in misdemeanors and limited civil cases) and Rule 8.914(c) (in infraction cases) of the California Rules of Court. *(Effective January 1, 2007; renumbered & as amended, eff 01/01/11)*

3.7 MOTIONS

Any motions before the Appellate Division will be decided at regular sessions unless a different time is scheduled. Motions shall be filed with an original and three copies as specified in Local Rule 3.4. *(Effective January 1, 2007; As amended, eff 01/01/10; renumbered eff 01/01/11)*

RULE 4: COURT SECURITY AND CONDUCT

4.1 SECURITY

Security in all courtrooms of the Yolo Superior Court shall be maintained by the Sheriff of the County of Yolo. *(Effective January 1, 2007)*

4.2 WEAPONS IN COURT FACILITIES COMPLIANCE WITH PENAL CODE SECTION 171(B)

(a) All persons are required to comply with Penal Code Section 171(b). No person shall bring or possess any weapon as defined in Penal Code Section 171(b) into a court facility. Exceptions are:

1. Weapons possessed or in transport to be used as evidence in a court of law with picture identification and appropriate proof. Weapons that can be locked must have locks on them.
2. Weapons possessed by Peace Officers carrying out official duties who are uniformed or non-uniformed.

(b) Peace Officers who are not parties to any court proceeding and who wish to bring weapons into any courtroom shall identify themselves to the Courtroom Bailiff and obtain permission from the bailiff to bring the weapon into the Courtroom.

(c) No person (including Peace Officers) shall carry a weapon into any Court facility when appearing in Court in which they are a party to the case.*(Effective January 1, 2007; as amended, eff 01-01-09)*

4.3 DRESS POLICY

All persons who appear in any courtroom shall dress appropriately. The bailiff on duty, under the supervision of the Judge presiding in that courtroom, has the authority to enforce this rule and exclude persons with inappropriate attire from entering the courtroom. The following shall not be worn in court: sunglasses, hats, shorts, tank tops, or any other attire inconsistent with the traditional dignity of the court. *(Effective January 1, 2007)*

4.4 RESTRICTED AREAS

(a) The workstations for courtroom clerks and all judges' benches and chambers are reserved for the exclusive use of the court staff. Everyone else is prohibited from entrance into these areas unless directed to enter by court personnel. *(Effective January 1, 2007)*

(b) Court staff shall be responsible for enforcing these rules by requesting anyone other than court personnel to leave any restricted area. Bailiffs may remove

individuals who violate this directive and report violations to the Presiding Judge. *(Effective January 1, 2007)*

4.5 RECORDING EQUIPMENT PROHIBITED

(a) Prohibited Activities. Photographing, videotaping, televising, or otherwise recording any court proceeding is prohibited unless a written request has been filed and approved by the Judge presiding at the proceeding prior to the commencement of the proceeding. No one may use a camera or camera-phone to transmit, record, or take pictures in any portion of the courthouse except as permitted by these rules and Rule 1.150 of the California Rules of Court.

(b) Members of the Media. Members of the media shall meet with the Court Executive Officer, or his or her designee, prior to operating media equipment in common areas of the courthouse.

(c) Prohibition Against Visual Displays, Banners, Flags, Photographs. No person present at a court proceeding may display any buttons, flags, signs, images or otherwise that might prejudice the court or jury or undermine the security or decorum of the proceeding. The bailiff on duty, under the supervision of the Judge, shall have the authority to enforce these rules. *(Effective January 1, 2007; As amended, eff 01/01/08; As amended, eff 01/01/11; As amended, eff 01/01/2015)*

4.6 USE OF LAPTOP COMPUTERS AND ELECTRONIC DEVICES

All computers and electronic devices, including but not limited to cell phones, pagers, and personal digital assistants shall be turned off before entering the courtroom. If a laptop computer or electronic device is necessary for a matter at issue, it may be used only if expressly authorized by the sitting judge at the hearing. An electronic device shall not be handled in any way as to indicate a picture, audio or video recording is being taken. Enforcement is in the sole discretion of the sitting judge. Violators are subject to contempt of court-and/or confiscation of the computer or device. *(Effective January 1, 2008; As amended, eff 01/01/10)*

RULE 5: LAW STUDENT PRACTICAL TRAINING

5.1 GENERAL

A certified law student may be allowed to appear in a case, subject to approval of the Judge presiding over the proceeding, provided a supervising attorney is personally present throughout the proceeding. *(Effective January 1, 2007)*

5.2 JURY TRIAL

A certified law student may participate in a criminal jury trial under the direction of a supervising attorney, pursuant to the Rules Governing Practical Training of Law Students of the State Bar of California. *(Effective January 1, 2007)*

5.3 CONSENT OF DEFENDANT

Before a certified law student appears on behalf of a defendant in a criminal case, the defendant shall expressly consent in open court, and the consent shall be entered in the court's minutes. *(Effective January 1, 2007)*

5.4 DISCRETION TO PROHIBIT OR RESTRICT ACTIVITY

Notwithstanding the foregoing, the Judge presiding in the courtroom has the discretion to prohibit or restrict the law student's activity in that courtroom when the circumstances so require, e.g. the complexity of the matter involved, the expeditious disposition of the court's business, the possible imposition upon the time of opposing counsel, and in the interests of justice. *(Effective January 1, 2007)*

RULE 6: JURY SERVICES

6.1 INTRODUCTION/JURY SERVICES

Jury service, unless excused by law, is a responsibility of citizenship. The court and its staff shall employ all reasonable, necessary and appropriate means to assure that citizens fulfill this important civic responsibility. *(Effective January 1, 2007)*

6.2 JURY COMMISSIONSER'S DUTIES

The jury commissioner shall be governed by the rules set forth in the California Rules of Court and Code of Civil Procedure. *(Effective January 1, 2007)*

6.3 SELECTION OF JURORS

The sources used for the selection of jurors shall be the records of the Yolo County Registrar of Voters and the Department of Motor Vehicles' record of licensed drivers and identification card holders. Pursuant to Code of Civil Procedure Section 197, these two sources, when substantially purged of duplicate names, shall be considered inclusive of a representative cross-section of the population served by the court. *(Effective January 1, 2007)*

6.4 SELECTION OF PROSPECTIVE JURORS

The jury commissioner shall determine the number of prospective jurors needed. A random method of selection shall be applied to the source records when selecting the names of prospective jurors. The procedure used for selection and summoning of trial jurors shall provide for maximum involvement of every qualified citizen for the shortest feasible period of service. *(Effective January 1, 2007)*

6.5 SUMMONING AND QUALIFYING PROCESS

The jury commissioner shall summon, in the manner prescribed by law, the persons whose names appear on the panels of jurors drawn by the jury commissioner for the jury trials in Yolo Superior Court. Summoning and qualifying prospective jurors shall be performed as one integrated process. This process is known as a "one-step" process, with the summons and qualifying questionnaire combined as one form. The jury commissioner shall be governed by a rule of procuring, not excusing, citizens as jurors. However, the jury commissioner shall, at all times, give to all citizens every consideration with respect to the circumstances that affect their qualifications and availability for jury duty. *(Effective January 1, 2007)*

6.6 DISQUALIFICATION

Pursuant to Code of Civil Procedure Section 203, all persons are eligible and qualified to be prospective trial jurors in Yolo Superior Court except the following:

Anyone who is not a citizen of the United States; is under 18 years of age; is not a resident of Yolo County; has been convicted of a felony and whose civil rights have not been restored; who does not have sufficient knowledge of the English language (provided that no person shall be deemed incompetent solely because of the loss of sight or hearing in any degree or other disability that impedes the person's ability to communicate or impairs or interferes with the person's mobility); is serving as a grand or trial juror in any court of this state; or is the subject of conservatorship. *(Effective January 1, 2007)*

6.7 REQUESTS FOR EXCUSE OR POSTPONEMENT

The jury commissioner's criteria for granting excuses, postponements or disqualifications shall be in accordance with the Code of Civil Procedure and the California Rules of Court. *(Effective January 1, 2007)*

6.8 LENGTH OF SERVICE

(a) Jurors have fulfilled their service obligation for a 12-month period when they have served on one trial until discharged; served through the completion of jury selection or until excused by the court or jury commissioner; attended court but were not assigned to a trial department for selection of a jury before the end of the day; served one day on call; or served no more than five court days on telephone standby.

(b) If, after appearing for jury service, the judge or jury commissioner excuses a juror or prospective juror for hardship reasons, the juror is subject to be called again at any time.

(c) Jurors who serve on a trial lasting four or more weeks shall be exempted from jury service for the standard 12 months plus an additional 12 months. *(Effective January 1, 2007)*

6.9 REPORTS AND RECORDS

(a) The jury commissioner shall maintain records regarding selection, qualification and assignment of prospective and sworn jurors. The jury commissioner shall maintain records providing a clear audit trail regarding a juror's attendance, jury fees and mileage.

(b) All records maintained by the jury commissioner in connection with the selection or service of a juror may be kept electronically, and such records shall

be preserved for at least three years after the list used in the selection process was prepared, or for any longer period ordered by the court or jury commissioner

(c) The jury commissioner shall prepare a quarterly report containing designated jury trial statistics.

(d) A copy of the jury list shall be given to each attorney participating in a jury trial. Such list, containing the names of the prospective jurors, shall be returned to the court clerk at the conclusion of the trial. If a supplemental questionnaire is completed by prospective jurors in a case, all copies of the supplemental questionnaire shall be returned to the court clerk at the conclusion of the trial. *(Effective January 1, 2007)*

6.10 JURY PRIVACY

All other records in the office of the jury commissioner shall be available only to court personnel and may not be inspected or made available to attorneys or participants in trials without an order of the court. *(Effective January 1, 2007)*

RULE 7: EX PARTE HEARINGS

7.1 EX PARTE HEARINGS

All ex parte matters shall be conducted in strict accordance with Rule 3.1200 et seq. of the California Rules of Court. Any request to set an ex parte application for hearing shall be made to the department for which the case is assigned. Family Law matters are governed by this Rule and Rule 17.1. *(Effective January 1, 2007; As amended, eff 01/01/08)*

RULE 8 COURT REPORTER

8.1 COURT REPORTER SERVICES

The services of official court reporters are normally available for all felony, misdemeanor, and juvenile matters, with the exception of misdemeanor arraignments and traffic matters, regardless of the departments in which they are heard. The services of official court reporters are normally not available for civil matters, with the exception of those under the Lanterman-Petris-Short Act (Welf. & Insts. Code, §§ 5000 – 5550), for which the services of official court reporters are normally available regardless of the departments in which they are heard.
(Effective January 1, 2007; As amended, eff 01/01/10)

8.2 COURT REPORTER REQUESTS FOR CIVIL, FAMILY AND PROBATE MATTERS

Parties wishing to have a court reporter present must request the services in writing five (5) court days prior to the calendar date. Any court associated fees must be paid in advance. All requests shall be made through the Court Services Division.

If the 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 the party's responsibility to pay the reporter's fee. *(Effective January 1, 2007; As amended, eff 01/01/2009; As amended, eff 01/01/10)*

RULE 9 COORDINATION OF DOMESTIC VIOLENCE AND CHILD CUSTODY/VISITATION ORDERS

9.1 COMMUNICATION

(a) Before a Criminal Protective Order (CPO) or Domestic Violence Restraining Order (DVRO) is issued the Court shall inquire if there are:

1. children of the relationship between the defendant/restrained person and the victim/protected person,
2. custody and visitation orders in place for those children, and
3. existing protective/restraining orders involving the parties.

(b) If there is not an existing order for custody and/or visitation, the criminal court may issue a CPO authorizing the family, juvenile or probate judge to allow the safe exchange of the child(ren).

(c) If there is an existing custody and/or visitation order, the criminal judge may, if it is in the best interest of the child(ren), issue a CPO to allow for the safe exchange of the child(ren).

(d) If a criminal judge determines that there is a family law DVRO and the protected parties are the same as the victims in the case before the criminal court, the criminal judge shall not issue a CPO less restrictive than the DVRO. *(Effective January 1, 2008)*

9.2 MODIFICATION OF THE CRIMINAL PROTECTIVE ORDER

The Family, Juvenile, or Probate Court may modify the CPO if a custody and/or visitation order is more restrictive than the existing CPO.

If a proposed custody and/or visitation order is less restrictive than the existing CPO, the criminal, family law, probate and/or juvenile case(s) shall be calendared in the criminal department. If the criminal judge agrees to modify the CPO, he/she shall issue a new CPO and sign the custody and/or visitation order. The criminal judge shall follow the rules of confidentiality when the hearing involves a juvenile case. *(Effective January 1, 2008)*

RULE 10 RESERVED

Chapter 2

CIVIL RULES

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RULE 11: GENERAL CIVIL

11.1 FORM OF FILINGS

All documents presented for filing shall comply with the California Rules of Court, in particular Rules 3.1110 through 3.1115 of the California Rules of Court.

(a) Format of Filings. The format for any papers filed with the Yolo Superior Court shall conform to Rule 3.1110 of the California Rules of Court and Rule 2.4.

(b) Length of Filings. The length of any motion or other document filed with the Yolo Superior Court shall conform to the limits set forth in Rule 3.1113(d) of the California Rules of Court. A party may apply to file a longer pleading pursuant to Rule 3.1113(d) of the California Rules of Court.

(c) Citation of Authority. Pursuant to Rule 3.1113(i) of the California Rules of Court, if any authority other than California cases, statutes, constitutional provisions or State or local rules is cited in any motion or memorandum of points and authorities, a copy shall be attached to the papers in which the authorities are cited and tabbed as exhibits. If a California case is cited before the time it is published in the Advance Sheets of the Official Reports, a copy of that case shall also be attached and tabbed. *(Effective January 1, 2007; As amended, eff 01/01/2015)*

11.2 DEADLINE FOR FILING

Unless otherwise ordered by the Court or specifically provided for by law, all moving and supporting papers shall be served and filed pursuant to provisions of Rule 3.1300 of the California Rules of Court and Code of Civil Procedure Section 1005. *(Effective January 1, 2007)*

11.3 LAW AND MOTION

(a) Calendar. The law and motion calendar shall be called at such time as is designated by the Presiding Judge. Parties shall call the civil legal process unit in advance of setting any matter on calendar (1) for availability, and (2) to reserve the date.

(b) Time Limit. Hearings on the law and motion calendar may be limited by the sitting judge to accommodate the court's calendar. Matters may be reassigned to a specific time at the convenience of the court.

(c) Ex Parte Hearings. See Rule 7.

(d) Ruling Without Hearing. In appropriate circumstances, the Court may rule on the issues before it solely on the pleadings and without argument or further testimony.

(e) Continuances. Upon stipulation by all parties, or upon request of the moving party with appropriate notice, law and motion matters may be continued once by the clerk at least five (5) court days prior to the matter being heard. Any party seeking a continuance that is not received timely shall appear in court at the time set for hearing and request such from the judge to whom the matter has been assigned.

(f) Drops. When a matter is to be dropped from the law and motion calendar, the moving party shall promptly notify the clerk's office, but in no event shall notice be later than two (2) court days before the hearing. Any notice less than five (5) shall require approval from the Court. *(Effective January 1, 2007; As amended, eff 01/01/10; As amended, eff 01/01/2015)*

11.4 TENTATIVE RULINGS

(a) Yolo Superior Court follows Rule 3.1308(a)(1) of the California Rules of Court for tentative rulings. Tentative rulings for the next court day will be available by phone at (530)406-6806 and on the Court's web site after 2:00 p.m. The tentative ruling shall become the ruling of the court, unless a party desiring to be heard so advises the courtroom clerk of the designated department no later than 4:00 p.m. on the court day preceding the hearing, and further advises the courtroom clerk that such party has notified the other side of its intention to appear.

(b) All noticed motions and demurrers in the civil department shall include the following information in the notice:

"Pursuant to Local Rule 11.4, the court will issue a tentative ruling on the merits of the matter by 2:00 p.m. on the court day before the hearing. The tentative rulings are available by phone at (530)406-6806 and on the Court's web site after 2:00 p.m. The tentative ruling shall become the ruling of the court, unless a party desiring to be heard so advises the courtroom clerk of the designated department no later than 4:00 p.m. on the court day preceding the hearing, and further advises the courtroom clerk that such party has notified the other party(s) of its intention to appear." *(Effective January 1, 2007; As amended, eff 01/01/10; As amended, eff 01/01/11)*

11.5 DEFAULT JUDGMENTS

A party seeking a default judgment shall comply with Rule 3.1800(a) of the California Rules of Court. *(Effective January 1, 2007)*

11.6 ATTORNEY FEES

Pursuant to Rule 3.1800(b) of the California Rules of Court, attorney fees may be awarded in the case of a default judgment as follows:

Exclusive of costs and interest,

- Twenty-five percent (25%) of the first two thousand dollars ($2,000 awarded as damages with a minimum fee of three hundred dollars ($300);
- Twenty percent (20%) of the next four thousand dollars ($4,000);
- Fifteen percent (15%) of the next four thousand dollars ($4,000);
- Ten percent (10%) of the next ten thousand dollars ($10,000 dollars;
- Five percent (5%) of the next thirty thousand dollars ($30,000); and
- Two percent (2%) of amounts in excess of the first fifty thousand dollars ($50,000), on the next one hundred thousand dollars ($100,000); and
- The Court, in its discretion, will fix fees for recoveries in excess of one hundred fifty thousand dollars ($150,000). *(Effective January 1, 2007)*

11.7 ATTORNEY FEES IN UNLAWFUL DETAINER CASES

In an unlawful detainer case where the amount in controversy is less than twenty-five thousand dollars ($25,000), the attorney fees for a court trial or for a default judgment obtained at the time of trial shall not exceed three hundred fifty dollars ($350).

The attorney fees for an unlawful detainer action where a judgment is obtained and no hearing has been calendared shall not exceed two hundred twenty-five dollars ($225). *(Effective January 1, 2007)*

11.8 MOTIONS FOR SUMMARY JUDGMENT OR SUMMARY ADJUDICATION OF ISSUES

All motions for summary judgment or summary adjudication of issue(s) shall conform to the requirements of the Code of Civil Procedure 437c and Rules 3.1350, 3.1352 and 3.1354 of the California Rules of Court. *(Effective January 1, 2007; As amended, eff 01/01/2015)*

11.9 SUBSTITUTION IN PROPRIA PERSONA

No substitution of a party as attorney in propria persona will be filed unless it contains the mailing address and telephone number of the party. The substitution shall be accompanied by proof of service on all other parties. *(Effective January 1, 2007)*

11.10 SELF-ADDRESSED STAMPED ENVELOPES

Anyone submitting documents for filing who desires the return of stamped copies shall provide the clerk with a self-addressed, postage-paid envelope of sufficient size. If no such envelope is provided, the documents will be placed in the attorney's pick-up box located in the Clerk's office. Documents placed in the attorney's box shall be claimed within thirty (30) days or they will be discarded without notice. *(Effective January 1, 2007)*

11.11 STATE BAR AND FACSIMILE NUMBERS

All attorneys shall include their facsimile number, if any, and bar number on all filings, correspondence or documents submitted to the court. *(Effective January 1, 2007)*

11.12 FEE WAIVERS

(a) Duration: An order waiving fees obtained pursuant to Rules 3.50 through 3.63 of the California Rules of Court and Governmental Code Section 68511.3 shall expire one (1) year from the date signed. This shall not in any way diminish the obligation of the person receiving the waiver to notify the court promptly of any change in financial circumstances affecting his or her ability to pay court fees and costs.

(b) Request for Copies: The Court will provide a single copy of any reasonably necessary document contained in the file to a party who has received a fee waiver. Further copies without charge require a court order based on a showing of good cause. *(Effective January 1, 2007)*

11.13 SHORT CAUSE MATTERS

Upon stipulation, or request of the moving party with notice to any previously noticed party and an order signed by the judge, any short cause matter as defined in Rule 3.735(a) of the California Rules of Court may be continued once any time prior to three (3) court days before the hearing. A request for continuance made three (3) court days or less before the hearing date shall be made upon ex parte motion before the presiding judge. *(Effective January 1, 2007)*

11.14 LONG CAUSE MATTERS

All continuance of long cause matters shall meet the standard for trial continuances under Rule 3.1332 of the California Rules of Court. *(Effective January 1, 2007)*

11.15 PROOF OF SERVICE

Pleadings and proofs of service shall be filed and served in compliance with Rule 3.1300 of the California Rules of Court or the court may elect to drop the matter from calendar at its discretion. Each proof of service shall identify the document served by the exact title of the document. It is preferred that a proof of service be attached to each document filed, rather than filing separate proofs of service.
(Effective January 1, 2007; As amended, eff 01/01/10)

RULE 12: CASE MANAGEMENT

12.1 PURPOSE AND GOAL

The purpose and goal of civil case management is to:

(a) Manage fairly and efficiently, from commencement to disposition, the processing of civil litigation;

(b) Fully implement the goals of Government Code Section 68600, et seq. and Rule 3.70, et seq. of the California Rules of Court; and

(c) Promote alternative dispute resolution (ADR). *(Effective January 1, 2007)*

12.2 FILING AND SERVICE OF PLEADINGS

(a) Complaint: except as otherwise provided in these rules, a plaintiff shall within sixty (60) days after the filing of a complaint serve the complaint on each defendant together with (1) the Notice of Case Management Conference; (2) the Alternative Dispute Resolution(ADR) information packet; and (3) such local forms as may be provided by the court clerk.

(b) Cross-complaint: except as provided in these rules, each defendant shall within thirty (30) days after answering the complaint file any cross complaint (within fifty (50) days if compliance with a governmental claims statute is a prerequisite to the cross-complaint) not already served with the answer under Code of Civil Procedure Section 428.50 and serve with that cross-complaint the items set forth above.

(c) Responsive pleadings: except as provided in these rules, each party served with a complaint or a cross-complaint shall file and serve a response within thirty (30) days after service. The parties may by written agreement stipulate to one fifteen (15) day extension to respond to a complaint or cross-complaint.

If the responsive pleading is a demurrer, motion to strike, motion to quash service of process, motion for a change of venue or a motion to stay or dismiss the case on *forum non conveniens* grounds, and the demurrer is overruled or the motion denied, a further responsive pleading shall be filed within ten (10) days following notice of the ruling unless otherwise ordered. If a demurrer is sustained or a motion to strike is granted with leave to amend, an amended complaint shall be filed within ten (10) days following notice of the ruling unless otherwise ordered. The court may fix a time for filing pleadings responsive to such amended complaint.

(d) Proofs of service: Proofs of service shall be filed within sixty (60) calendar days of the filing of the complaint or cross-complaint.

(e) Time to serve may be extended for good cause: Upon ex parte application to the court, in compliance with Rule 3.1200 of the California Rule of Court, within sixty (60) days of the date the complaint was filed, plaintiff may obtain an extension of the time to serve to a date on or before the case management conference, if good cause is shown by declaration of counsel (or plaintiff filing in propria persona). An additional extension of the time to serve (an initial extension if the application is by a cross-complainant) may be obtained upon written application to the court upon good cause shown before the prior extension has expired. The filing of a timely application for an extension will automatically extend the time to serve by five days, whether or not the application is granted.

Good cause will be found if the declaration shows that the action is filed against a defendant who is an uninsured motorist, and the plaintiff's claim is subject to an arbitration provision in plaintiff's contract of insurance. *(Effective January 1, 2007)*

12.3 UNINSURED MOTORIST; DUTY TO ADVISE

(a) If the complaint involves an uninsured motorist claim as defined in Insurance Code Section 11580.2, plaintiff shall advise the court no later than the first case management conference. Once the plaintiff has advised the court of the claim, the court shall toll the timeliness requirements imposed by these Rules for 180 days from the initial filing date. The case management conference will be continued by the court for a period not to exceed 200 days from the initial filing date.

(b) If the case has not concluded, a new case management conference statement shall be filed by all parties fifteen (15) days prior to the conference, setting forth the reasons for the delay and the expected date of the award or conclusion of the claim, among other matters.

(c) If a judgment, Notice of Settlement (Judicial Council Form 200), or dismissal has been filed, the case management conference shall be vacated. *(Effective January 1, 2007)*

12.4 CASE MANAGEMENT CONFERENCE AND STATEMENT

(a) A case management conference will be set by the clerk at the time the complaint is filed. (Government Code Section 68618.) Normally, the CMC will be set 120 days after the complaint is filed.

(b) If the complaint is a limited collection case, the clerk at the time of filing

shall set the case management conference 385 days after the complaint is filed. (See Rule 12.6.)

(c) At least fifteen (15) calendar days before the scheduled case management conference, each party shall file with the court and serve on all other parties a completed Judicial Council Case Management Statement(Form CM 110).

1. The statement shall be completed in sufficient detail that it will accurately apprise the court of the current status of the case. Joint statements are encouraged.
2. If the case is set for further conference, all parties shall file updated statements fifteen (15) calendar days prior to the scheduled conference. *(Effective January 1, 2007; As amended, eff 01/01/08; As amended, eff 01/01/11)*

12.5 CONDUCT AT CASE MANAGEMENT CONFERENCE (CMC)

(a) Attendance at the CMC, personally or telephonically, is mandatory for all parties or their attorneys of record.

(b) The court will deem the case to be at-issue at the CMC absent a showing of extraordinary circumstances.

(c) The CMC may be set at an earlier date by order of the court or by written stipulation of the parties. The conference may be continued or vacated by the court on its own determination with notice to the parties.

(d) Trial counsel, except for good cause shown, and back up trial counsel shall be specified at the case management conference. If such counsel is not specified, relief from the scheduled trial date may not be obtained based upon the grounds that counsel is not available or scheduled elsewhere.

(e) At the CMC, the judge will make appropriate pre-trial orders that may include the following:

(1) An order referring the case to ADR or by party's agreement or to mediation;
(2) An order assigning a trial date & settlement conference;
(3) An order transferring the case to the limited jurisdiction;
(4) An order identifying the case as one which may be protracted and determining what special administrative and judicial attention may be appropriate, including special assignment;
(5) An order for discovery, including but not limited to establishing a discovery schedule, assignment to a discovery referee, and/or establishing a discovery cut-off date;
(6) An order scheduling the exchange of expert witness information;
(7) An order scheduling a subsequent CMC;
(8) An order to show cause regarding dismissal, monetary or other sanctions, as may be appropriate in the circumstances, for the failure

to prosecute the action, failure to comply with prior court orders, failure to appear, or failure to follow the Court's rules and policies;

(9) An order to show cause re: dismissals may be set by the court to achieve the timely disposition of the case and the interests of justice; and

(10) An order to show cause hearing re: failure to complete judicial arbitration within the court ordered time frame. Sanctions may be imposed.

(f) The court may order a CMC continued any time on its own motion or at the request of any party made in writing, setting forth the good cause therefore, and duly served upon all parties appearing in the action not less than fifteen (15) days prior to the CMC date. *(Effective January 1, 2007; As amended, eff 01/01/08; As amended, eff 01/01/2012)*

12.6 LIMITED CIVIL COLLECTION CASES

Limited civil collection cases are governed by Rules 3.740 and 3.741 of the California Rules of Court and this Rule. Failure to comply may result in an order to show cause and monetary sanctions.

(a) Obligation to take default and obtain judgment: It is the plaintiff's obligation to take the defendant(s) default and proceed to judgment within 360 days after the complaint has been filed. Compliance with Rule 3.740(f) of the California Rules of Court will be strictly enforced. Plaintiffs are encouraged to proceed with default prove-ups as promptly as possible to avoid orders to show cause and sanctions.

(b) Service: Serve all named defendants and file proofs of service on those defendants with the court or obtain an order for publication of the summons within 180 days of the filing of the complaint (CRC 3.740)

(c) Notice of Case Management: Serve a copy of the case management conference notice and a blank case management statement on all named parties in the action. (CRC 3.220 and 3.222)

(d) Responsive Pleading: Comply with CRC 3.110 relating to responsive pleadings, cross complaints, extensions of time and defaults.

(e) Judgment or Dismissal: If a judgment or dismissal of the entire action is filed prior to the date of any calendared case management conference, no appearance or case management statement need be made or filed and the date will be vacated.

(f) Case Management Statement: If no judgment or dismissal of the entire action is filed prior to any calendared case management conference a case management statement must be filed and served and an appearance in person or by court call must be made at the calendared case management conference.

(g) Failure to Follow the Rules: If the rules as set forth herein are not followed, an order to show cause hearing shall be set and notice given. The non-complying party will be ordered to show cause why sanctions, including but not limited to monetary, evidentiary, issue sanctions, striking pleadings and/or dismissal should not be ordered, all order to show cause hearings will require written responses.
(Effective January 1, 2008; as amended, eff 01/01/10; As amended, eff 01/01/2015)

Rule 13: Deleted

Rule 14 : Settlement Conference

14.1 PARTICIPATION

All civil cases set for trial shall participate in a settlement conference. The conference shall be in accordance with Rule 3.1380 of the California Rules of Court, except as provided in these rules and the Court's settlement policy. All parties and their counsel shall be prepared to make a good faith offer of settlement. *(Effective January 1, 2007)*

14.2 FAILURE TO COMPLY

Failure to comply with these rules and policies can result in sanctions in appropriate circumstances. *(Effective January 1, 2007)*

14.3 TRIAL JUDGE

The judge who conducts a settlement conference will not normally preside at the subsequent trial of such case. *(Effective January 1, 2007)*

RULE 15: CIVIL TRIALS

15.1 TRIALS

The conduct of civil trials shall be governed by these Rules except when otherwise governed by statute, the California Rules of Court or by other provisions of the Yolo Superior Court. *(Effective January 1, 2007)*

15.2 TRIAL STATEMENT AND MOTIONS IN LIMINE

Not later than fifteen (15) calendar days before the first day of trial, each party shall file and serve:

(a) A brief trial statement which shall include:

(c) A concise statement of the facts supporting the party's claims or defenses.

(d) A statement of admitted or undisputed facts.

(e) A statement of issues of law. A memorandum of authorities may be filed in conjunction with Rule 15.2(a)(3), but must be filed separately.

(f) The names of all witnesses, except impeachment and rebuttal witnesses.

(g) In jury cases, a list of special questions proposed for jury voir dire.

(b) All Motions in Limine. Oppositions shall be filed seven (7) calendar days before the first day of trial.

(c) In jury trial cases; jury instructions, unless the Court advises otherwise. *(Effective January 1, 2007; As amended, eff 01/01/10)*

15.3 MARKING EXHIBITS

Counsel shall arrange with the courtroom clerk to pre-mark exhibits outside the presence of the judge or jury before the trial begins on the day those exhibits are to be used. *(Effective January 1, 2007)*

15.4 ORIGINAL DEPOSITIONS

If a deposition is planned to be used at trial, the proponent of this evidence shall lodge the original deposition with the courtroom clerk before the trial begins. *(Effective January 1, 2007)*

15.5 Deleted

15.6 INTERPRETERS

(a) The court will make reasonable efforts to maintain a list of interpreters for all languages, the blind and the hearing impaired. A request by any party to a civil action for the use of interpreters for hearing impaired shall be made in compliance with statutory time requirements. The request shall be made through the Court's department of Court Services. Failure to have on the list a type of interpreter requested will not, standing alone, constitute basis for a continuance.

(b) Except for interpreters for the deaf and hearing impaired as governed by Evidence Code Section 754, a party requesting an interpreter in a non-criminal matter shall pay the interpreter directly at the governing per diem rate and mileage. *(Effective January 1, 2007)*

15.7 DUTIES IF CASE SETTLES

(a) Whenever a case assigned a trial date settles, the attorneys or in pro per parties shall immediately notify the court. Notice of settlement shall be conveyed to the court at the earliest possible time, either by telephone or by fax transmittal and followed by written Notice of Settlement. No trial date will be vacated and no action will be dropped from the civil active list until the court receives a written Notice of Settlement in accordance with Rule 3.1385 of the California Rules of Court.

(b) Failure to notify the court of settlement in accordance with this Rule may result in monetary sanctions. *(Effective January 1, 2007)*

Chapter 3

CRIMINAL RULES

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RULE 16: GENERAL CRIMINAL

16.1 CRIMINAL COMPLAINTS—TIME OF FILING

(a) All criminal complaints charging in-custody defendants shall be filed with the clerk of the court no later than 10:00 a.m. on the morning of the day the defendant is to appear. Failure to file a complaint pursuant to the time requirements stated shall result in the arraignment being held on the next court day.

(b) All criminal complaints charging defendants not in custody shall be filed no later than four (4) court days prior to the defendant's appearance. (*Effective January 1, 2007; As amended, eff 01/01/08; As amended, eff 01/01/09)*

16.2 ARRAIGNMENT

(a) Unless ordered by the court, at the defendant's first appearance for arraignment, the defendant shall enter a plea to the information, complaint or indictment. Entry of a plea will not constitute a waiver of the defendant's right to demur to the accusatory pleading or otherwise attack it as provided by law.

(b) At the arraignment the Master Calendar Judge shall assign cases to a judge and department for all purposes through completion unless the assigned judge is absent, disqualified or otherwise unavailable, necessitating a transfer to another judge and department. *(Effective January 1, 2007; As amended, eff 01/01/10)*

16.3 SETTINGS

Unless ordered by the court, at the arraignment the court shall set the dates for:

(a) The trial, giving priorities as required by law;

(b) A trial readiness conference;

(c) The last date to file and serve motions and responses and any hearing thereon. All pretrial motions will be set for hearing on or before the date set for the trial readiness. *(Effective January 1, 2007; As Amended, eff 01/01/2015)*

16.4 MOTIONS

(a) All motions filed in criminal cases shall be made in writing, unless the court, for good cause shown, permits an oral motion to be heard.

(b) All written motions shall be accompanied by a statement of facts and a memorandum of points and authorities. Reference to a case name alone is not acceptable. The absence of a memorandum of points and authorities may be construed as an admission that the motion has no merit and a cause for denial of the motion.

(c) Failure to serve and file papers in opposition to a motion, other than an ex parte application, may at the court's discretion, be deemed a waiver of any objections and an admission that the motion or other application is meritorious. A party who has not timely filed written opposition to a noticed motion may, at the court's discretion, be precluded from offering oral argument at the hearing.

(d) The court hereby incorporates by reference Rule 4.111 of the California Rules of Court regarding pretrial motions except as modified herein. In the interest of judicial efficiency and respect for jury panel members any party filing a motion for which an evidentiary hearing outside the presence of a jury is required shall, at the time of filing, also calendar a hearing setting conference to be held at least fourteen (14) calendar days before the date set for trial.

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

(f) If any authority other than California cases, statutes, constitutional provisions or state or local rules is cited in any motion or memorandum of points and authorities, a copy of the cited authority shall be attached to the papers in which the authorities are cited and tabbed as an exhibit. If a California case is cited before the time it is published in the Advance Sheets of the Official Reports, a copy of that case shall also be attached and tabbed. *(Effective January 1, 2007, As amended, eff 01/01/08)*

16.5 MOTIONS TO SUPPRESS EVIDENCE

A Motion to Suppress Evidence filed pursuant to Penal Code Section 1538.5 shall specify what is sought to be suppressed and shall set forth specific grounds and legal bases that support the motion. *(Effective January 1, 2007)*

16.6 MOTION DEADLINES

(a) Unless otherwise ordered by the court, all motions (except motions in limine for trial) must be filed and served at least fifteen (15) days prior to the date set for hearing. Written opposition shall be filed and served at least five (5) days prior to the date set for hearing.

(b) Any request to extend motion deadlines shall be made in writing and shall be accompanied by a written declaration setting forth facts which would justify such request.

(b) Unless otherwise ordered by the court, all motions in limine for all misdemeanor and felony trials shall be in writing and filed at least three (3) court

days before the first date set for trial. Written opposition shall be filed at least one (1) court days before trial. *(Effective January 1, 2007; As amended, eff 01/01/10)*

16.7 CONTINUANCES

(a) Absent good cause, no case shall be continued for arraignment or plea for a period in excess of fourteen (14) calendar days.

(b) No case shall be continued for preliminary hearing or trial except upon good cause and compliance with Penal Code Section 1050, unless otherwise required by law.

(c) Motions to continue shall be in writing and shall be filed and served on all parties at least two (2) court days before the date set for trial. The motions shall be supported by declarations with competent evidence of the need for a continuance. *(Effective January 1, 2007)*

16.8 CONTINUANCE OF CASES SET FOR TRIAL

Motions to continue a criminal trial are disfavored and shall be denied unless the moving party, pursuant to Penal Code Section 1050, establishes that the interests of justice require a continuance. *(Effective January 1, 2007)*

16.9 DISCOVERY

Discovery in criminal actions is reciprocal in nature and is governed by all applicable laws including Penal Code Sections 1054 through 1054.7. There shall be a standing order in each criminal action requiring all parties and their attorneys to fully comply with Penal Code Sections 1054 through 1054.7, inclusive. The order is deemed to have been made and communicated to all counsel at the time of arraignment. *(Effective January 1, 2007)*

16.10 PROPOSED PATTERN JURY INSTRUCTIONS

In criminal jury trials, the instruction forms contained in the latest edition of Judicial Council of California, Criminal Jury Instructions (CALCRIM) shall be used whenever applicable.

Proposed pattern jury instructions that have been modified by a party shall specify in parentheses or other appropriate manner the respect in which the instructions have been modified. Any proposed instruction not taken from CALCRIM shall indicate the source or authority of the proposed instruction. *(Effective January 1, 2007)*

16.11 CALENDARING REQUESTS

All requests to place matters on calendar shall be made in writing with notice to all parties and received by the clerk at least three (3) court days before the hearing date requested. Matters shall not be set by the Clerk fewer than the three (3) days from the requested hearing date without prior authorization from the Judge presiding over the matter. *(Effective January 1, 2007; As amended, eff 01/01/10)*

16.12 APPEARANCES

Unless excused by Penal Code Section 977 all parties whose appearance is required shall appear in the department assigned on the dates and at the times ordered. However, the judge presiding in the department where a matter has been assigned may give relief from this rule for good cause or in the court's discretion. If counsel and required parties fail to appear without first receiving court permission, the court may impose sanctions. *(Effective January 1, 2007; As amended, eff 01/01/10)*

16.13 PLEA FORMS

Unless excused by the court, whenever a defendant intends to enter a guilty or no contest plea to a felony or misdemeanor charge, a written plea form shall be completed and submitted to the court. Only the plea forms currently approved by the Judges of the Yolo Superior Court shall be used.

It is the duty of all involved counsel to inform the court at the time a plea is submitted whether any proposed plea in the matter has previously been rejected by another judge, even if submitted under a different caption or case number. *(Effective January 1, 2007)*

16.14 VIOLATION OF PROBATION DECLARATIONS AND HEARINGS

(a) Violation of probation declarations shall be submitted for filing at least five (5) court days before the requested hearing date.

(b) A probation violation hearing maybe set before, during or after the trial of any pending criminal charges. A probation violation hearing may also be conducted at the same time as the preliminary examination of pending felony charges, if so ordered by the court. *(Effective January 1, 2007; As amended, eff 01/01/09)*

16.15 RESPONSIBILITIES OF RELIEVED COUNSEL OF RECORD

Any counsel retained or appointed on a criminal case who either (1) moves to be relieved, or (2) declines to accept continued representation of a client in the superior court shall appear in court with all discovery and other normal contents of a file and, upon order of the court, convey the same to the successor attorney. In addition, if it appears to counsel that the Yolo County Public Defender is likely to be appointed, counsel shall give five (5) court days notice to the Yolo County

Public Defender, in writing, of the date of the court appearance where counsel expects to be relieved or to decline further representation. *(Effective January 1, 2007)*

16.16 PRE-TRIAL CONFERENCES IN MISDEMEANORS

(a) Prior to appearing at any pre-trial conference in a misdemeanor case, counsel shall have completed discovery and investigation, conferred with one another, and communicated any offer;

(b) Pre-trial conferences may be held in open court or in chambers, at the court's discretion;

(c) Counsel shall be prepared to discuss fully the evidence and issues with the court;

(d) Cases not settled at the pre-trial conference will be set for trial at the earliest available date. *(Effective January 1, 2007; as amended, eff 01/01/13)*

16.17 PURPOSE OF TRIAL READINESS CONFERENCES

The purpose of trial readiness conferences is to consider the negotiated resolution of pending cases and to confirm trials. In the event there are insufficient judges or courtrooms available to try all confirmed cases, a determination regarding the priority of scheduled trials will be made. At these conferences, attorneys shall inform the court of any need for interpreter services and other special accommodations.

Attendance at the criminal trial readiness is mandatory in felony cases for the defendant, counsel for the defendant and a prosecuting attorney with full authority to dispose of the case. The Court may require a defendant charged with a misdemeanor only to attend such a conference upon a finding of good cause based on the circumstances of a particular case. Prior to the conference the attorneys shall discuss the case to determine the possibility of disposition without trial.
(Effective January 1, 2007; As amended, eff 01/01/10; As amended, eff 01/01/13; As amended, eff 01/01/2015)

16.18 RESOLUTION OF CASES SUBSEQUENT TO TRIAL READINESS CONFERENCE

Except in unusual circumstances, after the trial readiness conference the defendant will not be permitted to plead guilty to less than the principal charges.
(Effective January 1, 2007; As amended, eff 01/01/2015)

16.19 REAL PROPERTY BONDS

In order to post a real property bond, the following procedure must be followed:

(a) A notice of hearing pursuant to Penal Code Section 1298 shall be filed. It shall also be served the District Attorney and County Counsel. Compliance with the notice provisions of Rule 4.111 of the California Rules of Court is required.

(b) The notice of hearing shall be accompanied by an application for a real property equity bond, a declaration of the real property owners, an executed promissory note, a deed of trust made payable to "County of Yolo: as beneficiary and "Court Executive Officer" as trustee, and a proposed order approving the property bond and order for release of the defendant.

(c) In addition, the following must be filed with the original notice of hearing:
(1) An appraisal report of the fair market value of the property, dated not more than 45 days prior to filing the application for the property bond and completed by a qualified real estate appraiser;
(2) A current preliminary title report, prepared by a California title company, that includes a legal description of the property, the address or location of the property, and a listing of all encumbrances, and is dated no more than 30 days prior to the application for the property bond; and,
(3) Proof of insurance coverage of the property, sufficient to pay all encumbrances, which insurance must include "County of Yolo" as a loss payee.

(d) An order approving the property bond and order for release of the defendant shall not be signed unless the court finds that the equity in the property is at least twice the value of the amount of bail, and only upon delivery to the court of the recorded deed of trust. *(Effective January 1, 2009)*

16.20 COPY FEES

Fees shall be charged to local, out-of-county, and out-of -state governmental entities for copies and/or certification of documents contained within a criminal file in accordance with the court's fee schedule. *(Effective January 1, 2010)*

16.21 REIMBURSEMENT FOR CRIMINAL DEFENSE SERVICES

(a) In setting the fee to be reimbursed for criminal defense services under Penal Code section 987.8, there shall be a rebuttable presumption that the fee is that set forth in the Master Fee Schedule adopted and from time to time amended by the Yolo County Board of Supervisors. The rebuttable presumption shall not apply to:

(1) Any adult case that results in a sentence of six months or more in the county jail or a commitment to state prison;
(2) Any person whose fee is waived, in whole or in part, by Yolo County Collection Services ("YCCS") after it conducts a financial evaluation and concludes that the person is unable to pay, in whole or in part, for the services of court-appointed counsel;
(3) Any person whom the Court determines is unable to pay for the services of court-appointed counsel; or
(4) Any case in which the Court determines that the presumption should not apply.

(b) The Court designates YCCS as the county officer responsible for making an inquiry into the ability of the defendant to pay for criminal defense services and making a recommendation to the Court as to whether the defendant shall be ordered to pay the cost. Upon the Court's appointment of counsel, each person (in the case of juveniles and conserved persons, their parent(s) or legal guardian(s)) for whom counsel is appointed is directed to appear before YCCS to determine their financial eligibility to receive these services and for the assessment and scheduling of payment by those deemed both financially eligible and capable of paying the presumptive fees set forth in the Master Fee Schedule.

(c) Every financially able defendant shall be assessed a registration fee in the maximum amount set forth in Penal Code section 987.5. *(Effective July 1, 2010)*

Chapter 4

FAMILY LAW RULES

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RULE 17: GENERAL FAMILY LAW

17.1 REQUESTS FOR EMERGENCY ORDERS AND FOR ORDERS SHORTENING TIME ("OSTs")

(a) Definitions: Requests for Orders in Family Court are set to be heard approximately 30 days after the date of filing. Circumstances sometimes require a hearing within 72 hours (an "Emergency Hearing") or a hearing on something less than 30 days' notice, but not as soon as within 72 hours of filing. **Requests for Emergency Family Court Orders are highly disfavored and should be reserved for matters where great or irreparable injury would result before the matter could be heard on regular notice. OSTs are also disfavored and should not be requested without good cause.**

(b) Sanctions: If, at the hearing, the court finds that there was no emergency or need for hearing on shortened time, *i.e.*, that the matter could have been heard on regular notice and the requesting party knew that at the time of the request, the court may impose attorneys' fees as a sanction against the requesting party under Family Code §271, after notice and an opportunity to be heard.

(c) How to request a hearing for an Emergency Family Court Order or OST:

(1) **Call or fax the appropriate Family Law Department for an emergency hearing date.** The correct Department and telephone number is listed on the court's website at www.yolo.courts.ca.gov. The Courtroom clerk will provide a hearing date within 3 court days at 11:00 a.m. (or other times and dates as the court's calendar permits.) **DO NOT** give the courtroom clerk any information about the case. That is considered an improper *ex parte* communication.

(2) **Give notice to other parent/party** or their attorney by no later than 10:00 a.m. on the court day before the hearing. Notice may be given by telephone, in writing, or by voicemail message. (CRC rule 5.165(a), (b).)

(3) **Serve the Declaration of Notice** and Service of Ex Parte Application, Request For Order and any other papers for the court to consider (or the opposition thereto) on the other party at the first reasonable opportunity before the hearing, Rule 5.167 of the California Rules of Court.

(4) Before the appearing in court for the ex parte hearing, the moving party must pay the *ex parte* hearing fee at the courthouse civil filing window. (If this is a first appearance, the moving party must also pay the first appearance fees or obtain a fee waiver)

(5) **Bring to the hearing:**

- The receipt showing payment of the ex parte hearing fee. The court will not hear the matter without proof of prior payment.
- The request for order (what the moving party wants the court to order) form FL-300
- A declaration signed under penalty of perjury showing the urgency. The declaration should show why the matter must be heard on less than the normal 30 days' notice.
    - **If the moving party believes irreparable injury would result if the other party were notified,** then provide the court with a written declaration signed under penalty of perjury that includes facts showing good cause why notice should not be given to the other party.
    - **If the moving party only needs an order shortening time (OST)(*i.e.*, less than the normal 30 days' notice but not within 72 hours),** try to get the other party to agree to the shortened time and bring a signed stipulation and order to the hearing for the judge to sign, or a declaration describing attempts to get a stipulation and the good cause for shortening time. Good cause for an OST includes, among other things, setting a motion on the same day as the opposing party's already scheduled motion on the same or related issue. OST's do not require an emergency, but they do require good cause to set a hearing on less than normal notice.

(6) **At the hearing, the court will first determine whether notice was proper or whether good cause exists not to require notice**. Good cause may include those matters set forth in Rule 5.165(b)(2) of the California Rules of Court.

(7) **The hearing:** After the court confirms proper notice (or determines that there is good cause not to give notice), the court will determine if the matter should be heard on shortened time. The court may hear argument on this issue. If the court finds that notice was not proper or that the matter does not need to be heard on an emergency basis or on shortened time, the court will set a hearing on regular notice. If notice was proper or good cause is found not to require notice, then the court will rule on the matter *(Effective January 1, 2007; As amended, eff 01/01/09; As amended, eff 01/01/10; As amended, eff 01/01/11; As amended, eff 01/01/2015)*

17.2 FEE WAIVERS

(a) Duration: An order waiving fees obtained pursuant to Rules 3.50 through 3.63 of the California Rules of Court and Government Code Section 68511.3 shall expire one (1) year from the date signed. This shall not in any way diminish the obligation of the person receiving the waiver to notify the court promptly of any change in financial circumstances affecting his or her ability to pay court fees and costs.

(b) Request for Copies: The court will provide a single copy of any reasonably necessary document contained in the file to a party who has received a fee waiver. Further copies without charge require a court order based on a showing of good cause. *(Effective January 1, 2007; Renumbered, eff 01/01/2015)*

17.3 LAW AND MOTION

(a) Except in extraordinary circumstances, the court will not receive testimony on the law and motion calendar. Instead, the court will hear offers of proof, entertain limited argument, consider the financial declarations and other declarations submitted by the parties, and issue a temporary order.

(b) Unless otherwise ordered for good cause shown, all moving papers, points and authorities, and declarations, including financial declarations, relating to a family law motion or order to show cause, shall be filed with the court and served on the opposing party pursuant to Code of Civil Procedure Section 1005. Absent good cause shown, failure to comply may result in refusal by the court to consider any papers not timely filed and/or served, a continuance of the matter if requested by the complying party, or the imposition of sanctions as permitted by law.

(c) Except as excused by law, no case requiring determination of support issues shall be heard unless current Income and Expense Declarations (i.e., filed and current within the 90 days prior to the hearing) have been completed, filed and served; no case requiring determination of property issues shall be heard unless current Property Declarations and/or Financial Statements have been completed, filed and served (Judicial Council Forms FL 140, 142 or 160 and 150). The declarations shall be deemed to be received in evidence at the hearing. Examination on matters covered by the declarations will be heard only under exceptional circumstances and normally will be limited to testimony regarding unusual items not adequately explained on the written declarations.

(d) Documentation of a party's wages and other income, including but not limited to copies of current (i.e., within the 90 days prior to the hearing) paycheck stubs, W-2 forms, 1099 forms, Schedule C forms, other profit and loss statements, or proof of retirement, unemployment, or disability benefits being paid, shall be attached to a party's Income and Expense Declaration.

(e) Continuances. Upon stipulation by all parties and order filed at least five (5) court days prior to the hearing, or upon request of the moving party with appropriate notice, law and motion matters may be continued once by the clerk at least five (5) court days prior to the matter being heard. Any party seeking a continuance that is not received timely shall appear in court at the time set for hearing and request such from the judge to whom the matter has been assigned. The request for continuance should be submitted on pleading paper with proof of service.

(f) Drop/Withdrawal. When a matter is to be dropped from the law and motion calendar, the moving party shall promptly notify the clerk's office and the opposing party, but in no event shall notice be later than five (5) court days before the hearing. The notice of drop/withdrawal should be submitted on pleading paper with proof of service. *(Effective January 1, 2007; As amended, eff 01/01/11; As amended and renumbered, eff 01/01/2015)*

17.4 TRIAL CONTINUANCE

Continuances of family trials are disfavored. If the parties agree to continue the trial for good cause, the matter must be set for a trial setting conference before the trial judge with both parties appearing to set new dates if the court approves the continuance. If the parties do not agree to a trial continuance, the party requesting the continuance must file a request for order seeking a trial continuance, with appropriate supporting declarations, and the request must meet the standard for trial continuances under Rule 3.1332 of the California Rules of Court. *(Effective January 1, 2007; As amended, eff 01/01/11; As amended and renumbered, eff 01/01/2015)*

17.5 FAMILY INFORMATION FORM

(a) When a new family law or domestic violence action that involves a minor child(ren) or probate guardianship action is filed, the petitioner and respondent shall complete and file the Family Information Form. The parties in existing cases may also be required to complete the form if they have not filed pleadings within the last two (2) years or if there has been a change in circumstances. The information gathered from the form will be used to identify related cases and to screen for urgent concerns, such as domestic violence.

(b) This form shall be kept in a confidential envelope in the case file. It shall not be shown or disseminated to anyone except for the judge, mediator, party to the action, attorney of record or any other person authorized by the court.

(c) The form shall not be used in any proceeding as evidence against a party to the action. *(Effective January 1, 2008; Renumbered, eff 01/01/15)*

Rule 18: Child Custody and Child/Spousal Support

18.1 DISPUTES RE: CUSTODY

(a) Parties shall make a good faith effort to arrive at an agreement regarding child custody or visitation before any court hearing and shall be prepared to describe their good faith efforts to the Court.

(b) Parties appearing on a request for order seeking custody or visitation orders will be referred to an in-court child recommending counselor (CCRC) prior to having their case called by the judge. The CCRC will meet with the parents, and, as appropriate, with the child or other parties present in court, to facilitate an agreement. After the short time available with the CCRC (not more than 30 minutes), the CCRC will make a recommendation to the judge. The parties will appear before the court and discuss the recommendation. The court may adopt the recommendation as a stipulated order, or as a temporary order until the issue can be set for trial, or may make other orders that the court deems in the best interest of the child. Repeated requests for modifications of custody and/or visitation orders, without a significant change of circumstances, are disfavored by the court. Unless review hearings are set by the court on its own motion or unless otherwise allowed by the court for good cause shown, parties will be limited to one (1) session with the court CCRC per six-month period. If the parties need further assistance, the court may order them to long-term counseling with a private counselor at the parties' expense.

(c) If the parties cannot agree upon which party should have physical custody, the court may refer the matter for a report and recommendation to a professional who performs private custody and/or psychological evaluations, as the court deems appropriate for a report, as provided in Family Code Section 3111 and Rule 5.220 of the California Rules of Court. In the usual case, the investigation will require an eight-week continuance. The cost of any report shall be advanced by the parties, in shares as ordered by the court, subject to reallocation on completion of the report. *(Effective January 1, 2007; As amended, eff 01/01/11; As amended, eff 01/01/2015)*

18.2 GUIDELINES FOR TEMPORARY CHILD/SPOUSAL SUPPORT ORDERS

(a) The court has adopted a guideline for temporary spousal support. This guideline is discretionary for use in determining temporary spousal support in appropriate cases.

(b) In cases where there is no child support, the guideline shall be 40% of the net income of the payor minus 50% of the net income of the payee. This is commonly referred to as the Santa Clara rule. The Court will use what is commonly referred to as the Alameda rule in child support cases involving spousal support.

(c) In setting child support, the court will apply Division 9, Parts 1, 2 and 3 of the Family Code (Family Code §§ 3500 *et seq.*) *(Effective January 1, 2007; As amended, eff 01/01/11; As amended and renumbered, eff 01/01/2015)*

18.3 CHILD CUSTODY RECOMMENDING COUNSELING

(a) Child custody recommending counseling ("counseling") is a mandatory process governed by Family Code Section 3160 et seq. by which the court refers issues of child custody and visitation to a third party for assistance in negotiating a settlement of the disputes and/or to make recommendations to resolve the issues.

(b) The court has child custody recommending counselors ("CCRCs") assigned on a rotational basis to the family law department to provide in-court, mandatory counseling. Either party may object to an in-court counselor when he/she is appointed. If the court honors the objection and another counselor is not available, the case will be continued to a date when a different counselor will be present. Objections to in-court counselors may be made orally, and without cause or explanation, but must be made prior to the parties leaving the courtroom to meet with the CCRC. Once a counselor has been appointed, an objection will be accepted only after the counselor makes his/her report. At that time, a different follow–up counselor may be requested.

(c) Counselors will normally allow only the parents, and if appropriate, the children, to participate in the counseling process. The counselor, in his or her discretion, may request other persons to participate whose relationship to the children is germane to the counseling process.

(d) Where there has been a history of domestic violence between the parties or where a protective order is in effect, at the request of the protected party (or a party alleging domestic violence in a written declaration under penalty of perjury), the Court shall order the counselor to meet separately with the parties. The protected party also has a right to a support person during the counseling. (*Effective January 1, 2008; As amended, eff 01/01/11; As amended, eff 01/01/2012; As amended and renumbered, eff 01/01/2015)*

18.4 VOLUNTARY CHILD CUSTODY RECOMMENDING COUNSELING

(a) Voluntary counseling is encouraged by the court and nothing in these rules prevents the parties from choosing an independent counselor to help them. Both parties may, at any time, stipulate to out-of-court voluntary counseling by submitting a court approved "Stipulation for Child Custody Recommending Counseling" form for approval by the family court judge, and the mandatory Judicial Council form FL 327 order.

(b) Out-of-court counselors shall prepare and file a report with the court before the date indicated on the order. The report shall contain a brief statement of the

counselor's findings, agreements entered into by the parties and any recommendation the counselor may have on issues not settled by agreement.

(c) Out-of-court counselors negotiate their fees with the parties. Their fees are paid directly by the parties in equal shares unless the court directs otherwise in the order. Out-of-court counselors are not required to file their written reports until they have been appropriately paid by the parties for their services.
(Effective January 1, 2008; As amended, eff 01/01/2012; As amended and renumbered, eff 01/01/2015)

18.5 RECOMMENDATIONS

Counselors, both in- and out-of-court, will offer their recommendations on any issue not settled by agreement. The judge may accept the recommendation or make a different order as appropriate. There is no confidentiality between the counselor and the parties. Counselors may be called to testify in court as to the reasons for their recommendations. If a counselor is called, he/she shall be subpoenaed and paid as an expert by the subpoenaing party before testifying.
(Effective January 1, 2008; As Amended, eff01/01/2012; As Amended and renumbered, eff 01/01/2015)

18.6 DECISIONS

Only the judge shall make a decision or order on issues of custody and visitation. The agreements and/or recommendations of the counselor and the parties will be considered as well as the case file, any legally proper evidence and applicable laws available to the judge. *(Effective January 1, 2008; As Amended, eff 01/01/2012; Renumbered, eff 01/01/2015)*

18.7 GRIEVANCES

Parties who wish to make a complaint about the counseling process, or a counselor, may do so in writing to the court in accordance with the grievance policy available on the courts website or the clerk's office. The court may ask any involved party for his/her oral or written response. The answer to the complaining party shall be in writing.
(Effective January 1, 2008; As amended, eff 01/01/11; As amended, eff 01/01/2012; As amended and renumbered, eff 01/01/2015)

18.8 COURT APPOINTED COUNSEL FOR MINOR CHILDREN IN FAMILY LAW CASES

(a) The court maintains a panel of qualified minor's counsel. The court may in its discretion appoint counsel for a minor in accordance with Family Code Section 3150. Fees and costs for minor's counsel shall be paid by the parties at a rate approved by the court pursuant to Family Code Section 3153.

(b) Complaints regarding the conduct of, or procedures employed by counsel for minor children must be made in writing to the Court Executive Office. A copy of the complaint must be provided to all parties. The Court must determine what action, if any, to take including whether the complaint should be referred to the

appropriate professional licensing board. The Court must provide a written response to the person filing the complaint. *(Effective January 1, 2011; As amended and renumbers, eff 01/01/2015)*

RULE 19: UNCONTESTED AND DEFAULT JUDGMENTS

19.1 GENERAL POLICY

(a) Where a judgment of dissolution, nullity or legal separation of spouses in a marriage or partners in a domestic partnership is sought to be obtained by written agreement of the parties after a response has been filed (uncontested), or by default, the declaration provisions of the Family Code may be used.

NOTE: Judgments of nullity of marriage or nullity of a domestic partnership require a court hearing.

(b) Generally uncontested and default family law judgments shall be obtained by declaration. However, a hearing may be set upon request of a party or by court order.

(c) Parties shall submit requests for uncontested and default judgments using the mandatory Judicial Council forms. Parties should seek the assistance of the court's Family Law Facilitator to ensure that their filings are correct. Incorrect or incomplete filings may be rejected or may delay entry of judgment. *(Effective January 1, 2007; As amended, eff 01/01/2015)*

19.2 CHILD SUPPORT

(a) Where judgment is obtained by default and there is no attached written agreement concerning child support, an attached declaration shall state the effective date of the order sought, the amount of support sought per child and in total, the gross and net income of each party, the name and birth date of each child, and the amount of support for each child as calculated according to the California child support guidelines. A computerized printout of the guideline calculations, including the findings page, may be substituted for the support portion of this declaration. The declaration shall be mailed to the defaulting partying with the request to enter default and proof of such mailing shall be filed with the Court.

(b) Where a child support order is sought and the party to whom support is to be paid is receiving public assistance support shall be ordered payable to the local child support agency, and the local child support agency must approve the child support order or any judgment establishing or modifying a child support order, prior to submission of the order or judgment to the court for review, signature and filing. *(Effective January 1, 2007; As amended, eff 01/01/11; Renumbered, eff 01/01/2015)*

19.3 SPOUSAL OR PARTNER SUPPORT

(a) The issue of spousal or partner support for each party shall be addressed in the judgment. A support amount may be requested, spousal or partner support may be terminated, or the issue of spousal or partner support may be reserved.

(b) If a request for spousal or partner support is by default and there is no attached written agreement concerning spousal or partner support, an attached declaration shall state the effective date of the order sought, the amount of spousal or partner support sought, the gross and net income of each party, information concerning all applicable factors under Family Code Section 4320 regarding permanent spousal or partner support, and the proposed duration of spousal or partner support. The party seeking a spousal or partner support order by default shall comply with all relevant provisions of this rule. The declaration shall be mailed to the defaulting party with the request to enter default and proof of such mailing shall be filed with the court. *(Effective January 1, 2007; Renumbered, eff 01/01/2015)*

19.4 REAL PROPERTY

All real property referred to in a judgment shall be described by its complete common address and/or legal description. *(Effective January 1, 2007; Renumbered, eff 01/01/2015)*

RULE 20: SETTLEMENT AND TRIAL OF FAMILY LAW MATTERS

20.1 MANDATORY SETTLEMENT CONFERENCES

Because the resolution of family law cases by settlement is beneficial to the parties and the children, the court has established the Family Law Settlement Program with the participation of the local family law bar.

(a) All family law matters shall be scheduled for a settlement conference before proceeding to trial, unless expressly exempted by the judge presiding over the family law calendar. Good faith attendance and participation by all parties and counsel are mandatory unless excused by the court.

(b) Upon stipulation of the parties, experienced family law attorneys shall be assigned as settlement conference officers to preside over the settlement conferences.

(c) At least five (5) court days before a settlement conference, each party shall prepare, serve and file (1) a settlement conference statement setting forth the party's position on every contested issue, and (2) a current income and expense declaration and property declaration.

(d) As provided in Rule 1.4, a party and/or an attorney's failure, without substantial justification, to file the documents and/or attend the mandatory settlement conference shall subject that person to sanctions. Sanctions may include, but are not limited to an order for payment to the pro tem settlement conference officer for the time he or she spent at his/her customary hourly rate.

(e) The attorneys, or parties in propria persona, shall set forth the details for any settlement reached, which shall be signed by the parties and/or their attorneys and a copy attached to the clerk's minute order. The written recitation of the specific terms of the settlement must be prepared and signed by the parties and counsel, and presented to the clerk. The judge will review the settlement with the parties and counsel in court after the settlement conference, and enter appropriate orders. If one of the parties refuses, without substantial justification, to sign the prepared order concurring with this agreement, after ten (10) days the court shall sign the order. *(Effective January 1, 2007; As amended, eff 01/01/11; As amended, eff 01/01/2015)*

20.2 GOOD FAITH ATTEMPT AT INFORMAL RESOLUTION

(a) At least five (5) court days prior to the trial date for any contested family law case, counsel for each party shall serve on each opposing party a written proposal, prepared in good faith, for the resolution of all contested issues.

(b) Any financial declaration to be submitted at the trial shall be served on the opposing parties with the above-referenced written proposal for settlement. If the declarations filed before the settlement conference remain current(i.e., valid within the preceding 90 days) at this time, they need not be resubmitted. *(Effective January 1, 2007; As amended, eff 01/01/2015)*

20.3 TRIAL STATEMENT

If the settlement conference statement remains current at this time(i.e., valid within the preceding 90 days), the information contained therein need not be resubmitted. It may be used in lieu of a trial statement. If a party's settlement conference statement is no longer current or requires supplementation, the party shall prepare, serve, and file a trial statement, the original of which shall be submitted to the courtroom clerk for review by the trial judge, five (5) court days prior to commencement of the trial. The statement shall contain proof of service on opposing counsel at least five (5) calendar days prior to the date set for trial. The statement shall include updates of all information that is no longer current in the settlement conference statement, in the following order:

(a) Issues Resolved: An itemization of all issues resolved, and, if by written agreement, a copy of the agreement. If there is no written agreement, list the details of how the issue was resolved;

(b) Disputed Issues: An itemization of all remaining disputed issues for trial and the party's proposed disposition of them, including, as applicable, proposed division of assets, liabilities, fees, costs and/or credits, and the party's proposal for child support, spousal support, custody and/or visitation, as applicable;

(c) Representation of Good Faith Attempts: A representation by counsel as to each disputed issue to be tried that a good faith attempt to resolve disputed issues was made and has been unsuccessful;

(d) Family Law Financial Declarations & Forms: Current Income and Expense Declarations and current Property Declarations in the form prescribed by the California Rules of Court, unless the declarations submitted with the party's settlement conference statement remain current. *(Effective January 1, 2007; As amended, eff 01/01/2015)*

20.4 SETTLEMENT JUDGE MAY PRESIDE OVER SUBSEQUENT TRIAL AND HEARINGS

A judge who conducts a family law settlement conference is not, on that basis alone, precluded from presiding over the subsequent trial or any other hearings. *(Effective January 1, 2007, Renumbered, eff 01/01/2015)*

Chapter 5

JUVENILE RULES

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RULE 21: GENERAL JUVENILE

21.1 DUTIES

The Presiding Judge of the Superior Court may appoint a commissioner to sit as a referee or judge pro tem to hear juvenile matters. *(Effective January 1, 2007)*

21.2 PRELIMINARY PROVISIONS

(a) These rules, together with the California Rules of Court Sections 1400 through 1499, inclusive, the Welfare and Institutions Code, those sections of other codes specifically made applicable to juvenile proceedings by the Welfare and Institutions Code, and case law, shall be the controlling body of law governing proceedings in juvenile court.

(b) These rules shall be applied in a fair and equitable manner consistent with the best interests of the children and families appearing before the juvenile court. *(Effective January 1, 2007)*

21.3 FILING OF PAPERS

(a) All papers shall be accompanied by a proof of service, if applicable, and shall be filed on any applicable Judicial Council form.

(1) New petitions charging minors not in custody shall be filed no later than four (4) court days prior to the minor's appearance.

(2) Jurisdictional and/or Dispositional reports shall be filed not later than noon on the third court day before the hearing.

(3) Dependency status review reports shall be filed not later than ten (10) calendar days before the hearing.

(4) All other reports shall be filed not later than noon on the third court day before the hearing.

(b) All reports and pleadings prepared by child welfare workers, probation officers, attorneys, parties, or others shall be timely filed and served as required by law or these rules. A party's failure to file a report or a pleading in a timely fashion may be grounds for contempt or other permissible sanctions. Detention reports and uncontested jurisdictional hearing reports are considered timely if filed on the day of such hearing. *(Effective January 1, 2007; As amended, eff 01/01/08; As amended, eff 01/01/2015)*

21.4 AGENCY REPRESENTATION

The District Attorney shall be present to represent the probation department in all proceedings conducted pursuant to Welfare and Institutions Code Sections 601 and 602. County Counsel shall be present to represent the Department of Employment and Social Services in all proceedings conducted pursuant to Welfare and Institutions Code Section 300, et seq. *(Effective January 1, 2007)*

21.5 REQUIRED ATTENDANCE AT HEARINGS; CONTINUANCES

(a) Unless excused by the court or as otherwise provided by law, these rules, or standing orders, all parties and attorneys shall attend each scheduled hearing.

(b) Attorneys for parties are expected to adhere to the statutory timelines for all hearings. Continuances will be granted only on a showing of good cause, as required by Welfare and Institutions Code Sections 352 and 682, and Rule 5.550 of the California Rules of Court.

(c) The court will strictly construe Welfare and Institutions Code Sections 352 and 682 and Rule 5.550 of the California Rules of Court in ruling on requests for continuances. All requests for continuances shall be in writing filed and served at least two (2) court days prior to the date set for hearing. Each request shall state good cause for the continuance, and shall demonstrate that granting the continuance is not contrary to the best interest of the child. Mere submission of a request for continuance does not waive the scheduled appearance. The matter will not be continued until the request is granted by the court. *(Effective January 1, 2007)*

21.6 CONFIDENTIALITY OF JUVENILE COURT PROCEEDINGS

(a) Unless specifically permitted by statute, juvenile court proceedings are confidential and shall not be open to the public, except as specifically provided by Welfare and Institutions Code Section 335 and Rule 5.530 of the California Rules of Court. Professional trainees and law students may attend juvenile court proceedings with prior approval of the court. The court retains the sole discretion to determine in each case whether any such interested party shall remain in the courtroom. The court or its agent shall admonish any nonparty in attendance that the names of the parties and any actual or potential identifying information from any case is confidential and shall not be disclosed outside the courtroom. The court may require a non-party in attendance at juvenile court to sign a written agreement or declare under oath that he/she will maintain the confidentiality of all parties to the proceedings.

(b) Upon approval of the court, a minor may bring a support person such as a friend or mentor to any hearing. This support person may be allowed to sit in the courtroom with the minor to observe the minor's court proceeding. *(Effective January 1, 2007)*

21.7 EX PARTE REQUESTS FOR ORDERS OTHER THAN FOR PSYCHOTROPIC MEDICATIONS OR MEDICAL CARE

(a) Before submitting a request for an ex parte order to the court for consideration, the applicant shall give prior notice of the request to all counsel, parties, child welfare workers, and probation officers. Notice shall be given at least twenty-four (24) hours before the application is submitted to the court. The court may waive notice only upon a showing of good cause that is set forth by clear facts in a supporting declaration. An ex parte application lacking a statement explaining whether the parties were notified will be summarily denied.

(b) Ex parte requests shall include the following information:

(1) A description of the efforts made to obtain the consent of and/or give notice to the parties, the parents or legal guardians of the minor, and their attorneys of record or a statement indicating the reasons why said consent or notice should not be required;

(2) An indication of whether the minor, the parents or legal guardians of the minor, or their attorneys refuse to agree to the proposal which is the subject of the ex parte request including the ground for the person's refusal, if known;

(3) The reasons why the ex parte request cannot be made by a regular noticed motion; and

(4) A full disclosure of any prior requests and the court's action thereon whenever a request for an ex parte order of the same character or for the same relief has been made to the court.

(c) An opposing party shall present any written opposition to the court within twenty-four (24) hours of receipt of notice of the ex parte application. The court's initial review of the application will be treated as a non-appearance, non-calendar matter. Upon receipt of the ex parte application and any opposition, as provided above, the court may render its decision on the application or set the matter for hearing, at the court's discretion. The applicant is responsible for serving notice of the court's order on the application, whether granted or denied. If the matter is set for hearing, the applicant shall also give notice of such hearing to all parties and counsel, unless ordered otherwise by the court. Any party disagreeing with the order may request that the matter be placed on calendar for further consideration.

(d) Ex parte requests for (1) orders for temporary removal of prisoners or wards and production as a party, (2) preservation of dispatch transmissions ("CAD purges"), or (3) copies of booking photographs, may be submitted to the court without any prior notice to other parties. *(Effective January 1, 2007)*

21.8 ADMINISTRATION OF PSYCHOTROPIC MEDICATIONS

(a) The administration of psychotropic drugs to minors who are wards or dependent children of the juvenile court and who have been removed from the custody of the parent or guardian shall occur only upon the authorization of a duly licensed psychiatrist or physician having primary responsibility of the minor's care, and the juvenile court, pursuant to Welfare and Institutions Code Section 369.5 or 739, and Rule 5.640 of the California Rules of Court.

(b) The procedures described in Rule 5.640 of the California Rules of Court otherwise govern the manner in which an order to administer psychotropic medications may be obtained.

(c) If the matter is set for hearing and the minor has already been prescribed psychotropic drugs, the attending psychiatrist or physician may continue the administration of those drugs at his or her discretion. However, there shall be no increase in the previously authorized dosage without approval from the juvenile court.

(d) Whenever a dependent child or ward of the court is moved to a new placement or to a facility pursuant to Welfare and Institutions Code Section 5000, et seq., and the child is receiving prescribed medication, the medical or other supervisor at the new placement may continue to administer that medication under supervision of the medical staff or the child's physician. No further order of the court is required and the child's medication is not to be abruptly discontinued for lack of such an order.

(e) This rule does not abrogate any inherent authority a physician may have to provide treatment and care in emergency situations. (Welfare and Institutions Code Sections 369, 369.5, and 739; Cal.Code Regs., Title 9, Section 853)

(f) All orders authorizing the administration of psychotropic drugs shall be submitted to the court for renewal no later than six (6) months from the date of initial issuance, pursuant to the ex parte procedure set forth above.

(g) For children fourteen (14) years of age and older without specific informed consent of the child, a hearing shall be held to determine whether the child is competent to refuse such medication. The hearing procedure shall be in accord with *Reese v. St. Mary's Hospital and Medical Center* (1987) 209 Cal.App.3d 1303 and other applicable laws. *(Effective January 1, 2007)*

21.9 MENTAL HEALTH EXAMINATION OF A CHILD

No party, attorney, or agency in a juvenile court proceeding shall cause the child to undergo a mental health examination or evaluation without court approval. *(Effective January 1, 2007)*

21.10 PREHEARING DISCOVERY

(a) Except as provided by these rules, prehearing discovery in juvenile matters is governed by Rule 5.546 of the California Rules of Court. All discoverable material specified in Rule 5.546(d) of the California Rules of Court shall automatically be disclosed to all parties, without the need for an informal request, no later than five (5) court days before any contested hearing. Prehearing discovery shall be conducted informally, except as provided by statute, claim of privilege or other good cause. The existence of all relevant material held by any party shall be disclosed in a timely fashion to all parties to the litigation or made available to the parties upon request.

(b) Only after all informal means have been exhausted may a party move the court for an order requiring disclosure. The motion shall identify with specificity the information sought and state the efforts that have been made to obtain the information through informal means, along with reasons supporting the relevance and materiality of such information. No motion shall be accepted for filing or heard unless accompanied by a declaration by the moving party or his or her counsel setting forth the following:

(1) That the request for discovery was made at least five (5) court days prior to the date of the filing of the motion;

(2) The response, if any, to the request of the party or his or her counsel;

(3) That the moving party has met and conferred with the party to whom the request was directed or his or her counsel or the facts showing that the moving party attempted, in good faith, to meet and confer.

(c) Records and information released by the social worker pursuant to informal discovery, or after a formal motion to compel discovery has been brought, shall be subject to the following protective order unless the general order is modified by a judicial officer.

(1) Use of records and information obtained from the Department of Employment and Social Services for use in the juvenile court proceeding is limited to that proceeding only.

(2) Counsel for parties may make such copies of the records and information obtained from the Department of Employment and Social Services as necessary for the preparation and presentation of the case.

(3) Records and information received from the Department of Employment and Social Services in discovery proceedings are to be kept confidential and shall not be released, directly or indirectly, to members of

the media or to other individuals not directly connected with the juvenile court proceeding.

(4) The records and information may be reviewed by the parties, their counsel, and any investigator or expert witness retained by counsel to assist in the preparation of the case. Any such person reviewing the records or information shall be made familiar with the terms of this rule.

(d) In order to coordinate the logistics of any discovery, there shall be no depositions, interrogatories, subpoenas of juvenile records, or other similar types of civil discovery without approval of the court upon noticed motion. *(Effective January 1, 2007)*

21.11 APPOINTMENT OF EXPERTS

(a) Where a party is indigent and an expert is necessary to enable counsel to properly represent the party, counsel may apply for the appointment of an expert for the purpose of (1) assisting counsel in case preparation, and/or (2) testifying at the jurisdictional, disposition, or other hearing.

(b) The application shall be made in writing and shall be heard in the department where the case is pending. If the application is granted, the moving party shall prepare an order for the court's signature.

(c) No expert fee shall be paid by the court unless counsel has received an order of the court for payment.

(d) In all contested proceedings, the name, address and curriculum vitae of any experts to be called by any party and written copies of their reports shall be served upon all parties at least five (5) court days prior to the hearing, or such other time as the court may direct in the interest of justice. *(Effective January 1, 2007)*

21.12 CALENDARING REQUESTS

All requests to place matters on calendar shall be made in writing with notice to all parties and received by the clerk at least three (3) court days before the hearing date requested. Matters shall not be set by the clerk fewer than three (3) days from the requested hearing date without prior authorization from the Judge presiding over the matter. *(Effective January 1, 2012)*

RULE 22: JUVENILE DEPENDENCY

22.1 EXPEDITIOUS AND NON-ADVERSARIAL PROCESSING OF DEPENDENCY CASES

(a) It is the policy of the juvenile court to handle dependency cases in an expeditious fashion. All counsel and parties in dependency cases shall be prepared to adhere strictly to statutory deadlines for holding jurisdictional and disposition hearings, as well as review hearings.

(b) It is also the policy of the juvenile court to resolve dependency matters in the least adversarial manner possible. Attorneys are expected to provide effective and professional assistance of counsel while at the same time avoiding an escalation of animosities that might exist. Counsel will be expected to treat parents, witnesses, children, colleagues, social workers, and court staff with dignity and respect. *(Effective January 1, 2007)*

22.2 INVESTIGATION AND EVALUATION

All parties, including investigators and law enforcement officers, shall attempt to minimize the number of times a minor is interviewed regarding the alleged abuse. Agencies and attorneys shall attempt to cooperate in the sharing of interview information, including MDART tapes and transcripts, to avoid unnecessary and duplicative questioning of the minor. *(Effective January 1, 2007)*

22.3 DUE DILIGENCE FOR PARENTS

In all matters where the law requires notice to be given to the parents, guardian or other person of a hearing, the social worker shall conduct a diligent search in an effort to locate the parents of the minor and shall complete and file (prior to the hearing) a declaration of the due diligence detailing the search. *(Effective January 1, 2007)*

22.4 CHILD'S COURT APPEARANCE

(a) All children are entitled to attend court proceedings. Every child ten (10) years of age or older shall be told of his/her right to attend court hearings by the social worker. All children shall attend court hearings unless excused as follows: (1) the minor's attorney waives the minor's appearance; (2) the minor declines to attend; (3) the court excuses the minor; or (4) the minor is physically or mentally disabled and such disability prevents the minor from appearing.

(b) Counsel for each child age ten (10) or older who is in foster care shall make all reasonable efforts to give the child notice of the child's right to attend review hearings, and to ascertain if the child wishes to attend such hearings. Oral notice shall be provided to the child at least ten (10) court days before each regularly scheduled review hearing. If the child expresses a desire to attend the review hearing, counsel shall immediately advise the social worker of the child's wishes

and request that the social worker make arrangements for the child's appearance. At the review hearing, counsel for the child and the social worker shall be prepared to advise the court whether the child desired to attend the hearing and, if so, what efforts were made to have the child transported to court.

(c) Any party or attorney requesting that the child be produced as a witness in the child's case or a sibling's case, shall give notice to the social worker and all other parties or counsel no less than ten (10) court days prior to the hearing date for which the child's presence is requested, or on such shorter notice as ordered by the court.

(d) No child may be transported to the court solely for the child to confer with his or her attorney or solely for purposes of a visit with a parent, relative, or friend. *(Effective January 1, 2007)*

22.5 GUARDIANS AD LITEM

(a) The court shall appoint a guardian ad litem to represent any incompetent parent or guardian whose child is before the juvenile court pursuant to a dependency petition. The determination of incompetency may be made by the court at any time in the proceeding based upon evidence received from any interested party.

(b) The parent or guardian shall be present in court for the informal closed proceeding, and the court shall explain the proceeding to the parent or guardian in plain language. If the court finds by a preponderance of the evidence that the parent or guardian does not understand the nature or consequences of the proceeding, or that the parent or guardian cannot assist his or her attorney in the preparation of his or her case, then the court shall appoint a guardian ad litem.

(c) The guardian ad litem's role is to protect the rights of his or her ward. He or she has the right to control the litigation on behalf of the ward. Among the guardian's powers are the right to compromise or settle the action, to control the procedural steps incident to the conduct of the litigation, and, with the approval of the court, to make stipulations or concessions that are binding on the ward, provided they are not prejudicial to the ward's interests. The guardian ad litem's role is more than an attorney's but less than a party's. The guardian ad litem may make tactical and even fundamental decisions affecting the litigation, but always with the interest of the ward in mind. However, the guardian may not compromise fundamental rights, including the right to trial, without some countervailing and significant benefit.

(d) The guardian ad litem shall have the following rights:

(1) In all proceedings the guardian ad litem shall be given the same notice as any party.

(2) The guardian ad litem shall have the same access to all records relating to the case as would any party.

(3) The guardian ad litem shall have the right to appear at all hearings. *(Effective January 1, 2007)*

22.6 OBJECTION IN THE NATURE OF A GENERAL DEMURRER TO THE PETITION *(In re Alysha S.* (1996) 51 Cal.App.4th 393)

(a) A motion to challenge the legal sufficiency of the petition may be made orally or in writing at the initial/detention hearing, or at the jurisdictional hearing. A party may object on the grounds that the petition alleges facts which, even if determined to be true, either are not sufficient to state a cause of action, or are not stated with sufficient clarity and precision to enable the party to determine what shall be defended against. The court may entertain the objection by oral argument when made, or may set it for further hearing.

(b) If the court sets a hearing on the objection, counsel for the moving party may file a supporting memorandum of points and authorities. To be considered timely, the memorandum shall be filed at least 48 hours before the hearing. Petitioner may file a memorandum of points and authorities in opposition to the objection.

(c) Petitioner may not amend the petition without leave of court once a written objection to the sufficiency of the petition has been filed.

(d) When an objection to the sufficiency of a petition is overruled and no plea has been entered, the court shall allow the plea to be entered at the conclusion of the hearing, or upon such terms as may be just.

(e) If the court sustains the objection to the sufficiency of a petition, the court may grant leave to amend the petition upon any terms as may be just and shall fix the time within which the amended petition shall be filed. During the time that the petition is being amended, the minor may continue to be detained if the court finds that a prima facie case for detention exists. *(Effective January 1, 2007)*

22.7 DE FACTO PARENTS

(a) For purposes of this rule, a de facto parent is a person who has been found by the court to have assumed, on a day-to-day basis, the role of a parent to the child, fulfilling both the child's physical and psychological needs for care and affection, and who has assumed that role for a substantial period of time. No person shall be granted de facto parent status who has inflicted or allowed to be inflicted serious harm on the child, including but not limited to physical, sexual, or emotional harm.

(b) De facto parent status shall be granted by the court only upon a written application, using the approved Judicial Council forms. Notice of such

application and requested hearing date shall be given to the parties and their counsel of record by the proposed de facto parents. At the hearing on such application, the court shall consider the contents of the dependency file, any report filed by the social worker or the Court Appointed Special Advocate (CASA) for the child, and any other relevant and admissible evidence presented by the parties. The court may consider the declarations filed in support of or in opposition to such application if the declarants are made available for cross-examination. Before granting de facto parent status, the court shall find, by a preponderance of the evidence, that the moving party meets the criteria set forth in this rule. An application for de facto parent status shall not, in itself, constitute good cause for continuing any other hearing in the dependency action.

(c) If the court grants the application for de facto parent status, the de facto parent shall have standing as a party to the proceedings to the degree that the proceedings directly affect the de facto parent's legally recognizable interests in the child.

(d) De facto parents shall be entitled to be represented by counsel at their own expense. A de facto parent shall not be entitled to appointed counsel unless the court finds, in the exercise of its discretion, that:

(1) the de facto parent is financially eligible for such appointed counsel, and

(2) appointment of counsel would substantially benefit the resolution of issues before the Court. No right to appointment of counsel shall exist for the purpose of making the application for de facto parent status.

(e) Upon granting de facto parent status, the court may make such discovery orders as are necessary and appropriate.

(f) De facto parent status shall continue only so long as the psychological bond continues to exist between the de facto parent and the child. The court may order visitation with a de facto parent in order to maintain that bond consistent with the best interests of the child. De facto parent status automatically terminates upon the termination of dependency jurisdiction. *(Effective January 1, 2007)*

22.8 Deleted Effective January 1, 2012

22.9 WELFARE AND INSTITUTIONS CODE SECTION 388 PETITIONS

(a) Welfare and Institutions Code Section 388 petitions to change, modify, or set aside a previous order shall be accompanied by a proof of service showing that a copy of the petition has been served on all parties and attorneys, including the Department of Employment and Social Services and County Counsel. The

petition should comply in all respects with Welfare and Institutions Code Section 388 and Rule 5.570 of the California Rules of Court.

(b) When a petition is filed by an interested person who is not currently a party to the proceeding, the clerk's office shall provide the petitioner with the names and addresses of counsel to enable the petitioner to properly serve the parties to the case.

(c) Within five (5) calendar days of receipt of the petition for a hearing, the court shall either deny the petition or order that it be set it for hearing and shall immediately notify the parties and counsel, including the Department of Employment and Social Services and county counsel, of its decision. If the petition fails to demonstrate a change of circumstance or new evidence that might require a change of order or termination of jurisdiction, the court may deny the application without a hearing in accordance with Rule 5.570(b) the California Rules of Court.

(d) If the court grants a hearing on the petition, the hearing shall be calendared within thirty (30) calendar days after the petition is filed, or the next scheduled court date, whichever occurs first.

(e) If there is no previously calendared court date, the juvenile court shall calendar the hearing for a date that shall allow ten (10) court days notice to all parties and counsel, unless the court determines it is in the best interests of the minor to hear the matter on shorter notice. The clerk shall send notice of such hearing to all parties and counsel, including the Department of Employment and Social Services and County Counsel. *(Effective January 1, 2007)*

RULE 23: APPOINTMENT OF COUNSEL IN DEPENDENCY CASES

23.1 APPOINTMENT OF COUNSEL FOR THE CHILD

The court shall appoint counsel for the child in accordance with the provisions of Rule 5.660 of the California Rules of Court. *(Effective January 1, 2007)*

23.2 PROCEDURES FOR REVIEWING AND RESOLVING COMPLAINTS

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

(b) Each appointed attorney shall give written notice to his or her adult client of the procedure for lodging complaints with the court concerning the performance of an appointed attorney. The notice shall be given to the client within ten (10) days of the attorney's appointment to represent that client. Evidence that a copy of the notice was given or mailed to the client shall be provided to the court within ten (10) days of a request therefore from the court. In the case of a child client, the notice shall be mailed or given to the current caretaker of the child. If the child is 10 years of age or older, a copy of the notice shall also be sent or given to the child.

(c) The court shall review a complaint within ten (10) days of receipt. If the court determines that the complaint presents reasonable cause to believe that the attorney may have failed to act competently or has violated local rules, the court shall notify the attorney in question of the complaint, provide the attorney with a copy of the complaint, and give the attorney twenty (20) days from the date of the notice to respond to the complaint in writing.

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

(e) If, after reviewing the complaint, the response, and any additional information, the court finds that the attorney acted contrary to these rules, the court may reprove the attorney, either privately or publicly, and may, in cases of willful or egregious violations of these rules, issue such reasonable monetary sanctions against the attorney as the court may deem appropriate.

(f) If, after reviewing the complaint, the response and any additional information, the court finds that the attorney acted incompetently, the court may order that the attorney practice under the supervision of a mentor attorney for a period of at least six (6) months, or that the attorney complete a specified number of hours of training or education in the area in which the attorney was found to have been incompetent, or both. In cases in which the attorney's conduct caused actual harm to his or her client, the court shall order that competent counsel be substituted for the attorney found to have been incompetent and may, in the court's discretion, refer the matter to the State Bar of California for further action.

(g) The court shall notify the attorney and the complaining party in writing of its determination of the complaint. If the court makes a finding under subdivisions (e) or (f), the attorney shall have ten (10) days after the date of the notice to request a hearing before the court concerning the court's proposed action. If the attorney does not request a hearing within that period of time, the court's determination shall become final.

(h) If the attorney requests a hearing, the attorney shall serve a copy of the request on the complaining party. The hearing shall be held as soon as practicable after the attorney's request, but in no case shall it be held more than thirty (30) days after it has been requested except by stipulation of the parties. The complainant and the attorney shall each be given at least ten (10) days notice of the hearing. The hearing may be held in chambers. The hearing shall not be open to the public. The court may designate a commissioner or any qualified member of the bar to act as hearing officer.

(i) At the hearing, each party shall have the right to present arguments to the hearing officer with respect to the court's determination. Such arguments shall be based on the evidence before the court at the time the determination was made. No new evidence may be presented unless the party offering such evidence can show that it was not reasonably available to the party at the time that the court made its initial determination with respect to the complaint. Within ten (10) days after the hearing, the court or hearing officer shall issue a written determination upholding, reversing, or amending the court's original determination. The hearing decision shall be the final determination of the court with respect to the matter. A copy of the hearing decision shall be provided to both the complainant and the attorney. *(Effective January 1, 2007)*

RULE 24: COURT APPOINTED SPECIAL ADVOCATE PROGRAM (CASA)

24.1 ADOPTION OF CASA PROGRAM

(a) The court hereby adopts the guidelines for the Court Appointed Special Advocate Program (CASA) as more particularly set forth in Welfare and Institutions Code Sections 100 through 109, inclusive, and Rule 5.655 of the California Rule of Court, as well as the policy and procedures manual of Yolo County CASA Program. The guidelines are incorporated herein by this reference.

(b) The CASA Program shall report regularly to the presiding judge of the juvenile court with evidence that it is operating under the guidelines established by the National Court Appointed Special Advocate Association and the California State Guidelines for child advocates. *(Effective January 1, 2007)*

24.2 RELEASE OF INFORMATION TO CASA

(a) To accomplish the appointment of a CASA, the judge, commissioner or referee making the appointment shall sign an order granting the CASA the authority to review specific relevant documents and interview parties involved in the case, as well as other persons having significant information relating to the child, to the same extent as any other officer appointed to investigate proceedings on behalf of the court.

(b) The CASA shall have the same legal right to records relating to the child he or she is appointed to represent as any case manager (social worker or probation officer) regarding records pertaining to the child held by any agency, school, organization, division or department of the State, physician, surgeon, nurse, other health care provider, psychologist, psychiatrist, mental health provider or law enforcement agency. The CASA shall present a copy of his or her appointment order together with his or her identification to a provider to gain access to the requested information. No consent from the parent or guardian is necessary for the CASA to have access to any records relating to the child. *(Effective January 1, 2007)*

24.3 RIGHT TO TIMELY NOTICE AND RIGHT TO APPEAR

(a) Whenever any motion is made, or a supplemental or subsequent petition filed, concerning the child for whom the CASA has been appointed, the moving party shall provide the CASA with timely notice.

(b) A CASA shall have the right to be present and be heard at all court hearings, and shall not be subject to exclusion by virtue of the fact that he or she may be called to testify at some point in the proceedings. A CASA is not a party to the dependency proceedings. However, the court, at its discretion, shall have the

authority to grant the CASA *amicus curiae* status, which includes the right to appear with counsel. *(Effective January 1, 2007)*

24.4 CALENDAR PRIORITY

In light of the fact that CASAs are rendering a volunteer service to children and the court, matters on which they appear should be granted priority on the court's calendar whenever possible. *(Effective January 1, 2007)*

24.5 FAMILY LAW ADVOCACY

Should the juvenile court dismiss dependency and create family law orders pursuant to Welfare and Institutions Code Section 362.4, the CASA's appointment may be continued in the family law proceeding, in which case the juvenile court order shall set forth the nature, extent and duration of the advocate's duties in the family law proceeding. *(Effective January 1, 2007)*

24.6 CASA REPORTS

CASA reports shall be filed with the court at least two (2) court days prior to the hearing. The CASA program shall also provide a copy of the report to all counsel of record at least two (2) court days before the hearing. *(Effective January 1, 2012)*

Chapter 6

PROBATE RULES

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RULE 25: GENERAL PROBATE

25.1 REAL ESTATE AGENT'S COMMISSION OF SALE OF REAL PROPERTY (PROBATE CODE SECTION 10161, ET SEQ.)

Upon confirmation of the sale of real property, a real estate agent's commission in excess of the amounts set forth in the following schedule will generally not be allowed:

(a) Improved property: 6% of the sale price
(b) Unimproved property: 10% on the first $20,000; 8% on the next $30,000; 5% on amounts over $50,000
(c) Farm property usually will be considered unimproved property. *(Effective January 1, 2007)*

25.2 COMMISSION TO REAL ESTATE AGENT SECURING INCREASED BID (PROBATE CODE SECTION 10161)

Where an original bid is made by a purchaser directly to the estate, and at the time of the return of sale an increased bid is made through a real estate agent that results in confirmation, the court will allow the agent one-half of the authorized commission on the original bid and the full commission on the remainder of the purchase price, if the total commission does not exceed the maximum allowed by law. *(Effective January 1, 2007)*

25.3 EXCLUSIVE LISTING FOR SALE OF REAL PROPERTY

In the event that a personal representative agrees to grant to a real estate agent an exclusive listing for the sale of real property, as permitted by Probate Code Section 10150(c), the listing agreement shall provide that said agreement is subject to court approval. In all cases any order approving such an exclusive listing arrangement shall provide that a reasonable broker's commission will be determined by the court at the time of confirmation of sale. *(Effective January 1, 2007)*

25.4 ATTORNEY'S FEES IN SPOUSAL PROPERTY DISTRIBUTION CASES

(a) In cases where a spousal property petition has been filed pursuant to Probate Code Section 13650, et seq., the court will disapprove attorney fees that exceed one-third of the statutory probate fee, unless the attorney and the client have previously executed a written agreement concerning attorney fees.
(b) Any petition for a spousal property distribution of the decedent's assets that requests attorney fees shall be accompanied by a summary of fiduciary's accounting that reflects what the statutory probate fee would have been if calculated pursuant to Probate Code Section 10800 et seq. *(Effective January 1, 2007)*

25.5 PROBATE JURY TRIALS

When a jury trial has been properly demanded in a probate matter, it shall be the responsibility of counsel to prepare and submit jury instructions to the court. Such instructions shall be submitted before any witnesses are sworn. *(Effective January 1, 2007)*

25.6 DETERMINATION OF COMMUNITY OR SEPARATE PROPERTY

In any proceeding under Probate Code Sections 13150, 13200 or 13650 where the court is to consider or determine whether property is community property or separate property, the petition shall include the following allegations:

(a) If the will leaves the property sought to be confirmed outright to the surviving spouse, no allegations as to the character of the property are necessary;
(b) If there is a written community property agreement, a copy of the agreement shall be attached to the petition. If the agreement covers all property about which the petitioner requests a determination, no additional allegations are required;
(c) If there is no will and no written community property agreement or if the written agreement does not cover all the property about which the petitioner requests a determination, the petitioner should allege facts sufficient to show that the property is community property, including:
(1) date and place of marriage;
(2) the decedent's net worth at the time of marriage;
(3) whether or not the decedent received any significant gifts or inheritance after marriage;
(4) facts to show that the property to be set aside is not traceable to such initial net worth or later gift or inheritance. *(Effective January 1, 2007)*

25.7 DECLARATION REGARDING ATTENDANCE AT HEARING TO APPROVE MINOR'S COMPROMISE

Any petition to approve the compromise of a minor's claim or pending action shall be accompanied by a declaration stating whether the minor and the petitioner will attend the hearing. Any request for the minor or petitioner's attendance to be excused shall be supported by a showing of good cause. *(Effective January 1, 2007)*

25.8 USE OF JUDICIAL COUNCIL FORM DE-147S

This court does not require proposed personal representatives to file a Confidential Supplement to Duties and Liabilities of Personal Representative form (Judicial Council Form DE-147S). *(Effective January 1, 2007)*

Chapter 7

GUARDIANSHIP RULES

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RULE 26 GUARDIANSHIPS OF THE PERSON OF A MINOR

26.1 PETITION FOR APPOINTMENT: NOTICE AND HEARING

(a) Notice required by Probate Code Section 1511(b) shall be personally served while the notice required by Probate Code Section 1511 (c), (d) and (e) is to be mailed.

(b) Relatives in the second degree include: maternal grandparents, paternal grandparents, parents, brothers and sisters, and any children.

(c) Notice shall be given to persons not otherwise entitled to notice who are parties to any other proceeding to appoint a guardian for the minor if such proceedings are known to the petitioner at the time of filing.

(d) The Clerk's Office will set a hearing date approximately sixty (60) days after filing to allow time for the Court Investigator's report.

(e) In the case of a petition for guardianship of the person by a relative, notice shall be mailed to the Probate Investigator.

(f) In the case of a petition for guardianship of the person by a non-relative, notice under Probate Code Sections 1540 through 1543, inclusive, shall be mailed at least forty-five (45) days prior to the hearing date to:

(1) The State Department of Social Services; and

(2) Yolo County Department of Employment and Social Services.

(g) A declaration of due diligence is required where the petitioner cannot determine the name or address of a relative or party to whom notice is required. The declaration shall specify all efforts undertaken to identify and locate such relative or party. The petitioner should check the following and state the results in the declaration: telephone directory, directory assistance, relatives and friends, former employers, and last known address. *(Effective January 1, 2007)*

26.2 PENDING ADOPTION

Pursuant to Probate Code Section 1543, if it appears that adoption proceedings are pending, letters of guardianship will not be issued nor the hearing permitted until the agency investigating the adoption has filed its report. *(Effective January 1, 2007)*

26.3 INDIAN CHILD WELFARE ACT (ICWA)

Guardianships are subject to the provisions of the federal Indian Child Welfare Act (ICWA). If there is any reason to believe that the child has Native American

heritage, the petitioner shall provide notice to the appropriate tribe(s) and the Secretary of the Department of the Interior as required by ICWA. *(Effective January 1, 2007)*

26.4 GUARDIANSHIP HEARING

The minor and the proposed guardian shall attend the hearing to establish a guardianship of a minor, unless their presence is waived by the court. *(Effective January 1, 2007)*

26.5 PROBATE INVESTIGATOR OR SOCIAL SERVICES

(a) The Probate Investigator conducts an investigation on all petitions to establish a guardianship where the proposed guardian is a relative.

(b) Where the proposed guardian is a non-relative, Child Protective Services conducts the investigation. Any delay may cause a continuance. See Probate Code Section 1513(g) for the definition of relative.

(c) Once the guardianship is established, the Probate Investigator assists the court in reviewing guardianships of the person and the estate. Counsel and guardians shall cooperate fully with the Probate Investigator.

(d) The Probate Investigator shall be provided with a copy of all petitions to terminate a guardianship.

(e) Pursuant to Probate Code section 1513.1 and 1851.5, at the time of filing a petition to establish a guardianship, if the proposed guardian is a relative, a fee shall be assessed and paid for the Probate Investigator's report unless deferred or waived by the court. If the guardian or other person liable for payment of the assessment believes the fees should be deferred or waived due to hardship, the subject petition shall include a request for deferral or waiver and shall set forth facts establishing a hardship. Failure to make timely payment will not delay approval of any petition but will result in the matter being referred to collections. *(Effective January 1, 2007; As amended, eff 01/01/10; As amended, eff 01/01/11)*

26.6 TEMPORARY GUARDIANSHIPS

(a) All petitions for appointment of a temporary guardian should be submitted by ex parte application. Proof of service of the petition, pursuant to Probate Code Section 2250, shall be filed prior to the issuance of an order.

(b) If the court determines that a hearing on the petition for a temporary guardianship is necessary, notice will be sent by the court to the attorney and petitioner. Notice of that hearing shall then be given by the attorney and/or petitioner to those required to receive notice. *(Effective January 1, 2007)*

26.7 APPOINTMENT OF SUCCESSOR GUARDIAN

When filing a petition for a successor guardianship of the person, a copy of the petition for successor appointment shall be sent to the Probate Investigator in order to determine if an investigation and report will be required. Successor guardianship petitions shall be set for hearing by the clerk approximately sixty (60) days after the filing date to allow enough time for any required investigation. *(Effective January 1, 2007)*

26.8 APPOINTMENT OF LEGAL COUNSEL FOR THE MINOR

If the court determines it would be in the best interests of the minor, the court may appoint private counsel to represent the minor, or the interests of the minor, in an existing guardianship or in a petition to appoint a guardian of the person pursuant to Probate Code Section 1470. Counsel for the minor shall not be retained by any party to the contest. The rights, duties and responsibilities of the attorney for the minor in a contest regarding guardianship of the person shall include those specified in Family Code Sections 3150, et seq. *(Effective January 1, 2007)*

APPENDIX 1

SUPERIOR COURT OF CALIFORNIA
COUNTY OF YOLO

Policy for Record Viewing and Copying

The following is the policy for the viewing and copying of public records in Yolo Superior Court. This policy must be adhered to by all who wish to view and/or copy court records, including members of the general public and the media.

Some files may not be immediately available because they are located offsite or they are or have been on calendar. Files that are calendared are not available two (2) days prior to and three (3) days after the hearing. Files that are located offsite will be retrieved and available for viewing or copying within two (2) weeks. The requester is advised to call first before returning to the Court.

NOTE: In accordance with California Rules of Court, Rule 2.400(a), under no circumstances will anyone other than court personnel be allowed to disassemble documents in court files or remove files from the clerk's offices.

All documents in court files are public record, with the exception of those items deemed confidential by statute, regulation, court rule, court order or case law.

1. File Viewing

If a member of the public wishes to view one or more files, he or she must request them in person at the counter.

Individuals must remain at the customer service windows when viewing Criminal, Traffic, Small Claims, and Appeals files. For Civil, Family Law, and Probate files, individuals must remain at the designated file viewing table.

2. File Limits

The following are the limits for how many of each file type clerks will locate and give to individuals for viewing at one time:

- Appeals: 10 files
- Civil/Family Law/Probate: 10 files
- Criminal: 5 files
- Small Claims: 10 files; 20 if in chronological order
- Traffic: 10 files

3. Copying

If individuals requesting files in person wish to have copies of certain documents, they may do one of three things:

- Make copies themselves on court public copy machines without removing documents from files.
- Have a clerk make the copies. If the clerk deems the file or the number of requested copies too voluminous to do immediately, the Court will schedule a date to pick up the copies within two (2) weeks of the request. The Court can't guarantee this date and the requester is advised to call first to confirm that the copies are ready.
- Make an appointment in advance to make copies on their own copier while a clerk disassembles and reassembles the documents being copied. The Court will make its best efforts to schedule this appointment within a reasonable amount of time (usually two weeks), but this is not a guarantee as staff availability can vary.

Individuals may also request copies through the mail. Mail the Court a completed Records Request form available on the Court's website at www.yolo.courts.ca.gov . Include a self-addressed envelope with sufficient postage so the Court can return copies If needed, clerks will use the phone number provided to contact individuals for clarification on their requests, or to notify them of significant delays in processing their requests.

For copy requests of different file types, a separate request must be mailed to each division. For example, copies of both Criminal and Civil records cannot be requested in the same letter.

Phone or fax copy requests will not be accepted.

4. Exhibits

Individuals requesting to view and/or copy exhibits shall contact the Court Services Division at 530-406-6717. A date, time and location shall be set up at which time a court employee shall be present and only the court employee shall be allowed to handle the exhibits.

If copies of the exhibits are requested, only the court employee can make the copies.

5. Payment

- Individuals will be charged for copies and/or research in accordance with the current Yolo Superior Court Uniform Fee Schedule (See the Courts website at www.yolo.courts.ca.gov)
- Copies must be paid for at the time of copying.
- For mail requests or for large copy orders that have arrangements to be picked up at a later date, individuals must pay at the time of the request. You may send a check made out to Yolo Superior Court, bearing the words "not to exceed (amount) dollars" in the memo section of the check. A receipt will be returned with your copies.

- Fee waivers: In accordance with California Rules of Court, Rule 3.61 and Local Rules 11.2 & 17.5, the Court will provide a single copy of any reasonably necessary document contained in a file to a party who has received a fee waiver. Further copies must be paid for unless there is a court order dictating otherwise. Fee waivers will be honored for one year from the date signed.

APPENDIX 2

SUPERIOR COURT OF CALIFORNIA
COUNTY OF YOLO

Listing of Local Forms

At-issue Memorandum
Civil Bench Warrant
Amendment to Complaint
Peremptory Challenge
Case Management and the Civil ADR Program Packet
Appeal of Labor Commission Decision
Consent Order for Expedited Jury Trial
Attachment to Consent Order for Expedited Jury Trial
Clerk's certificate of satisfaction of judgment
Sample Letter to Debtors
Ex Parte Request for Entry of Judgment - Small Claims
Order for Entry of Judgment - Small Claims
Family Information Form**
Request for Default or Uncontested Hearing (nullity)
Family Law Stipulation and Order
Stipulation for Referral to Child Custody Recommending Counselor
Family Law Settlement Conference Statement
Family Law Standing Orders
Declaration in Support of Ex Parte Request for Temporary Guardianship Order**
Order for Investigation – Guardianship
Order Directing
Social Services to Investigate Proposed Non-Relative Guardianship
Proposition 47 Petition
Proposition 47 Response

**Forms that are mandatory

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