



SUPERIOR COURT

COUNTY OF MADERA
STATE OF CALIFORNIA

ERNEST J. LICALSI
PRESIDING JUDGE

JOSEPH SOLDANI
ASSISTANT PRESIDING JUDGE

BONNIE THOMAS
COURT EXECUTIVE OFFICER/JURY COMMISSIONER

200 SOUTH "G" STREET
MADERA, CA 93637
(559) 416-5599
FAX (559) 675-6565

October 3, 2016

To Whom It May Concern:

Thank you for taking the time to review the proposed amendments to our Local Rules, which become effective January 1, 2017. If you have any questions or comments about any of these proposed amendments, please contact me at the above address, or e-mail me at jaime.andree@madera.courts.ca.gov, and include "Local Rules 2017" in the subject line. Please contact me with your questions or concerns no later than November 14, 2016.

The full version of our revised local rules can be found on our website at:
<http://madera.courts.ca.gov/MaderaLocalRules.htm>.

Please note that, in addition to the changes detailed below, the following non-substantive changes have been made:

- Throughout, minor spacing, grammar, and wording issues have been addressed. This includes updating 2016 to 2017, where appropriate;
- The list of judges and assignments on the front page has been updated;
- Several citations to statutes and court rules have been updated and otherwise corrected;
- Titles were added to several rules, which had not been previously assigned titles;
- Note that the Table of Contents, List of Effective Rules, and the Index may not be updated until the rules are formally adopted or amended.

Thank you again for your interest and feedback.

Sincerely,

Jaime Andree, Research Attorney



SUPERIOR COURT

COUNTY OF MADERA
STATE OF CALIFORNIA

ERNEST J. LICALSI
PRESIDING JUDGE

JOSEPH SOLDANI
ASSISTANT PRESIDING JUDGE

BONNIE THOMAS
COURT EXECUTIVE OFFICER/JURY COMMISSIONER

200 SOUTH "G" STREET
MADERA, CA 93637
(559) 416-5599
FAX (559) 675-6565

Summary of Proposed Amendments to Local Rules

SUMMARY:

The proposed amendments to the Court's Local Rules ("Rules"), are part of the Court's continuing effort to review, correct, and update its Rules as needed.

Below is the full text of proposed local rules with deletions noted in ~~strikethrough~~ and additions noted in underline.

Division 1 COURT ORGANIZATION AND GENERAL PROVISIONS

Chapter 4 Application for Ex Parte Orders

2.4.8 Time for Application in Department 8. ~~Applications and requests for ex parte orders in Department 8 shall be heard Tuesday or Thursday beginning at 9:00 a.m.~~ Contact the Court to obtain the dates and times on which applications and requests for ex parte orders will be heard in Department 8. (Effective 7/1/08, amended 1/1/10, 1/1/15, 1/1/17)

Division 3 CIVIL RULES

Chapter 4 Case Management - Scope, Purpose and Authority

3.4.5 Case Disposition Standards.

(a) General Civil Cases. The Court adopts the disposition guidelines set forth in Standards 2.1 and 2.2 of the Standards of Judicial Administration, i.e., 90% of all general civil cases shall be disposed of within one (1) year of the filing of the complaint, 98% shall be disposed of within 18 months and 100% shall be disposed of within two (2) years. (Effective 7/1/08, amended 1/1/17)

(b) Time Standards in Small Claims Cases. The goal of each division within this Court shall be: 90% disposal within ~~70~~ 75 days of filing; 100% within ~~90~~ 95 days of filing. (Effective 7/1/08, amended 1/1/17)

(c) Time Standards for Unlawful Detainer Actions. The goal of each division within this Court shall be: 90% disposal within 30 days of filing; 100% disposal within 45 days of filing. (Effective 7/1/08)

Division 5 DOMESTIC RELATIONS AND JUVENILE MATTERS

Chapter 1 General

5.1.26 Child Custody Evaluation Recommending Counseling/Mediation Charge. There shall be no charge for the ~~initial~~ Child Custody ~~Evaluation Recommending Counseling/Mediation~~ orientation or ~~the~~ initial Child Custody ~~Evaluation Recommending Counseling/Mediation~~ appointment. ~~Subject to the review of the Court,~~ Family Court Services may charge a no show fee of \$200.00 to a party who fails to attend a scheduled Child Custody ~~Evaluation Recommending Counseling/Mediation~~ session without notifying the Family Court Services office personnel no less than ~~24~~ 48 hours in advance. For each subsequent Child Custody ~~Evaluation Recommending Counseling/Mediation~~, the Family Court Services division of the Court shall collect a charge of \$100.00 per parent. This charge may increase from time to time by Policy Memorandum. Upon referral to Family Court Services, it is the parties' responsibility to contact Family Court Services to initiate the intake process. (Effective 7/1/08, amended 1/1/13, 1/1/17).

5.1.27 Investigation Charge. For each matter referred by the Court for ~~an~~ a child custody investigation or evaluation, Family Court Services shall collect a charge of \$600.00 per parent. This charge may be increased, or otherwise changed, from time to time by Policy Memorandum. Upon referral to Family Court Services, it is the parties' responsibility to contact Family Court Services to initiate the intake process. (Effective 7/1/08, amended 7/1/14, 1/1/17)

5.1.29 Waivers of Court Charges and Costs. Parties who have filed an Application for Waiver of Court Fees and Costs who seek to have the charge imposed for ~~Child Custody~~ any Family Court Services Fees waived, must submit a supplemental application under California Rules of Court 3.52. Fee waivers must be approved before the first appointment with Family Court Services. Therefore, a fee waiver should be applied for at least two weeks prior to your first appointment. Applicants for waiver of charges will be considered, on the same basis as waiver of filing fees. (Effective 7/1/08, amended 1/1/13, 7/1/13, 1/1/17)

5.1.32 Contact between Court Child Custody Recommending Counselor (CCRC) and Minor Children.

In conducting an interview with minor children pursuant to a court investigation under Family Code § 3110 or pursuant to court order under Evidence Code § 730, the recommending counselor, Court Investigator or other mental health professional shall be governed by the following guidelines:

(a) The professional should inform the minor that his or her parents may read the report;

(b) The professional who sees the child with one parent should see the child with the other parent unless there are serious and substantiated allegations of abuse or criminal conduct between the parent and the child, and the investigator, mediator, or other mental health professional determines that such an interview would not be in the child's best interests;

(c) Interviews with siblings may be together or separate in the discretion of the investigator, recommending counselor, or other mental health professional conducting the investigation or evaluation;

(d) ~~Mediations, Investigations or~~ Child Custody Evaluations should be based whenever possible on interviews with both parents. In circumstances where one (1) parent is unavailable for interview, the recommending counselor, court investigator or other mental health investigator may conduct an interview with one parent alone, and may make a recommendation based on all of the information available to the

counselor, investigator or other professional.

(Effective 7/1/08, amended 1/1/13, [1/1/17](#))

5.1.33 Custody Recommendations by Family Court Services to Court

Madera County is a “recommending county.” In all Child Custody ~~Evaluation~~ [Recommending Counseling/Mediations](#), whether by privately retained ~~evaluator~~ [recommending counselor/mediator](#) or through Family Court Services, the [Child Custody Recommending Counselor \(“CCRC”\)](#) shall submit a report and recommendation to the Court. The recommendation shall contain any agreement between the parties, together with the recommendation of the Child Custody ~~Evaluator~~ [Recommending Counselor](#) on any custody or visitation issues between the parties upon which the parties have not agreed. This report is deemed confidential and shall be placed in a confidential envelope in the court file. Copies of this report shall be provided to parties (or their counsel where parties are represented by counsel). The report shall be filed and shall be considered by the Court as evidence without further stipulation of the parties. [A Child Custody Recommending Counselor may not make a recommendation without input from both parties or consultation with another qualified neutral professional, per California Rule of Court, Rule 5.210, subdivision \(h\)\(4\).](#)

(Effective 7/1/08, amended 1/1/13, [1/1/17](#))

5.1.34 Examination of the Child Custody ~~Evaluator~~ [Recommending Counselor](#).

In the event that any party shall desire to examine the Child Custody ~~Evaluator~~ [Recommending Counselor](#) concerning any report prepared by the Child Custody ~~Evaluator~~ [Recommending Counselor](#), said party shall subpoena the Child Custody ~~Evaluator~~ [Recommending Counselor](#) as required by Government Code § 68097.2. The subpoena and the required deposit under Government Code § 68097.2 [of \\$275.00](#) shall be delivered to the office of Family Court Services not less than ten (10) business days before the date of attendance. In the event the report is not filed ten (10) ~~business~~ [calendar](#) days before the upcoming hearing, the ten (10) business day deadline does not apply as to that hearing only. At any subsequent hearing, the subpoena and deposit must be timely delivered to Family Court Services ten (10) business days before the hearing. [If expenses exceed the \\$275.00 deposit, FCS will bill the deposing party for the additional funds at the current CCRC hourly rate of \\$55.00.](#)

(Effective 7/1/08, amended 1/1/10, part (b) deleted 1/1/13, amended 1/1/15, [1/1/17](#))

5.1.39 Sanctions.

[If a party has an appointment with Family Court Services, and does not need the appointment, the party must cancel it at least 48 hours prior to the appointment time. Please call 559-416-5560 for cancellations. If the party does not cancel the appointment, and/or fails to appear for the appointment, the party may be ordered by the Court to pay a monetary sanction of up to \\$1,500.00 pursuant to Code of Civil Procedure, section 177.5. \(Effective 1/1/17\)](#)

Division 7 PROBATE, ADOPTION, AND RELATED MATTERS

Chapter 6 Adoptions

7.6.4 Charges for Investigations in Stepparent Adoptions. There shall be a charge of \$300 for each investigation conducted by the Family Court Services Division of this Court or by any court-appointed investigator for a stepparent adoption pursuant to Family Code §§ 9000, *et seq.* [formerly Civil Code § 227.10, *et seq.*]. This charge may increase from time to time by Policy Memorandum. [Upon referral to](#)

Family Court Services, it is the parties' responsibility to contact Family Court Services to initiate the intake process. (Effective 7/1/08, 1/1/17)

Chapter 8 Guardianship & Conservatorship Investigations

7.8.1 Investigation of Proposed Guardian. In conducting the investigation required under Probate Code § 1513, the Court investigator in his/her discretion may require the proposed guardian or guardians to submit a fingerprint card, and/or consent to a criminal, record history check. The results of this check may be included in the investigator's report to the Court. Upon referral to Family Court Services, it is the parties' responsibility to contact Family Court Services to initiate the intake process. (Effective 7/1/08, 1/1/17)

7.8.6 Required Orientation for Proposed Probate Conservators ~~or Guardians.~~

All persons who are proposed conservators of either the person or the estate of a proposed conservatee, ~~or who are proposed to be guardians,~~ shall, unless attendance is waived by the Court, attend ~~and view~~ an orientation ~~videotape~~ at the office of the Family Court Services. Any proposed conservator will be required to show proof of having ~~acquired~~ read the Judicial Council publication, "Handbook for Conservators," pursuant to Probate Code § 1835, which is available on the Madera County Superior Court website. (Effective 7/1/08, amended 7/1/13, 1/1/15, 1/1/17).

7.8.7 Background Check/Electronic Fingerprint Scan

A background check and electronic fingerprint scan will be required when a petition for a name change, guardianship, or adoption has been filed. The purpose of the background check is to verify that the petitioner is not on probation, parole or a registered sex offender. (Code Civ. Proc. §1279.5 (e).) A Live Scan will be requested from the petitioner, parent(s) or legal guardian(s). A Live Scan consists of a check of electronic fingerprint records maintained by the Department of Justice, the Child Abuse Central Index and possibly the FBI. Live Scan locations can be obtained from Family Court Services or on the Department of Justice website (doj.ca.gov) by typing "Live Scan Locations" in the search box. The individual subject to Live Scan shall pay the fee charged by the Live Scan provider. The individual subject to Live Scan shall complete the Live Scan application form with the requested information and provide the Live Scan provider valid photo identification. Failure to provide the requested information will delay the petition and/or otherwise preclude the completion of the required investigation. For Child Custody Evaluations and Conservatorships, this information will be obtained by Family Court Services through the California Law Enforcement Telecommunications System ("CLETS") at the Madera Sheriff's Office. (Effective 1/1/17).

Division 8 APPELLATE DEPARTMENT

8.1.1 Briefs. Briefs shall be prepared and filed as provided by California Rule of Court 8.200, *et seq.* In addition thereto, counsel shall deposit with the Clerk of the Court, when filing the original brief, ~~three~~ four (34) legible copies of the original brief for the assistance of the members of the Court. (Effective 7/1/08, amended 7/1/13, 1/1/17)