

# **SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN MATEO**



## **LOCAL COURT RULES**

**As Amended  
Effective January 1, 2006**



**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO**  
**Hall of Justice and Records**  
**400 County Center, 2<sup>nd</sup> Floor**  
**Redwood City, California 94063**

**LOCAL COURT RULES**  
**FILING INSTRUCTIONS**

**UPDATES EFFECTIVE JANUARY 1, 2006**

Please update your Superior Court of California, County of San Mateo Local Rules Binder by removing and inserting the attached amendments by following these instructions:

	<b>REMOVE THESE EXISTING PAGES</b>	<b>INSERT THESE NEW PAGES</b>
1.	From the front of the binder a) Cover Page and Filing Instructions b) Table of Contents (page i) c) Summary of Changes (page ii-iii) d) Filing Instructions (page iv-v) e) List of Currently Effective Rules (July 1, 2005)(pages i-x)	a) Cover Page and Filing Instructions b) Table of Contents (page i) c) Revised Summary of Changes (pages ii – iv) d) Filing Instructions (page v-vi) e) List of Currently Effective Rules (January 1, 2006) (pages i-x)
2.	Alphabetical Index (i– viii)	Revised Alphabetical Index (i-viii)
3.	Division II, Table of Contents, and pages 200-214	Division II, Revised Table of Contents, pages 200-215
4.	Division V, Table of Contents, pages 500-525 and attached Local Court Forms (Appendicies 1 to 6)	Division V, Revised Table of Contents, pages 500-525 and Attached Local Court Forms (Appendicies 1 to 6)

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**SUMMARY OF CHANGES**

SAN MATEO COUNTY SUPERIOR COURT

**Revisions effective July 1, 1996**

All prior rules of the San Mateo County Superior Court and of the San Mateo County Municipal Court have been superseded by the new restated and newly adopted rules of the coordinated San Mateo County Superior and Municipal Courts.

**Revision effective January 1, 1997**

Rule 11.4 adopted re Civil Case Assignment

**Revision effective July 1, 1997**

Rule 0.9 adopted re Standing orders

**Revision effective January 1, 2000**

Replace Rules List, Alphabetical Index, Divisions II, III, IV and V

**Revision effective January 1, 2002**

Replace Rules List, Alphabetical Index, Introduction, Division II index and pages 208-211, and Division VIII index and pages 801-802.

**Revisions effective January 1, 2003**

List of Effective Rules-amended, Alphabetical Index – amended

Introduction – Rule 0.9 amended

Division II - Table of Contents-revised; Rule 2.3 amended (code reference changes and adding sections (e)(6), (h)(2)-(3), and revising sections (i)(1) and (3)); Rule 2.3.1 amended by adding section (d); Rule 2.4-code reference change.

Division IV – Table of Contents-revised; Rule 4.1- add section (d)

Division V – Table of Contents-revised; Rule 5.4-amend (B)(1)

Division IX – Rule 9.5 repealed.

**Revisions effective July 1, 2003**

List of Effective Rules-amended, Alphabetical Index – amended

Division II - Rule 2.3 amended – added (d)(1)(C), (d)(2)(C); renumbered paragraph (e)(2) thru (6) to (e)(4) thru (8); added new paragraphs (e)(2) and (3).

Division IV – Table of Contents-revised; Rule 4.85 amended - add opening paragraph; added paragraphs (B) (6)-(9); Rule 4.88 amended – added paragraph (b) and numbered (a).

Division V – Table of Contents – revised; Rule 5.4 (C)(2) Notice to Family Law Litigants-amend; (C)(3) paragraph numbered.

Division IX – Rule 9.4 amended.

### Revisions effective January 1, 2004

List of Effective Rules-amended, Alphabetical Index – amended  
Division V – Table of Contents-revised; Rule 5.1-amended changing wording and added reference to California Rules of Court; Rule 5.2 –amended adding domestic violence calendar in the division; Rule 5.4 –amended adding in new sections A-F replacing former sections; Rule 5.5 – New; Rule 5.6- (formerly Rule 5.5) replaced former sections A-G and adding sections H-N; Rule 5.7- (formerly 5.6) amended sections A-C, adding new section B-G, renumbered H-K, deleted section L; Rule 5.8 – New, incorporates former Rules 5.8 and 5.9; Rule 5.9 - New; Rule 5.10 –(former Rule 5.14 renumbered); Rule 5.11 –(formerly 5.7 renumbered) adding sections B-C; Rule 5.12 – (formerly Rule 5.10 renumbered) amended replacing item D.2.; Rule 5.13 –(formerly Rule 5.11 renumbered) revising and renumbering section B; Rule 5.14 – (formerly section 5.12 renumbered) amended; Rule 5.15- amended adding new sections A-D; Appendix 1 – Status Conference Statement Local Form, New ; Appendix 2 – Mandatory Settlement Conference Statement Local Form, (formerly Appendix 1-Pre-trial Statement format, renamed and amended); Former Appendix 2 -Joint Case Management Conference form is repealed; Appendix 6 – Notice of ADR Options Local Form, New.

### Revisions effective July 1, 2004

Filing Instructions – amended; List of Effective Rules – amended, Alphabetical Index – amended  
Division II – Table of Contents – revised; Rule 2.6 repealed and renumbered to new Rule 2.7.6; Rule 2.7.6 (formerly Rule 2.6); Rule 2.30 (new)  
Division IV – Table of Contents – revised; **Amended** - Rules 4.1, 4.2, 4.4 to 4.10, 4.12, 4.14, 4.24, 4.26, 4.27, 4.28 to 4.34, 4.36 to 4.38, 4.76, 4.82, 4.85, 4.88, 4.89  
**Renumbered and Amended** – 4.19(b) as 4.19.1; 4.19(c) as 4.19.2; 4.26 as 4.26.1; 4.77 (a), (c), and (d) as 4.77.1; 4.77(e) as 4.77.17; 4.81(a) as 4.81.1; 4.81(d) as 4.81.2; 4.81 (c) as 4.81.4; 4.81(g) as 4.81.5; 4.81(f) as 4.81.7; 4.81(e) as 4.81.9; 4.81(b) as 4.81.10; 4.81 (j) and (k) as 4.81.15; 4.81(h)(2) as 4.81.16; 4.81(h)(1) as 4.81.17; 4.81(h))(1) as 4.81.18; 4.81(l) as 4.81.20; 4.86 as 4.81.21; 4.81(m) as 4.81.22;  
**New** – 4.14.1, 4.24.1 to 4.24.4, 4.27.1; 4.77.2 to 4.77.16, 4.81.3, 4.81.6, 4.81.8, 4.81.11 to 4.81.14, 4.81.19; 4.90 to 4.100  
**Repealed** - Rules 4.3, 4.11, 4.13, 4.23, 4.35, 4.49 through 4.54, 4.77, 4.81, and 4.87.  
Division V – Table of Contents – revised; Rule 5.5 amended changing the filing of the ADR Notice requirement.

### Revisions effective January 1, 2005

Filing Instructions – amended; List of Effective Rules – amended, Alphabetical Index – amended  
Division II – Table of Contents – **revised**; **Amended** Rules 2.3 and 2.7.1, 2.7.2, 2.7.3  
Division IV – Table of Contents – **revised**; **Amended** - Rules 4.81.1  
Division V – Table of Contents – **revised**; **Amended**-Rules 5.4, 5.7, 5.8 and 5.13  
Division VIII – Table of Contents – **Revised**; **Amended** Rule 8.10.  
Division X – Table of Contents – **Revised**; **Amended** Rule 10.1

**Revisions effective July 1, 2005**

Filing Instructions – amended; List of Effective Rules – amended, Alphabetical Index – amended

Division II – Table of Contents – **revised**; **Amended** Rules 2.4 and 2.30

Division III – Table of Contents – **revised**, **Amended** Rule 3.13

Division IV – Table of Contents – **revised**; **Amended** - Rules 4.10, 4.77.14, 4.81.1

Division V – Table of Contents – **revised**; **Amended**-Rules 5.8

Division VIII- Table of Contents – **revised page numbers**

Division IX – Table of Contents – **New** Rule 9.8.

Division XI – **Revised title of Division**

**Revisions effective January 1, 2006**

Filing Instructions – amended; List of Effective Rules – amended, Alphabetical Index – amended

Division II – Table of Contents – **revised**; **Amended** Rules 2.3, 2.7.1, 2.7.2 and 2.30

Division V – Table of Contents – **revised**; **Amended**-Rules 5.13

**FILING INSTRUCTIONS**

**Revisions effective July 1, 1996**

To update your Local Rules of Court, please replace entirely all existing Rules of both the Superior Court and the Municipal Court of San Mateo County.

**Revision effective January 1, 1997**

Replace Division XI Index, Page 1; Replace Page 1100/1101 in Division XI.

**Revision effective July 1, 1997**

Replace Introduction{ "Class Actions – Pretrial Proceedings: Introduction" } Index, Page 4;  
Replace page 7 of Introduction

**Revision effective January 1, 2000**

Replace Rules List, Alphabetical Index, Divisions II, III, IV and V

**Revision effective January 1, 2002**

Replace Rules List, Alphabetical Index, Introduction Division II index and pages 208-211, and Division VIII index and pages 801-802.

**Revisions effective January 1, 2003**

To update your Local Court Rules, please replace the following sections and pages:

- List of Effective Rules and Alphabetical Index
- Introduction Section – Replace entire section
- Division II-Table of Contents, Replace entire section
- Division IV – Table of Contents; Replace entire section
- Division V – Table of Contents; Replace entire section
- Division IX – Table of Contents; replace page 901 with new page 901

**Revisions effective July 1, 2003**

To update your Local Court Rules, please replace the following sections and pages:

- List of Effective Rules and Alphabetical Index
- Division II-Table of Contents, Replace entire section
- Division IV – Table of Contents; Replace entire section
- Division V – Table of Contents; Replace entire section
- Division IX – Table of Contents; Replace entire section

**Revisions effective January 1, 2004**

To update your Local Court Rules, please replace the following sections and pages:

- Summary of Changes
- Filing Instructions
- List of Effective Rules and Alphabetical Index
- Division V-Table of Contents and Rules, Replace entire section

**Revisions effective July 1, 2004**

To update your Local Court Rules please replace the following sections and pages:

- Cover Page and Filing Instructions
- Table of Contents
- Summary of Changes
- Alphabetical Index
- List of Currently Effective Rules and Alphabetical Index
- Division II (Revised Table of Contents and Rules text)
- Division IV (Revised Table of Contents and Rules text)
- Division V (Revised Table of Contents and Rules text)

**Revisions effective January 1, 2005**

To update your Local Court Rules please replace the following sections and pages:

- Cover Page and Filing Instructions
- Table of Contents
- Summary of Changes
- Alphabetical Index
- List of Currently Effective Rules and Alphabetical Index
- Division II (Revised Table of Contents and Rules text)
- Division IV (Revised Table of Contents and Rules text)
- Division V (Revised Table of Contents and Rules text)
- Division VIII (Revised Table of Contents, Rules text and Appendicies I through VI)
- Division X (Revised Table of Contents and Rules text)

**Revisions effective July 1, 2005**

To update your Local Court Rules please replace the following sections and pages:

- Cover Page and Filing Instructions
- Table of Contents
- Summary of Changes
- Alphabetical Index
- List of Currently Effective Rules and Alphabetical Index
- Division II (Revised Table of Contents and Rules text)
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- Division VIII (Revised Table of Contents, Rules text and Appendicies I through VI)
- Division IX (Revised Table of Contents and Rules text)
- Division XI (Revised Table of Contents and Rules text)

**Revisions effective January 1, 2006**

To update your Local Court Rules please replace the following sections and pages:

- Cover Page and Filing Instructions
- Table of Contents



Superior Court of California, County of San Mateo

Summary of Changes

Alphabetical Index

List of Currently Effective Rules and Alphabetical Index

Division II (Revised Table of Contents and Rules text)

Division V (Revised Table of Contents and Rules text)

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO - LOCAL RULES**

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JANUARY 1, 2006**

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Rule 0.3	Court Security (Eff. 7/1/96)
Rule 0.4	Reserved
Rule 0.5	Civil Appeals Fees (Eff. 7/1/96)
Rule 0.6	<b>REPEALED</b> [Court Consolidation and Coordination] (Eff. 7/1/96)(Repealed 1/1/2002)
Rule 0.7	Court Designation/Caption (Eff. 7/1/96)(Amended 1/1/2002)
Rule 0.8	Contents of Proof of Service (Eff. 7/1/96)
Rule 0.9	Standing Orders (Eff. 7/1/97)(Amended 1/1/2003)

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Rule 1.3	Decisions (Eff. 7/1/96)
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## Superior Court of California, County of San Mateo

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## Superior Court of California, County of San Mateo

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**CALIFORNIA RULES OF COURT AS SUPPLEMENTED HEREIN,**  
**GOVERN ALL LOCAL PROCEDURES**

**DIVISION II**  
**COURT MANAGEMENT - SUPERIOR COURT**

**CHAPTER 1. FORM AND SERVICE OF PAPERS**

**Rule 2.0 Transfer of Court-Related Functions of the County Clerk to the Superior Court**

Pursuant to the authority contained in Government Code section 69898, the court hereby transfers from the County Clerk to the Superior Court Executive Officer, under the direction of the Presiding Judge, all of the powers, duties, and responsibilities required or permitted to be executed or performed by the County Clerk in connection with judicial actions proceedings, and records.

(Adopted, effective July 1, 1996.)

**Rule 2.1 Form of Papers Presented for Filing**

Reference, CRC, rule 201.

(Adopted, effective July 1, 1996) ( Amended effective January 1, 2000.)

**Rule 2.1.1 Citations to Non-California Authorities.**

(Adopted, effective July 1, 1996)(Repealed, effective January 1, 1999)

**Rule 2.1.2 Requests for Judicial Notice**

(Adopted, effective July 1, 1996)(Repealed, effective January 1, 1999)

**Rule 2.1.3 California Environmental Quality Act (CEQA)**

If a petition for writ of mandate includes claims under CEQA (Public Resources Code section 21000 et. seq.), the case will be assigned to a judge designated to hear CEQA actions pursuant to Public Resources Code section 21167.1. Plaintiff shall identify the petition as being filed pursuant to “CEQA” on the face of the petition.

(Adopted, effective January 1, 1999)(renumbered from 2.1.4 effective January 1,2000)

**Rule 2.1.4 Documents Produced Through a Nonparty**

If a party proposes to obtain documents in the custody of a nonparty, as by a subpoena duces tecum, and such documents may be produced by certification or otherwise in lieu of personal appearance by a witness custodian, the request for such documents should specify that they be delivered not later than the first day for which the trial is calendared.

(Adopted, effective January 1, 2000)



**CHAPTER 2. CIVIL TRIAL COURT MANAGEMENT RULES**  
**PART 1. MANAGEMENT DUTIES**

Rule 2.2 Trial Court Management

Reference CRC, rules 204-208

(Adopted, effective January 1, 2000)

**PART 2. CASEFLOW MANAGEMENT**

Rule 2.3 New Case Management

This rule applies to all civil cases with the exception of the following: (1) juvenile court matters; (2) probate matters; (3) family law matters; and (4) civil cases which, based on subject matter, have been assigned to a judge, or to more than one judge, for all purposes. For rules applicable to these exceptions, see CRC 201-209, and 210-298.

(a) Purposes and Goals

The purposes and goals of the San Mateo Superior Court Civil Case Management System effective January 1, 1992 are:

- (1) To manage fairly and efficiently, from commencement to disposition, the processing of civil litigation.
- (2) To prepare the bench and bar for full implementation of the Trial Court Delay Reduction Act (A.B. 3820) on July 1, 1992; and
- (3) To encourage parties to agree to informal discovery early in the life of the case, to use standard form interrogatories and to promote alternative dispute resolution. Nothing in these rules is intended to prevent the parties from stipulating to an earlier intervention by the court by way of a case management conference, settlement conference or any other intervention that seems appropriate.
- (4) In accordance with Sections 205 through 210 of the California Rules of Court, Local Rule 2.3 is adopted to advance the goals of Section 68603 of the Government Code and Section 2 of the Standards of Judicial Administration recommended by the Judicial Council.

(b) Team concept

Beginning January 1, 1994 civil litigation will be managed primarily by a team of two program judges.

The clerk will assign the case to a program judge at the time the complaint is filed. The case shall be managed by the assigned program judge until disposition or until the case is assigned to a trial department.

(c) Cases filed after July 1, 1992

Upon the filing of a complaint after July 1, 1992, the case shall be subject to all of the civil case management system rules set forth below. Cases filed before July 1, 1992 shall also be subject to these rules except for subsection (d) (Filing and service of pleadings; exceptions).

(d) Filing and service of pleadings; exceptions.

(1) Complaint: Except as provided in paragraph 5 below, plaintiff shall within 60 days after filing of the complaint serve the complaint on each defendant along with:

- (A) A blank copy of the Judicial Council Case Management Statement;
- (B) A copy of Local Rule 2.3;
- (C) The Notice of Case Management Conference.

If a matter has been submitted to arbitration pursuant to uninsured motorist insurance, the plaintiff shall file a notice to that effect with the court at the time of filing the complaint, or at the time the matter is submitted. The notice shall include the name, address and telephone number of the insurance company, along with the claim number or other designation under which the matter is being processed.

(2) Cross-complaint: Except as provided in paragraph 5 below, each defendant shall within 30 days after answering the complaint file any cross-complaint (within 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:

- (A) A blank copy of the Judicial Council Case Management Statement;
- (B) A copy of Local Rule 2.3;
- (C) The Notice of Case Management Conference.

(3) Responsive pleadings: Except as provided in paragraph 5 below, each party served with a complaint or cross-complaint shall file and serve a response within 30 days after service. The parties may by written agreement stipulate to one 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 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 10 days following notice of the ruling unless otherwise ordered. The court may fix a time for filing pleadings responsive to such amended complaint.

(4) Proofs of service: Proofs of service must be filed at least 10 calendar days before the case management conference.

(5) Exceptions for longer periods of time to serve or respond:

(A) Time to serve may be extended for good cause: Upon ex parte application to the court, *in compliance with California Rule of Court 379(g)*, within 60 days of the date the complaint was filed, plaintiff may obtain an extension of 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. In determining good cause in other cases, the court will give due consideration to any standards, procedures and policies which have been developed in consultation with the bar of the county through the bench-bar trial court delay committee.

(B) Additional extension of time if uninsured motorist arbitration is pending. In addition to any extension of time obtained pursuant to subsection (5)(A) above, if an uninsured motorist arbitration is still pending between plaintiff and plaintiff's insurance carrier 30 days prior to the expiration of the extension, plaintiff may obtain an additional extension of time by an ex parte application supported by a declaration showing the scheduled or anticipated date of the arbitration hearing and the diligence of plaintiff in pursuing arbitration.

(C) Time to respond may be extended for good cause: Before the time to respond has expired, any party served with a complaint or cross-complaint may, with notice to all other parties in the action, make ex parte application to the court upon good cause shown for an extension of time to respond. The filing of a timely application for an extension will automatically extend the time to respond by five days, whether or not the application is granted.

(e) Case management conference

(1) Date of conference: Unless the parties stipulate in writing and the court orders that the case be earlier referred to arbitration, a case management conference will be set by the clerk at the time the complaint is filed. (Government Code 68616)

(2) Attendance at the case management conference is mandatory for all parties or their attorneys of record.

(3) Plaintiff must serve the Notice of Case Management on all parties no later than 30 calendar days before the conference, unless otherwise ordered by the Court.

(4) The Court will deem the case to be at-issue at the time of the conference (Reference: CRC 209(a)) absent a showing of extraordinary circumstances.

(5) The conference may be set at an earlier date by order of the Court or by written stipulation of the parties.

(6) Designation of trial counsel: Trial counsel and, except for good cause shown, back-up trial counsel, must 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 ground that counsel is engaged elsewhere.

(7) Conference orders: At the initial conference, the program judge will make appropriate pre-trial orders that may include the following:

- (A) An order referring the case to arbitration, mediation or other dispute resolution process;
- (B) An order transferring the case to the limited jurisdiction of the superior court;
- (C) An order assigning a trial date;
- (D) 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;
- (E) An order identifying the case as one which may be amenable to early settlement or other alternative disposition technique;
- (F) An order of discovery; including but not limited to establishing a discovery schedule, assignment to a discovery referee, and/or establishing a discovery cut-off date;
- (G) An order scheduling the exchange of expert witness information;
- (H) An order assigning a mandatory settlement conference date pursuant to Local Rule 2.3(k) and 2.4; and
- (I) Other orders to achieve the interests of justice and the timely disposition of the case.

(8) CourtCall Telephonic Appearances

(A) Reference CRC, Rule 298

(B) Procedure. Telephonic appearances through the use of CourtCall, an independent vendor, are permitted at case management conference hearings. A party wishing to make a telephone appearance must serve and file a Request for Telephone Appearance Form with CourtCall not less than five court days prior to the case management conference hearing. Copies of the Request for CourtCall Appearance form and accompanying information sheet are available in the Clerk's office. There is a fee to parties for each CourtCall appearance and fees are paid directly to CourtCall. CourtCall will fax confirmation of the request to parties.

(C) On the day of the case management conference hearing, counsel and parties appearing by CourtCall must check-in five minutes prior to the hearing. Check-in is accomplished by dialing the courtroom's dedicated toll-free teleconference number and access code that will be provided by CourtCall in the confirmation. Any attorney or party calling after the check-in period shall be considered late for the hearing and shall be treated in the same manner as if the person had personally appeared late for the hearing.

(D) At a case management conference, parties may be referred to an appropriate dispute resolution (“ADR”) process (e.g., mediation, binding arbitration or neutral evaluation). If parties are referred ADR, they must redial the dedicated toll-free teleconference number immediately following their case management conference appearance and use a second CourtCall access code to telephonically appear at the ADR referral meeting with ADR staff. If a case has been referred to ADR, a party’s case management conference appearance is not complete until they have also telephonically appeared at the mandatory ADR referral. If parties are referred to judicial arbitration, they do not have to appear at the ADR referral.

(f) Case Management Statement

At least 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. If the case is set for further case management conference hearing(s), all parties must file updated Case Management Statements 15 (fifteen) calendar days prior to the scheduled hearings(s).

(g) Appropriate Dispute Resolution, ADR, Policy Statement

The Court finds it is in the best interests of parties to litigation to participate in appropriate dispute resolution procedures, including but not limited to mediation, neutral evaluation, private or judicial arbitration, voluntary settlement conferences, and the use of special masters and referees. Therefore, all parties shall stipulate to, or be referred to, an appropriate form of dispute resolution before being set for trial, unless there is good cause to dispense with this requirement. Parties are encouraged to stipulate to judicial arbitration or ADR prior to the case management conference.

(h) Stipulations to Arbitration

(1) If the case is at issue, and all counsel and each party appearing in propria persona stipulate in writing to judicial arbitration prior to the case management conference, discovery will remain open following judicial arbitration. A written stipulation to judicial arbitration must be filed with the clerk and a copy immediately sent to the Master Calendar Coordinator at least 10 calendar days before the case management conference in order to avoid the need to appear at that conference. A written stipulation to arbitrate will be deemed to be without a limit as to the amount of the award unless it expressly states otherwise.

(2) It is the policy of this court to make every effort to process cases in a timely manner. Parties who elect or are ordered by the court to judicial arbitration must complete the arbitration hearing within the time frame specified by the court.

Parties who wish to continue the arbitration hearing after the jurisdictional time frame must submit a court provided form entitled “*Ex Parte Motion and Stipulation for continuance of Judicial arbitration Hearing.*” Parties can obtain a copy of the form by contacting the court’s judicial arbitration administrator [See Local Rule 10.1(d)(1). Continuances without adequate grounds will not be considered. A case management judge will either grant or deny the request for continuance. If the request is denied, the case may be assigned a trial date. If the request is granted, the judge will impose a new deadline by which the arbitration must be completed.

(3) Parties who wish to change their election from judicial arbitration to another form of ADR must file a “Stipulation and [Proposed] Order to [Mediation, Neutral Evaluation, etc.] in Lieu of [Court-Ordered] Judicial Arbitration” with the Clerk of the Court. The Stipulation must

state that parties have: (i) notified both the judicial arbitration and ADR coordinators; (ii) cancelled the judicial arbitration hearing; (iii) scheduled the ADR session within five months of the previously scheduled judicial arbitration hearing; and (iv) stipulated to a trial date, which is not more than six months from the previously scheduled judicial arbitration hearing.

(i) Stipulations to Private ADR

(1) If a case is at issue and all counsel and each party appearing in propria persona stipulate in writing to ADR and file a completed Stipulation and Order to ADR with the clerk of the court at least ten (10) calendar days before the first scheduled case management conference, that conference shall be continued 90 days. The court shall notify all parties of the continued case management conference.

(2) If counsel and each party appearing in propria persona are unable to agree upon an appropriate ADR process, they shall appear at the case management conference.

(3) Following an appearance at a case management conference hearing, parties shall, within 21 calendar days, file a completed Stipulation to ADR and Proposed Order identifying the name of the ADR provider, date of ADR session and the names of those who will be in attendance at the ADR session. The completed Stipulation to ADR and Proposed Order shall be filed with the court by plaintiff's counsel. The parties, through counsel, if represented, shall confer with the court's Multi-Option ADR Project (M.A.P.) staff if they cannot agree on a provider. Plaintiff's counsel, shall additionally, send a copy of the completed Stipulation to the court's M.A.P. offices within the same 21-day period.

(4) All parties and counsel shall participate in the ADR process in good faith.

(5) To maintain the quality of ADR services the court requires cooperation from all parties, counsel and ADR providers in completing ADR evaluation forms, and returning these forms to the M.A.P. offices within 10 calendar days of the completion of the ADR process.

(6) In accordance with the Code of Civil Procedure, section 1033.5(c)(4), the court, in its discretion, may allow the prevailing party at trial the fees and expenses of the ADR provider, unless there is a contrary agreement by the parties.

(j) Setting Short Cause Matters

If the parties agree that the time estimated for trial is 5 hours or less prior to the conference, a written stipulation shall be filed at least 10 calendar days before the case management conference in order to avoid the need to appear at that conference and a copy immediately sent to the Master Calendar Coordinator. In the absence of a stipulation, either party may file a motion to have the matter designated a "short cause" and set the case accordingly. All such matters shall be presumed short cause unless the contrary is established at the hearing on the motion.

(k) Law and Motion

All law and motion matters shall be heard by the regularly assigned Law and Motion judge.

(l) Settlement Conferences

All cases not assigned to arbitration or some other dispute resolution mechanism will be assigned two settlement conference dates, the first of which will be at the earliest practicable date under the circumstances presented by the case, and the second within approximately two

weeks prior to the assigned trial date.

Cases assigned to arbitration or other form of ADR may be subjected to a settlement conference prior to the arbitration or ADR process, but will be assigned to a pre-trial settlement conference only if the arbitration/ADR procedure fails to resolve the case.

All cases which fail to resolve by the trial date will be subject to an additional settlement conference on the trial date.

*All* settlement conferences shall be subject to the requirements specified in Local Rule 2.4.

(m) Sanctions

Sanctions pursuant to CRC 227 shall be imposed for any violation of the civil case management system rules. The minimum sanction imposed shall be \$150.00 payable to the court; sanctions payable to the court may be larger where appropriate and will be in addition to appropriate attorney fees and calendar changes, including any appropriate change in calendar status of the action.

Sanctions mandated hereby may be waived by the judge conducting the conference only upon an application showing good cause why sanctions should not be imposed.

(Adopted, effective July 1, 1996)(Amended, effective January 1,2000) (Amended, effective January 1, 2003)  
(Amended effective July 1, 2003) (Amended, effective January 1, 2005)(Amended, effective January 1, 2006)

Rule 2.3.1 Orders to Show Cause re: Dismissals

(a) A hearing on an order to show cause why the case should not be dismissed for failure to prosecute the matter shall be set at the two year anniversary of the filing of the complaint and/or cross-complaint.

(b) An order to show cause hearing shall be set 45 days after court's receipt of notice of settlement.

(c) An order to show cause hearing regarding dismissals may be set by the court to achieve the interests of justice and the timely disposition of the case.

(d) An order to show cause hearing re: failure to complete judicial arbitration within the court-ordered time frame may be heard during the case management calendar. Sanctions may be imposed and a trial date may be assigned.

(Adopted, effective January 1,2000) (Amended, effective January 1, 2003)(Amended, effective January 1, 2006)

Rule 2.4 Settlement Conference

Reference: California Rule of Court, rule 222.

(a) At all settlement conferences, notwithstanding any other Rule:

(1) The attorney who will try the case or an informed associate with full authority to negotiate a settlement of the case shall personally attend.

(2) Any persons whose consent is required to authorize settlement shall personally attend; those parties that are corporations shall have in attendance an officer or other employee with

authority to bind the corporation. Powers of attorney, oral or written, granting counsel settlement authority are unacceptable as a substitute for personal attendance at this conference. Defendant and cross-defendant shall personally attend if there is no insurance coverage, if there is an unsatisfied deductible, or if the insurance carrier is demanding that the insured contribute to settlement.

(3) With respect to any insured party, a representative of the insurance carrier with authority to settle which is meaningful considering the exposure to loss presented shall personally attend. If the claims representative in personal attendance has any limitation on his or her settlement authority, a representative of the carrier who has no such limitations shall be available to the court by telephone and shall remain available until released by the judge conducting the conference, regardless of the time of day at the location of that representative.

(4) Upon arrival at the department to which the conference has been assigned, counsel shall check in with the clerk and shall verify the attendance of those persons whose presence is required.

(5) Notwithstanding the provisions of CRC 222(c), no later than five(5) court days before the date set for the settlement conference each party shall lodge with the office of the court administrator and serve on all other parties a written statement setting forth the following:

- (A) A statement of facts.
- (B) The contentions of each party to the action regarding liability and damages.
- (C) An itemized list of special damages.
- (D) In any case in which personal injury is claimed:
  - (i) A description of the nature and extent of any injury claimed, including residuals.
  - (ii) A description of the basis for and method of calculation of any claimed wage loss.
- (E) The most recent demand and offer or a description of any other proposed settlement between or among the parties.

(6) All parties shall be prepared to make a bona fide offer of settlement.

(b) The personal attendance of any person who is required by these rules to be present may be excused only by the presiding judge upon application made prior to the day on which the conference is scheduled. Any such person whose attendance is excused must remain available by telephone until he or she has been excused by the judge conducting the conference regardless of the time of day at the location of that person.

(c) No conference may be continued without the consent of the presiding judge or, if known, the judge to whom the case has been assigned for conference.

(d) At all such conferences, the judge of the department to which the conference has been assigned shall first attempt to settle the case. If settlement discussions are inconclusive, the judge may adjourn the conference to a later date for further settlement discussions.



(e) Sanctions pursuant to CRC 227 shall be imposed for any violation of this rule. The minimum sanction imposed shall be \$150.00 payable to the court; sanctions payable to the court may be larger where appropriate and will be in addition to appropriate attorney fees and calendar changes.

Sanctions mandated hereby may be waived by the judge conducting the conference only upon an application showing good cause why sanctions should not be imposed.

(Adopted, effective July 1, 1996) (Amended, effective January 1, 2003)(Amended, effective July 1, 2005)

### **PART 3. CALENDAR MANAGEMENT**

#### **Rule 2.5 Trial Date Settlement Conference**

A further settlement conference shall be held on the date the case is called for trial in accordance with the procedures outlined in and with the attendance of those persons designated in Local Rule 2.4.

(Adopted, effective July 1, 1996)

#### **Rule 2.6 Refund of Jury Fees: Duty to Notify Court**

(Adopted, effective July 1, 1996) (**REPEALED** and Renumbered as Rule 2.7.6)

### **CHAPTER 3. [RESERVED]**

### **CHAPTER 4. JURY RULES**

#### **Rule 2.7 Length of Jury Service**

In compliance with CRC 861, a person has fulfilled his or her jury service obligation when he or she has:

- (a) Served on one trial until discharged.
- (b) Been assigned on one day for jury selection until excused by the jury commissioner.
- (c) Attended court but was not assigned to a trial department for selection of a jury before the end of that day.
- (d) Been assigned to a trial department for selection of a jury and has been excused by the trial judge.
- (e) Served one day on call.
- (f) Served no more than 5 court days on telephone standby.

(Adopted, effective January 1, 2000)

#### **Rule 2.7.1 Proposed Jury Instructions**

- (a) Reference California Rules of Court, Rules 229 and 855.

(b) The Trial Department shall determine in its discretion the timing of submission of proposed jury instructions.

(Amended, effective January 1, 2002) (Amended, effective January 1, 2006)

#### Rule 2.7.2 Duty Of Counsel with Respect to Jury Instructions

Before delivery of proposed jury instructions to the trial judge and opposing counsel, counsel shall fill in all blanks, make all strikeouts, insertions and modifications therein which are appropriate to the case. Submission of a form, which requires additions or modifications to constitute a complete and intelligible instruction, shall not be deemed a request for such instruction.

In addition to a hard copy of the proposed jury instructions, counsel shall provide the modified instructions on a computer diskette, and a clean copy of the instructions to be given to the jury.

(Adopted, effective January 1, 2000) (Amended, effective January 1, 2006)

#### Rule 2.7.3 Form of Proposed Jury Instructions (CCP §§ 607a, 609,)

All proposed jury instructions shall conform to the requirements of California Rules of Court, Rule 229. Any jury instructions requested after the conclusion of taking evidence shall be in writing. The court, in its discretion, may permit instructions to be sent into the jury room in "Booklet Form". In "Booklet Format" the text of the instruction is printed continuously on the page and may result in several instructions to the page. Such instructions may be accompanied by a table of contents.

(Adopted, effective January 1, 2000) (Amended, effective January 1, 2006)

#### Rule 2.7.4 Changing Jury Instructions

If, after the jury instruction conference and at any time before giving the instructions and verdict and findings forms to the jurors, the trial judge determines to make any substantive change therein, all parties should be so advised on the record outside the hearing of jurors.

(Adopted, effective January 1, 2000)

#### Rule 2.7.5 Jury Instruction Conference

Before final argument and after submission to the trial judge of all proposed jury instructions, verdict and findings forms, a conference outside the presence of jurors will be held. Ordinarily, a reporter or recorder is not required at the commencement of such conference.

In the event the trial judge intends to give any instructions or use any form of verdict or findings on the court's own motion, such instructions, verdicts or findings should be delivered to counsel.

The trial judge will then discuss with counsel:

- (1) Whether any requested proposed instructions, verdicts or findings are patently inappropriate and will be voluntarily withdrawn;
- (2) Whether there is any patent omission of instructions, verdicts or findings which are appropriate and that may be given without objection;
- (3) Whether there is any other modification, namely those to which the parties will stipulate.

Counsel shall meet prior to this conference to discuss each other's jury instructions and classify them into (1), (2) and (3) above.

The foregoing unreported conference will generally result in clarification of the matters, and creation of three categories of instructions, verdicts or findings that may be withdrawn, given or modified.

Thereafter, the conference should be reported and the trial judge should confirm for the record the matters agreed upon. The trial judge should also specify those instructions, verdicts and findings forms the court proposes to give, refuse or modify, whether at the request of a party or on the court's own motion. The court will hear any objections to the foregoing and rule thereon.

The trial judge should sign each requested instruction and indicate the disposition thereof, all of which shall be thereafter filed by the clerk. If a requested instruction is withdrawn, counsel shall so indicate by writing "withdrawn" and signing or initialing such instruction.

(Adopted, effective January 1, 2000)

#### Rule 2.7.6 Refund of Jury Fees: Duty to Notify Court

Jury fees shall be refunded pursuant to CCP Section 631.3 only if the party depositing the fees has given the master calendar coordinator written notice, at least two court days before the trial date, that the case settled, dropped or that the party's motion for continuance has been granted.

(Adopted, effective July 1, 2004 [former Rule 2.6])

## CHAPTER 5. GENERAL RULES

### Rule 2.8 Family Law Rules

The local rules of San Mateo Superior Court relating to Family Law are contained in Division V of these rules, infra.

(Adopted, effective July 1, 1996)

### Rule 2.9 Required Action

Action shall be taken on all calendared cases and a future date for action shall always be set. No case shall go “off calendar” without a future action being set.

(Adopted, effective July 1, 1996.)

### Rule 2.10 Interpreters and Translators

a) Notice. When a party desires an interpreter, it shall be the responsibility of that party to give notice to the Court and all other parties of record. That party shall make arrangements for the presence and the payment of the interpreter.

b) Qualifications. Unless the interpreter is an official court interpreter, the interpreter’s name and qualifications shall be provided to the court and opposing counsel five (5) court days prior to the date of the interpreter’s appearance . If the interpreter is an official court interpreter, no prior disclosure is required.

c) Relations or friends. Without the consent of all parties, a relation or a friend may not be used as an interpreter or translator in a contested proceeding.

(Adopted, effective January 1, 2000)

### **Rules 2.11 thru 2.19 (Reserved)**

## CHAPTER 6. CIVIL TRIAL RULES

### Rule 2.20 Trial Motions, Briefs, Statements, and Witness Lists

Upon assignment to a trial department for trial by a jury, each party shall file with that department the following:

- (1) Any in limine motions and response thereto;
- (2) Any trial briefs;
- (3) A concise non-argumentative statement of the case to be read to the jury; and
- (4) A list of possible witness who may testify in the trial to be read to the jury panel by the court.

(Adopted, effective January 1, 2002)

**Rule 2.21 In Limine Motions**

Any in limine motions shall be served upon opposing counsel not less than five (5) days prior to trial. Any response shall be served upon the proponent of the motion not later than the first appearance in the Department of the Presiding Judge for trial assignment.

(Adopted, effective January 1, 2002)

**Rule 2.22 Production of Exhibits**

Any party intending to offer any exhibit at the time of trial shall be prepared, by the time of assignment to a trial department, with an original and sufficient copies of each such exhibit for all other parties and the court. The court may make, in its discretion, any orders it deems appropriate regarding the exchange and presentations of exhibits.

(Adopted, effective January 1, 2002)

**RULE NUMBERS 2.23 TO 2.29 ARE RESERVED**

**CHAPTER 7. COMPLEX CASES**

**Rule 2.30 Determination of Complex Case Designation.**

**A. Decision of Complex Case to be Made by Presiding Judge**

The Presiding Judge shall decide whether an action is a complex case within the meaning of California Rules of Court, Rules 1800, subdivision (a), and whether it should be assigned to a single judge for all purposes. All status conferences or other hearings regarding whether an action should be designated as complex and receive a singly assigned judge shall be set in the Presiding Judge's department.

**B. Provisional Designation.**

An action is provisionally a complex case if it involves one or more of the following types of claims: (1) antitrust or trade regulation claims; (2) construction defect claims involving many parties or structures; (3) securities claims or investment losses involving many parties; (4) environmental or toxic tort claims involving many parties; (5) claims involving massive torts; (6) claims involving class actions; or (7) insurance coverage claims arising out of any of the claims listed in subdivisions (1) through (6).

The Court shall treat a provisionally complex action as a complex case until the Presiding Judge has the opportunity to decide whether the action meets the definition in California Rules of Court, Rule 1800, subdivision (a).

**C. Application to Designate or Counter-Designate an Action as a Complex Case.**

Any party who files either a Civil Case Cover Sheet (pursuant to California Rules of Court, Rule 1810) or a counter or joinder Civil Case Cover Sheet (pursuant to California Rules of Court, Rule 1811, subdivision (b) or (c)), designating an action as a complex case in Items 1, 2 and/or 5, must also file an accompanying Certificate Re: Complex Case Designation in the form prescribed by the Court. The

certificate must include supporting information showing a reasonable basis for the complex case designation being sought. Such supporting information may include, without limitation, a brief description of the following factors as they pertain to the particular action:

- (1) Management of a large number of separately represented parties;
- (2) Complexity of anticipated factual and/or legal issues;
- (3) Numerous pretrial motions that will be time-consuming to resolve;
- (4) Management of a large number of witnesses or a substantial amount of documentary evidence;
- (5) Coordination with related actions pending in one or more courts in other counties, states or countries or in a federal court;
- (6) Whether or not certification of a putative class action will in fact be pursued; and
- (7) Substantial post-judgment judicial supervision.

A copy of the Certificate Re: Complex Case Designation must be served on all opposing parties. Any certificate filed by a plaintiff shall be served along with the initial service of copies of the Civil Case Cover Sheet (pursuant to California Rules of Court, Rule 1810), summons, and complaint in the action. Any certificate filed by a defendant shall be served together with the service of copies of the counter or joinder Civil Case Cover Sheet (pursuant to California Rules of Court, Rule 1811, subdivision (b) or (c)) and the initial first appearance pleading(s).

#### **D. Noncomplex Counter-Designation.**

If a Civil Case Cover Sheet designating an action as a complex case and the accompanying Certificate Re: Complex Case Designation has been filed and served and the Court has not previously declared the action to be a complex case, a defendant may file and serve no later than its first appearance a counter Civil Case Cover Sheet designating the action as not a complex case. Any defendant who files such a noncomplex counter-designation must also file and serve an accompanying Certificate Re: Complex Case Designation in the form prescribed by this Court and setting forth supporting information showing a reasonable basis for the noncomplex counter-designation being sought.

Once the Court has declared the action to be a complex case, any party seeking the Presiding Judge's decision that the action is not a complex case must file a noticed motion pursuant to Section H below.

#### **E. Decision by Presiding Judge on Complex Case Designation; Early Status Conference.**

If a Civil Case Cover Sheet designating an action as a complex case and the accompanying Certificate Re: Complex Case Designation have been filed and served, the Presiding Judge shall decide as soon as reasonably practicable, with or without a hearing, whether the action is a complex case and should be assigned to a single judge for all purposes.

Upon the filing of a Civil Case Cover Sheet designating an action as a complex case and the accompanying Certificate Re: Complex Case Designation, the Clerk of the Court shall set a status conference at which the Presiding Judge shall decide whether or not the action is a complex case. This status conference shall be held no later than (a) 60 days after the filing of a Civil Case Cover Sheet by a plaintiff (pursuant to California Rules of Court, Rule 1810) or (b) 30 days after the filing of a counter Civil Case Cover Sheet by a defendant (pursuant to California Rules of Court, Rule 1811, subdivision (a) or (b)), whichever date is earlier.

Alternatively, in his or her sole discretion, the Presiding Judge may make the decision on complex case designation and single assignment, without a status conference, based upon the filed Civil Case Cover Sheet and accompanying Certificate Re: Complex Case Designation alone.

**F. Notice.**

The party who seeks a complex case designation or a noncomplex counter-designation must give reasonable notice of the status conference to the opposing party or parties in the action even if they have not yet made a first appearance in the action. Such notice of the status conference shall be given in the same manner as is required for ex parte applications pursuant to California Rule of Court, Rule 379.

**G. Representations to the Court.**

By presenting to the Court a Certificate Re: Complex Case Designation, an attorney or unrepresented party is certifying to the best of that person's knowledge, information, and belief, formed after reasonable inquiry under the circumstances:

- (1) That the complex case designation or noncomplex counter-designation is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
- (2) That the claims, defenses, or other legal contentions referenced therein are warranted by existing law or by a non-frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
- (3) That the statement of supporting information relevant to the complex case designation or noncomplex counter-designation have evidentiary support or are believed, in good faith, likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
- (4) That there is a reasonable basis for that party's complex case designation or noncomplex counter-designation.

If, after notice and a reasonable opportunity to be heard, the Court determines that this subpart has been violated, the Court may impose an appropriate sanction upon the attorneys, law firms, or self-represented parties that have violated this subpart.

**H. The Presiding Judge's Continuing Power.**

With or without a hearing, the Presiding Judge may decide, on his or her own motion or on a noticed motion by any party, that a civil action is a complex case or that an action previously declared to be a complex case is not a complex case.

**I. Pilot Program; Sunset Provision.**

This revised Local Rule 2.30 is deemed to constitute part of a pilot Complex Civil Litigation Program for the San Mateo County Superior Court. Accordingly, it shall become effective on January 1, 2006, and shall automatically expire on December 31, 2006, unless sooner expressly extended. In the event that it expires without extension, Local Rule 2.30 as it existed as of December 31, 2005, shall once again be operative.

**(Adopted, effective July 1, 2004)(Amended, effective July 1, 2005) (Amended, effective January 1, 2006)**

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FAMILY LAW DEPARTMENT AND FAMILY COURT SERVICES**

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**DIVISION V**  
**FAMILY LAW DEPARTMENT AND FAMILY COURT SERVICES**

**Rule 5.1      Applicability of Rules**

Family law proceedings are governed by the California Rules of Court as supplemented by these local rules of the San Mateo County Superior Court. These rules are intended to provide uniformity of practice and procedure among all departments involved in family law matters. These Rules shall at all times be supplementary and shall be construed and applied so they do not conflict with the California Rules of Court, and any rules adopted by the Judicial Council, and relevant case and statutory law.

Attorneys and self-represented litigants (also known as pro pers) shall comply with all applicable statutes in addition to these local family law rules and the California Rules of Court. Where these rules refer to Superior Court forms, the equivalent Judicial Council forms shall also be accepted.

Self-represented litigants shall be treated in the same manner as if represented by counsel and shall be held to the same standards. All references to counsel in these rules apply equally to self-represented litigants.

( Adopted, effective January 1, 2000)(Amended, effective January 1, 2004)

**Rule 5.2      Court Locations**

The Family Law Department is located at the Hall of Justice and Records, 400 County Center, Redwood City. The Northern District Court is located at 1050 Mission Road, South San Francisco. Absent consent from the supervising judge of the Family Law Department, the only matters to be set in the northern branch of the court are matters to be heard on the northern law and motion and domestic violence calendar.

(Adopted, effective January 1, 2000) (Amended, effective January 1, 2004)

**Rule 5.3      Matters Heard in Family Law Department**

Matters to be heard in the Family Law Department shall include:

- A. All orders to show cause, motions, and other family law matters preliminary to trial, all defaults under the Family Code; and all required settlement conferences and trials;
- B. All orders to show cause and motions relating to enforcement or modifications of family law orders or judgments;
- C. All orders to show cause and motions relating to child custody, support, visitation, or attorney's fees and costs under the Uniform Parentage Act (Family Code §7600 et. Seq.) And the Uniform Child Custody Jurisdiction Act (Family code §3400 et. seq.);
- D. All proceedings under the Revised Uniform Reciprocal Enforcement of Support Act (Family Code §4800 et. Seq.);
- E. All applications for restraining orders enjoining domestic violence under the Family Law Act, the Uniform Parentage Act, and the Domestic Violence Prevention Act (Family Code §6800 et. Seq.);

- F. All family law discovery matters;
- G. All applications for issuance of writs of execution and habeas corpus, or warrants in lieu thereof, in family law cases;
- H. All motions for change of venue in family law cases;
- I. All stipulations by the parties for appointment of a referee, private judge, or Special Master pursuant to CCP §638, or alternative dispute resolution, or any request by a party for the court to order a referee or Special Master pursuant to CCP §639.

(Adopted, effective January 1, 2000)

#### Rule 5.4 Case Flow Management

A. Case Assignment: Commencing January 1, 2004 the Family Law Department will operate under a Direct Calendar system. Cases shall be randomly assigned to a Family Law Department. For matters filed prior to the commencement date the Court in its sole discretion, will randomly assign a case to a department upon the filing of the first pleading requiring a hearing, conference, or trial.

1.Exceptions: Cases required to be heard by a Title IV-D commissioner pursuant to Family Code §4251 shall not be subject to random assignment.

2.Applications for restraining orders pursuant to Family Code §6200 et seq. shall be reviewed by various departments and assigned to a judicial officer hearing the Domestic Violence Prevention Act calendar unless there is a pending family law action. If an application for a restraining order arises in a pending case, the matter shall be reviewed by the previously assigned department and heard on the appropriate calendar for that department.

B. Assignment for all purposes: The assigned department shall handle all proceedings in the case, including but not limited to, orders to show cause, ex parte applications, law and motion, status, and settlement conferences, and trial. Post-judgment motions for enforcement and/or modification should also be heard in the initial department whenever possible. If the assigned department is disqualified, recuses itself, or there is a change in assignments, the case shall be re-assigned to another Family Law Department. Nothing herein shall be construed to interfere with the power of the supervising family law judge to assign or reassign cases pursuant to California Rules of Court.

C. Notice of Assignment: The clerk of the Court shall provide a Notice of Assignment to the petitioner in a new case filed after January 1, 2004, and to the moving party in a pending case filed prior to the commencement date upon filing of the first pleading requiring a hearing, conference, or trial. The petitioner/moving party must have the respondent/opposing party served with a copy of the Notice of Assignment. A proof of service shall be filed with the Court. The Clerk will place a copy of the Notice of Assignment in the Court file.

D. Challenges to the Assigned Department: Disqualification of a department is controlled by the “all purpose” provisions of Code of Civil Procedure §170.6 and as such a challenge is considered timely to the judicial officer to whom the case has been assigned if the challenge is exercised by the Petitioner or moving party within ten days of the filing of the Petition for cases filed after the commencement date, and within ten (10) days of the filing of the first pleading requiring a hearing, conference or trial for cases filed prior to the commencement date. The responding party has ten (10) days after service of the Notice of Assignment to assert a challenge under Code of Civil Procedure §170.6.

**E. Cases Assigned to Commissioners:**

1. In some proceedings assigned to a Family Law department the parties may be asked to stipulate that their matter be heard and decided by a commissioner of the Superior Court, acting as a temporary judge pursuant to Code of Civil Procedure §259(e) and Rule 244.
2. A party will be deemed to stipulate that all matters heard in the Family Law Department may be heard and disposed of by a Commissioner, including the power to punish for contempt, until final determination of the case, by failing to file an objection in writing within thirty (30) days after service on the party of the Notice of Assignment, or at the first hearing on a motion heard in the Family Law Department, if heard before the expiration of the thirty (30) days.
3. Except as otherwise provided for in Family Code section 4251, the refusal of a party to stipulate to a commissioner acting as a temporary judge may result in the referral of the matter to the supervising judge of the Family Law Department or the Presiding Judge for further assignment.

**F. Consolidated Cases**

If the court consolidates a case, the case of broader jurisdiction, or the lower family law case number, (if the cases are of equal jurisdiction) shall be designated as the lead case and originals of all papers thereafter filed shall be placed in the lead case file (California Rules of Court, Rule 367). Any hearing date in any case other than the lead case shall be vacated and reset, and all future hearing dates will be noticed under the lead case number.

(Adopted, effective January 1, 2000) (Amended, effective January 1, 2003) ( Amended, effective January 1, 2004)  
(Amended,, effective January 1, 2005)

**Rule 5.5 Ex Parte Orders**

(Adopted effective January 1, 2000) (Renumbered as Rule 5.6 and Amended, effective January 1, 2004)

**Rule 5.5 Alternative Dispute Resolution**

A. ADR Policy: California Rules of Court and the Family Law Act strongly encourage alternative dispute resolution (ADR) of family matters. The Family Law Department recognizes that formal litigation of legal claims and disputes is expensive and time consuming. The goals of this Court are: to reduce hostilities between the parties; facilitate the early resolution of issues; and provide parties with an opportunity to maximize their satisfaction with the resolution of their case. It is therefore the policy of this Court to promote and encourage the parties to settle their disputes by the use of appropriate dispute resolution options which include mediation, arbitration, collaborative law, court supervised settlement conferences and/or judicial case management.

B. Requirements for filing and service of the Notice of ADR Options In Family Law Actions: Each party to a family law action shall be informed of the alternatives to litigation to resolve their disputed issues. Notice shall be in the form of an information sheet entitled “Notice of ADR Options” (hereinafter “Notice”) (see Appendix 6). All parties and counsel shall file and have the Notice served on the other party with any Petition or Response under the Family Law Act or Uniform Parentage Act, Order to Show Cause, Response to Order to Show Cause, Notice of Motion, Response to Notice of Motion, or other family law pleading which will result in a court hearing or trial, unless a Notice has previously been filed within the past 180 days. A Proof of Service shall be filed with the Court.

(1) Exceptions: This rule shall not apply to domestic violence cases filed under Family Code 6200 et seq, nor to Title IV-D child support actions involving the Department of Child Support pursuant to Family Code §§17400 and 17406 and/or those actions filed by the local child support agency pursuant to Family Code §4900 et seq. This rule shall not apply to Motions to Withdraw or to matters pending before a private judge. The Notice shall not be served on an employee pension benefit plan.

C. Except for ex parte motions or an initial order to show cause filed with a petition, no hearing or trial date shall be set by the Clerk of the Court until the moving party has complied with filing and service of the Notice as set forth in this Rule.

D. The Court's ADR program shall maintain a list of attorneys who possess the qualifications related to this Rule.

(Adopted, effective January 1, 2000) (Renumbered *(formerly Rule 5.4(c))*) and Amended, effective January 1, 2004) (Amended, effective July 1, 2004)

#### Rule 5.6 Ex Parte Orders

A. **Court's Policy.** Ex parte applications are strongly disfavored. Orders will be issued thereon only upon a substantial showing of need. An evidentiary declaration shall contain facts that demonstrate why the matter is appropriately heard as an ex parte matter, as opposed to being heard on the court's law and motion calendar (with or without an order shortening time).

B. **Ex Parte Applications.** The court requires strict compliance with the provisions of Code of Civil Procedure §1008, and the California Rules of Court, Rule 379. California Judicial Council Forms must be used where applicable. *The party seeking any ex parte order has an absolute duty to inform the court that a requested order will change the status quo.*

1. **Represented Parties.** Applications for ex parte orders in family law matters shall be presented to the judge assigned to the case for all purposes through the family law clerk's office at the Hall of Justice and Records in Redwood City.

2. **Self-Represented Parties.** Self-Represented parties seeking an ex parte order must present their papers to the Family Law Facilitator's office for review prior to submission to the assigned department. The Family Law Facilitator will submit the documents for signature after review.

3. **Ex Parte Applications.** Ex Parte Applications, where there is no pending Family Law case and a party is represented by counsel, shall be submitted to the Family Law Clerk's office and will be assigned a department by the Family Law Supervising Judge, for review and determination.

C. **Application and Supporting Documentation.** It is the court's policy to decide ex parte applications solely based on the affidavits/declarations submitted in favor of, or in opposition to, the applications. All affidavits or declarations must set forth factual information within the personal knowledge of the affiant/declarants. Conclusions, feelings, wishes, or unsubstantiated fears will not justify an order. Counsel or a party will not be permitted to augment affidavits or declarations by statements in court. If the affidavit or declaration does not contain a sufficient factual basis for a particular order, it will not be granted.

D. **Declaration Regarding Noticing of Ex Parte Application.** An application for an ex parte order must be accompanied by a written affidavit or declaration that shall include the following information:

- 1) Information on whether the opposing party is represented by counsel; and
- 2) The name, address, and telephone number of the opposing attorney or the opposing self-represented party; and
- 3) Explanation of how notice was given to the other party pursuant to California Rules of Court 379 by either:
  - a) Providing the date, time and manner of giving notice; or
  - b) Specifying reasons why notice has not been given.

This rule applies to initial applications whether or not the other party has appeared in the proceedings or is represented by counsel.

**E. Notice Requirements-Generally.** Ordinarily, an ex parte order will not be issued without the following :

1. Reasonable notice was given to the adverse party so that the party might oppose the application. Reasonable notice is defined according to the California Rules of Court, Rule 379(b). The moving party shall deliver the moving papers to the opposing party, or the opposing party's attorney, at the earliest reasonable opportunity in advance of presenting the application to the court.
2. Delivery of the moving papers to the adverse party shall be made by the most expeditious means available, including, but not limited to personal delivery or facsimile transmission. Notice cannot be made by facsimile alone unless there is prior agreement between the parties, which is set forth in the moving party's declaration. If served by facsimile transmission, the moving party shall include in their declaration evidence that the opposing party or their counsel actually received said transmission during normal business hours. The moving party shall notify the opposing party of the specific date, time and location the ex parte application will be submitted to the court.

**F. Notice Requirement – Emergency Circumstances.** If the moving party alleges that notification may negate the benefit of the requested relief, ex parte relief may be granted without the required notice if the necessary statutory requirements have been met. The Declaration of Notice shall set forth the factual basis upon which such claim is based. This includes an adequate showing that giving notice would frustrate the purpose of the proposed order or that the applicant would suffer immediate and irreparable injury before the adverse party can be heard in opposition.

**G. Excuse of Notice Requirement.** Notice may be excused if, following a good faith attempt, the giving of notice is not possible or if notice ought not to be required. All of the foregoing must be established by declaration accompanying the Application.

**H. Exceptions to the Notice Requirements.** Requests for the following types of ex parte relief do not require notice to the opposing party or the opposing party's counsel:

1. Signature of an order or judgment for which opposing counsel has approved or agreed not to oppose entry;
2. Signature of an order or judgment after default proceedings;
3. Wage and earning assignment orders for support orders made on or after July 1, 1990 (Family Code §5230). Earning assignment orders may be granted ex parte for support orders made on or after July 1, 1990 by submitting the assignment order separately or with the underlying support order or judgment.
4. Ex parte assignment orders for arrearages accrued under any support order may be requested by completing a detailed declaration and calculation, signed under penalty of perjury, setting forth

the month to month accrual of amounts paid and unpaid. Ex parte assignment orders for arrearages are granted without prejudice to subsequent attack by a motion to quash.

5. Orders to locate prepared by the Department of Child Support Services.
6. Order for the restoration of a former name.
7. Order for payment through the Department of Child Support Services.
8. Request for a child protective services report for a minor child requested by Family Court Services.

**I. Application for Ex Parte Temporary Custody Order.** A party requesting an ex parte custody order shall, by affidavit/declaration, accurately describe the provisions of any existing order, the current custody arrangement, the requested relief, the immediate harm or irreparable injury, and the status of any referral to any law enforcement agency or child protective services.

**J. Order Shortening Time for Hearing and/or Deposition.** When requesting an order shortening time for hearing and/or taking of a deposition, the supporting evidentiary declaration(s) must set forth the necessity for the order shortening time. For good cause shown, time for service may be shortened up to two court days before the hearing date and five calendar days before the taking of a deposition.

**K. Stay Away From Residence Orders.** Ex parte residence exclusion orders will not be issued unless there is a clear showing, under Family Code §6321, of assault against and/or threats to assault the party, or a person under the control of the party, that such party has a right to possession of the premises, and that physical or emotional harm would otherwise result. The showing must include a full description of the most recent instance(s) of actual assault, or threats to assault, disposition towards violence, substance abuse or other such facts, and shall specify the date of each occurrence.

**L. Exclusive Use of Vehicle.** An ex parte order granting exclusive use of a vehicle ordinarily will not be granted unless a declaration demonstrates a true emergency and specific facts to support the order, including a discussion of the relative hardships to the parties and a compelling need for the order. Whenever possible, any request for orders with respect to a vehicle should include the year, make and license number of the vehicle.

**M. Set Aside of Ex Parte Order.** If a responding party requests an ex parte order to be set aside prior to the date set for hearing, notice shall be given to the moving party. The court may order an earlier hearing date or modify the orders on a proper showing in lieu of setting aside the orders.

(Adopted, effective January 1, 2000) (Renumbered *(formerly 5.5)* and Amended, effective January 1, 2004)

## Rule 5.7 Declarations of Disclosure, Income and Expense Declarations and Tax Returns

(Adopted, effective January 1, 2000)(Renumbered as Rule 5.11 and Amended, effective January 1, 2004)

### Rule 5.7 Order to Show Cause and Notice of Motion Rules

#### A. Moving and Responsive Papers

1. Moving Papers: All moving papers must be prepared, filed with the court clerk, and served in accordance with the applicable provisions of Special Rules for Trial Courts Family Law, Code of Civil Procedure and Family Code. Papers not properly completed may be cause for the matter to be dismissed without prejudice. When an Order to Show Cause (OSC) is issued by the Court, it shall be signed by the court and filed with the court clerk before it is served.

2. Time for Serving Responsive Documents and Reply Documents: All papers responding to an Order to Show Cause or Notice of Motion shall so state in the caption. Such responsive papers shall be filed with the court and served no later than the 10<sup>th</sup> calendar day preceding the hearing. A party who has not filed a timely written response may be denied the opportunity to offer oral argument at the hearing. All papers filed in reply to a response to an Order to Show Cause or a Notice of Motion shall so state in the caption. All reply papers shall be filed with the court and served no later than the 5<sup>th</sup> calendar day prior to the hearing. Any papers not timely filed may not be considered by the court, absent a showing of good cause.

3. Extra Copies of Moving and Responsive Papers: Counsel are advised to bring an extra set of all relevant moving or responsive papers to the hearing. Due to last-minute filings and the volume of business, the court file may be incomplete at the time of the hearing.

4. Family Court Services Information Sheet--Mediation and Evaluation form: When filing an Order to Show Cause or Notice of Motion regarding custody or visitation, whether disputed or not, the moving party must also complete a Family Court Services Information Sheet--Mediation & Evaluation Form. (Appendix "3".) This is not to be filed with the court, rather submitted to Family Court Services at the time of the scheduled mediation appointment.

5. Post-Judgment motions: Service of post-judgment motions shall be pursuant to Family Code §215. However, Family Code §215 shall not apply to on-going matters where a judgment of dissolution of status has been entered, but further judgment on reserved issues is pending.

B. Initial Calendaring: All motions and Orders to Show Cause shall be initially set on the law and motion calendar of the assigned family law department. The initial hearing date shall be assigned by the clerk's office at the time the matter is filed. Approximate setting dates are available on the updated clerk's office hotline at (650)599-1180 and may be requested on a messenger slip or other memorandum addressed to the clerk.

1. If temporary restraining orders pursuant to the Domestic Violence Prevention Act have been granted pending a hearing, the Clerk must set the hearing date within 25 days of the filing date. When mediation at Family Court Services is required in these cases, the hearing will be calendared within 25 days of the filing date, but hearing on the custody and visitation aspects of the case may be continued to another setting unless a Family Court Services mediation date is available at least 5 court days prior to the hearing.

2. If no restraining orders are requested and mediation at Family Court Services is required, the hearing should be set at least 7 court days after the Family Court Services appointment.

C. Time Limits: Hearings on the law and motion calendar are limited to 20 minutes and are subject to further time limitations to accommodate the court's calendar. The time limit includes presentation of the case and reading of the file by the Court.

D. Transfer of a Matter Exceeding 20 minutes:

1. Transfer At Initial Hearing: If at the time of the first calendar appearance the court determines that the hearing in the matter will exceed 20 minutes in length, the matter may be continued by the Court to a Short Cause calendar in the assigned department.

2. Transfer Prior to Initial Hearing: If, after service of the Order to Show Cause or Notice of Motion, but before the hearing date, both counsel and/or self represented parties agree that the hearing of a matter will exceed 20 minutes, the matter may be transferred by the courtroom clerk in the assigned department to a Short Cause Calendar.

E. Continuances: A request for a continuance should be made at the earliest possible time prior to the hearing. A request by the moving party for continuance at the time of the hearing shall be looked upon with disfavor and in the absence of good cause, shall be denied. Once a matter has been set for hearing, no more than two continuances shall be granted unless good cause is shown. Absent good cause, if a case is not ready to proceed to hearing on the date established as a result of the second continuance the court shall take the matter off calendar. Once approved, counsel should advise the assigned department of the continuance at the earliest possible date prior to the hearing.

1. Stipulated continuances prior to hearing: Requests for continuances should be directed to the clerk's office via facsimile, email or in person, until 12:00 Noon the court day before the scheduled hearing. If timely made, the Clerk will grant the continuance provided that:

- a. proper service was effected;
- b. the requesting party represents that all parties have agreed to a continuance;
- c. all parties have agreed to continue the matter to a specific date which is provided to the Clerk at the time of the request (counsel and parties are reminded that available dates may be obtained from the court's hotline (650) 599-1180);
- d. the parties send written confirmation to the Clerk by letter or using local court form "Stipulation and Order Re: Continuance"; and
- e. the proper fees have been paid or arrangements for payment have been made.

2. An appearance is required for stipulated continuances made after 12 Noon the court day prior to the hearing. Stipulated continuances may be obtained from the courtroom clerk in the assigned department before the calendar call. The court may also grant stipulated continuances at the calendar call. Parties may submit the local court form "Stipulation and Order Re: Continuance" to request a continuance.

3. If custody or visitation are at issue and the Family Court Services report is not available at least 2 days prior to the hearing, the court may grant a continuance upon request of a party who has been prejudiced by the inability to review the report sufficiently in advance of the hearing.

4. Continuances of Orders to Show Cause re: Contempt must be requested in open court (with the citee present), or obtained by written stipulation including a signed consent by the citee to the continuance. The stipulation shall be filed with the court at or before the time set for the original hearing. If the citee does not appear, upon request, a bench warrant will normally be issued and held until the new date to retain jurisdiction.



F. Conduct of Hearings:

1. Meet and Confer Requirements: Once responsive papers have been filed, the moving party shall contact the opposing party prior to the scheduled hearing and arrange to meet and confer (personally or by telephone) prior to the hearing. All parties and counsel are to make good faith efforts to resolve the issues pending before the court, and to inspect documents and exchange information so that issues may be resolved, facts agreed to by stipulation, and those issues remaining for determination be clearly delineated and expeditiously presented to the court at the time of the hearing. Failure to comply with the meet and confer requirements in good faith may result in the award of attorney's fees and/or sanctions against the non-cooperating counsel or party. The inability of counsel to get along or communicate effectively is not an excuse for failure to meet and confer. The professional obligation of counsel to meet and confer in an effort to resolve disputes is an obligation owed to clients, the court, witnesses, children, and other litigants. *This rule does not apply to harassment or domestic violence matters unless both parties are represented by counsel.*
2. Calendar Calls: The calendar for each session shall begin promptly at the appointed time and place designated on the notice of hearing. The supervising judge of the Family Law Department may change the times for calendar calls and notice thereof will be published in the legal newspapers in the county and/or posted outside the affected courtrooms.
3. Non appearance at calendar call: If there is no appearance within 15 minutes of the calendared time for the hearing, the matter may be ordered off calendar or may be heard as an uncontested matter in the court's discretion. Counsel who will be engaged elsewhere at the calendar call or have an unavoidable conflict in another department should advise opposing counsel at the earliest possible time prior to the hearing. Counsel should notify the department(s) they will be appearing before, and request the court's accommodation and/or calendar priority prior to the calendar call at the check-in with the courtroom clerk. The court strongly discourages counsel from scheduling appearances in more than one department per calendar call. If unavoidable, every reasonable effort should be made to reschedule one of the hearings.
4. If parties and/or counsel wish to conduct settlement negotiations on the day of the hearing, they shall notify the courtroom clerk prior to the calendar call at the time of the check-in. After so informing the clerk, neither the parties nor counsel need be present when the calendar is called, and the matter will remain on calendar. If a case is settled after the calendar is called but before the hearing, counsel should so inform the courtroom clerk and every effort will be made to place the stipulation on the record before the court hears the remaining contested matters provided there is sufficient time. Counsel should not state that a case is settled if any issues are remaining for court adjudication. It is the duty of counsel to periodically inform the court of the status of the settlement negotiations and to ascertain that sufficient time remains to hear the matter if settlement is not reached.
5. Matters are frequently continued to another date at the time of the hearing or conference. Counsel are advised to bring their calendars to court if they wish the court to take into consideration prior commitments. The court will not allow counsel to postpone setting a future court appearance because they lack immediate knowledge of their calendar.
6. At the time the calendar is called it is the duty of counsel to give the court accurate time estimates for the presentation of the entire matter. Failure to do so may result in the hearing being interrupted, continued, or ultimately concluded at the end of the calendar.
7. Manner of Presentation: Participants shall present Orders to Show Cause and motions in the following order:

- a. Announce appearance; and,
- b. Clearly state ALL contested issues; and,
- c. Recite any stipulated matters for approval of opposing counsel, the parties and the court; and,
- d. Briefly present argument on each contested issue including a specific recommended solution. Participants shall not interrupt the opposing side's presentation, other than with valid evidentiary objections, and shall direct all remarks to the court.

8. Once the court has rendered its decision, participants shall not attempt to reargue the case. It is, however, acceptable to question the court in order to clarify a ruling or correct an obvious mistake of fact.

G. Presentation of Evidence at the Hearing:

1. Limitation on Evidence/Oral Testimony: Counsel shall be prepared to present their case based upon their moving and responsive papers, declarations, and at the court's discretion by offer of proof. Generally, testimony by a witness is not permitted on the Order to Show Cause or motion calendars.

2. Declarations Received in Evidence: Consistent with the rule enunciated in *Reifler v. Superior Court* (1974) 39 Cal. App.3d 479, and subject to legal objection and cross examination where appropriate, all declarations will be considered received in evidence at the hearing. In granting or denying applications for orders, it is the court's policy to determine contested issues based solely on the moving and responsive papers, admissible evidence contained in the declarations timely filed with the court, and arguments based thereon.

3. Offer of Proof: In lieu of testimony an offer of proof may be made during any hearing or trial at the court's discretion. An offer of proof is a succinct statement given by counsel that states what a particular witness would say if called to the stand. Offers of proof are subject to the same evidentiary objections as testimony and should be distinguished and presented separately from argument.

4. Witnesses: A party seeking to introduce oral evidence by a witness at the hearing must comply with the requirements of California Rules of Court, Rule 323. Even if such notice is given, receiving testimony shall be left solely to the discretion of the court.

H. Award of Attorney's Fees and Costs: If liquid community assets exist, an award of attorney's fees and costs will generally be made from this source. If no liquid community assets exist, the court will generally award attorney's fees and costs to those persons who are unable to bear their own fees and costs. Each party should be aware that an award of attorney's fees and/or costs under Family Code sections 2030 and 2032 is generally subject to a need and ability analysis. Absent unusual circumstances, it is highly unlikely the court will order any party to pay 100% of the other party's attorney's fees and costs. Each party should expect to bear a significant portion of his/her own attorney's fees and costs even after a need/ability analysis. An award against a party may, if requested, be made in the nature of non-taxable spousal support payable by wage assignment. The court will require the repayment of a retainer where the party awarded the attorney's fees was compelled to borrow the retainer, and the community or the paying party has the ability to repay the loan.

When awarding attorney's fees in enforcement actions, including contempt, the court will be governed by Family Code §3557.

Any time fees or costs are at issue, pursuant to Family Code, section 2030 both parties shall submit a *fully completed* income and expense declaration. (Emphasis added).

I. TEMPORARY SPOUSAL SUPPORT FORMULA. Temporary spousal support is generally computed by taking 40% of the net income of the payor, minus 50% of the net income of the payee, adjusted for tax consequences. In the event there is child support, temporary spousal support is calculated on the net income not allocated to child support and/or child-related expenses.

( Adopted, effective January 1, 2000)(Amended and renumbered (*formerly Rule 5.6*), effective January 1, 2004) (Amended, effective January 1, 2005)

## 5.8 Short Cause Trials

( Adopted, effective January 1, 2000)(Repealed and incorporated into New Rule 5.8, effective January 1, 2004)

## Rule 5.8 Trial Setting, Status Conference, and Mandatory Settlement Conference Rules

A. Purpose: The purposes of these rules are to: ensure that contested Family Law matters are thoroughly prepared and expeditiously processed; foster the informal exchange of information and cooperation between counsel and parties; avoid using the trial itself as a vehicle for what should be pre-trial discovery and settlement procedures; and encourage the consideration and use of appropriate dispute resolution options.

### B. Trials:

1. Trial matters may be short cause or long cause. Trials are defined as:
  - a. Those family law matters referred for trial from a status or settlement conference and in which the trial or hearing requires time on the Court's calendar in excess of 20 minutes;
  - b. Those family law matters set on, or transferred from the law and motion calendar to the family law trial calendar because the time required to hear the matter will exceed 20 minutes; and
  - c. Those family law matters directed by the Court to be placed on the family law trial calendar.
  - d. For purposes of Government Code §26830 only, a trial is considered to be a matter with a setting of one day or more.
2. Memorandum that Civil Case is at Issue ("At-Issue Memorandum"): No At Issue Memorandum to set the matter for trial shall be filed in any case commenced after January 1, 2004. Pending cases as of January 1, 2004 shall be assigned to a department pursuant to Local Rule 5.4 such that cases shall be randomly assigned to a department and given an date for a status conference upon filing of an At Issue Memorandum. Except as noted herein, counsel and all self represented parties are advised that compliance with all provisions of Local Rule 5.8(C) is required for all cases, whether pending or not as of the effective date of this rule.

C. Status Conference:

1. **Date set upon filing:** Every case for dissolution of marriage, nullity, or legal separation filed after the effective date of this rule will be assigned a Status Conference with the assigned judicial department on a date and time to be provided by the court upon filing of a Response. The Conference will be set in the assigned department approximately 120 days from the filing of the Response unless both counsel or self represented parties request that the status conference be held earlier, a judgment has been entered, or a dismissal has been filed. The court will serve a copy of the Notice of Assignment and Status Conference on the parties when the Conference is set.
2. On request of either party or on the Court's own motion, the court may set any other matter for a Status Conference.
3. **Required Statement:** At least 15 days prior to the initial Status Conference the parties shall file with the court and serve on all other parties a completed Status Conference Statement (see Appendix 1) a copy of which is available at the clerk's office or through the court's website: [www.sanmateocourt.org](http://www.sanmateocourt.org). The parties may elect to file a jointly prepared Status Conference Statement.
4. **Participation at Conference:** Unless otherwise excused by the court, counsel for each party and each self-represented party appearing in the action shall attend the Status Conference, shall have filed the required statement and shall be familiar with the case and be fully prepared to discuss all matters raised by the pleadings including a timetable for resolution which may include those actions described below in subdivision 5. The court may, after reviewing the timely filed Status Conference Statement determine that appearances at the conference is not necessary. If such appearance is not required, the court will notify counsel and any self represented parties that no appearance is required.
5. **Actions and orders:** At the Status Conference, provided that the parties have stipulated and when legally required, the court shall take appropriate action and make orders consistent with the policy of prompt case resolution. Such actions may include but are not limited to the following:
  - a. Set the case for trial and/or mandatory settlement conference;
  - b. Schedule the case for a further status conference;
  - c. Bifurcate issues for trial;
  - d. Consolidate cases;
  - e. Set or reset the hearing of law and motions matters;
  - f. Set a date for the exchange of Declaration of Disclosure information;
  - g. Limit, schedule, or expedite discovery matters;
  - h. Set a date for the exchange of expert witness information;
  - i. Refer the case for mediation, arbitration or another ADR method;
  - j. Require filing of preliminary stipulations where the issues can be narrowed;
  - k. Dismiss the action in whole or in part;
  - l. Impose sanctions;
  - m. Refer the parties to local family law resources or ancillary services;
  - n. Order counsel or parties to engage in and report back on meet and confer discussions;
  - o. Review case management options under Family Code section 2451 with counsel and self-represented parties;
  - p. Appoint an expert, referee or special master and allocate expenses or set a hearing thereon;
  - q. Refer to Family Court Services for mediation of custody and/or visitation;
  - r. Appoint a Special Master pursuant to Code of Civil Procedure section 639 and California Rules of Court, Rules 244.1, 244.2;

- s. Appoint counsel for a minor;
- t. Order an evaluation pursuant to Family Code section 3111 or by a psychologist under Evidence Code section 730;
- u. Any other orders the court deems appropriate for the expeditious resolution of the case.

6. Continuances: Each party may request one continuance from the assigned department at least 15 calendar days prior to the scheduled conference date. Additional continuances may be requested for good cause. Good cause may consist of, but is not limited to, a showing that significant progress has been made toward a resolution of the case through settlement, mediation, collaborative law, and/or reconciliation. Both counsel and parties must agree that the status conference should be continued.

7. Sanctions: The court may impose sanctions if a Status Conference Statement is not timely filed and served, a Status Conference Statement is not fully completed, a party or his/her attorney fails to appear, an attorney or self-represented party is not fully prepared to discuss the case or lacks the authority to discuss and resolve any issues that arise at the conference including but not limited to discovery matters and the setting of subsequent court dates.

8. The matter may not be set for trial until the judicial officer conducting the Status Conference deems the matter ready for a Mandatory Settlement Conference and/or trial.

9. Judges Pro Tem: Experienced family law attorneys may be assigned as judges pro tem to assist the parties and counsel in reaching a settlement. (It is not necessary for a party to stipulate to a judge pro tem at settlement conferences unless there is a request for stipulations to be placed on the record.) Parties are required to participate in meaningful settlement discussions and attempt to resolve as many trial issues as possible. The supervising judge and any judge or commissioner not otherwise engaged may be available for additional assistance, including making orders for sanctions requested by either party.

#### D. Mandatory Settlement Conferences

1. Calendaring: No long cause case will be tried until the parties participate in a Mandatory Settlement Conference ("MSC"). A Mandatory Settlement Conference is available on short cause matters by stipulation and court order. The date for the MSC will be set at the final status conference by the clerk of the assigned department. Additional Mandatory Settlement Conferences may be held on the joint request of the parties or on order of the Court.

Counsel shall call the clerk of the assigned department at least 5 court days in advance of the MSC to confirm that the MSC will go forward or to request a continuance. An MSC will only be continued for good cause. No continuances shall be granted on the day of the scheduled conference. Failure to comply will result in monetary sanctions.

2. Meet and Confer Requirement: Counsel shall meet and confer either in person or by telephone at least seven (7) court days before the day of the MSC to resolve as many issues as possible and to specify those matters to be litigated. Results of the conference shall be included in the Mandatory Settlement Conference Statement. Failure to comply with these requirements shall subject offending counsel to monetary sanctions.

3. Mandatory Settlement Conference Statement: Both parties shall prepare a Mandatory Settlement Conference Statement and, if support or fees are at issue, a current income and expense declaration, and shall serve a copy of each on opposing counsel and the assigned judge in such a manner as to assure they are received no later than 12 noon 5 court days prior to the MSC. (If that falls on a Monday, which is a court holiday, then the preceding Friday is viewed as the appropriate

date.) Both parties shall state with specificity their good faith proposal for the disposition of each contested issue. Counsel should adhere to the format set forth in Appendix A. A settlement brief may be attached. Copies of the following documents shall be brought to the MSC if an unresolved issue requires their production (these documents are not to be attached to the Mandatory Settlement Conference Statement):

- a. All real and personal property appraisals and pension plan evaluations. If no written demand to cross-examine the appraiser is made within ten (10) days after the Mandatory Settlement Conference, or five (5) court days prior to trial, whichever occurs first, the appraisal shall be deemed to have been stipulated as admissible in evidence without a foundation and without the appearance of the appraiser.
  - b. If a party proposes an immediate award of the full community interest of a pension plan, then that party must obtain an actuarial or other appropriate and relevant valuation of the plan. The valuation should be requested sufficiently in advance so that the written evaluation is available at the conference.
  - c. Bank, credit union, savings account balances and statements of balances of other liquid accounts, as of the date of separation and relevant dates thereafter.
  - d. Promissory notes, deeds, and other documents of title or major debt, bills from creditors, and negotiated bank checks.
  - e. An itemization of all furniture, furnishings, appliances, utensils, and all other personal property with the party's best estimate of value of each item, unless the parties previously have agreed to some division of these items, or unless an appraisal of these items is included.
  - f. A statement from the carrier of the cash value of a whole life insurance policy.
  - g. Copies of the relevant blue book pages for all vehicles whose value is at issue.
4. Attendance: Absent a court order allowing a party to appear telephonically, both parties and their counsel of record must personally attend the MSC and be prepared to conduct a meaningful settlement conference. Each attorney attending the MSC shall have a thorough knowledge of the evidence and shall be prepared to discuss the facts and law pertaining to all issues then pending and to be resolved at trial.
5. Sanctions: The trial judge may consider the reasonableness of each party's prior settlement position in awarding attorney's fees and costs pursuant to Family Code §271. Failure to appear or participate in the MSC or to comply with the exchange of information as required by these Rules will result in sanctions.
6. Setting for Trial: Cases shall be set for trial according to Local Rule 5.8 (E) and (F) at the conclusion of the conference where settlement was not reached on all issues.

**E. Short Cause Trials**

1. Short cause trials may not exceed 3 hours, including time for the judge to review the file, read the trial briefs, conduct chambers conferences and issue a ruling. Cases may be assigned to a department's Short Cause trial calendar by court order from the law and motion calendar or at the conclusion of a status or settlement conference that did not fully resolve all pending issues. A trial date will not be set except by the assigned department after determination is made that subsequent conferences would not settle the case. Cases that exceed the 3 hours time limit may be mistried by the trial judge and set for a status or Mandatory Settlement conference with a revised time estimate, continued, or dismissed from the trial calendar
2. Continuances: One stipulated continuance of a short cause trial may be granted by phone with 24 hours' notice, or in open court. No more than one continuance shall be granted without

court order and for good cause shown. If a case is not ready to proceed to hearing on the date established as a result of the continuance, the court shall, absent good cause shown, take the matter off calendar.

3. Occasionally, temporary judges will be available to hear short cause cases when the assigned judicial officer is absent. These temporary judges will be experienced family law attorneys who have been approved by the supervising judge of the Family Law Department and/or the presiding judge. If a case is assigned to a temporary judge, litigants will be asked by the clerk in the assigned trial department to sign a stipulation consenting to that temporary judge. If consent to a temporary judge is not obtained, the case shall be referred to the Supervising Family Law Judge for assignment that day to an available judicial officer or continued to a convenient date on another calendar.

4. Counsel shall meet and confer either in person or by telephone at least 7 calendar days before the day of the trial to resolve as many issues as possible and to specify those matters to be litigated. Failure to comply with these requirements shall subject offending counsel to monetary sanctions.

5. If custody or visitation is in issue at the time of the trial, the parties shall meet with family court services before trial. The meeting shall be scheduled sufficiently in advance of the trial to allow time for the counselor to prepare and file a recommendation, at least 5 calendar days before the scheduled trial date.

6. **Mandatory Short Cause Statements:** Counsel shall prepare a short cause trial statement and, if financial matters are at issue, an income and expense declaration. Completion and filing of a Mandatory Settlement Conference statement shall satisfy the requirements of this section. The originals of these documents and income and expense declaration shall be filed with the family law clerk's office and copies served on the opposing party not later than 5 calendar days before the Mandatory Settlement Conference or trial date whichever comes first. Except as noted herein, every short cause trial statement shall be in the form of Appendix 4. Failure to timely serve and file the trial statement shall subject the offending counsel to sanctions.

7. **Memorandum of Points and Authorities:** When a case involves complex or novel points of law or the California Rules of Court require it, the parties shall file legal points and authorities along with their short cause trial statement.

#### F. Long Cause Trials

1. A long cause trial is defined as any trial estimated to require more than 3 hours of court time.

2. **Trial Setting:** A trial date will not be set except by the assigned department after the Mandatory Settlement Conference has occurred and a determination made that no further settlement conferences will settle the case. The trial date will be set a reasonable time after the last settlement conference.

3. **Continuances:** Trials may only be continued by the supervising judge or assigned trial judge. Normally continuances are only granted in extraordinary circumstances (which do not include a change of counsel).

4.. **Trial Preparation:** The rules governing trial preparation are set forth in Appendix "5".

5. **Trial Briefs:** Trial briefs are required. If a case involves complex or novel points of law or otherwise required by California Rules of Court, the trial brief shall include legal points and

authorities. The format of the trial brief is left to each attorney's discretion. Trial briefs shall be exchanged as set forth in Appendix "5".

(Adopted, effective January 1, 2004) (Amended, effective January 1, 2005)  
(Amended, effective July 1, 2005)

#### Rule 5.9 Long Cause Trials

( Adopted, effective January 1, 2000)(Repealed and incorporated into New Rule 5.8, effective January 1, 2004)

#### Rule 5.9 Judgment by Default or Uncontested Hearing

A. A dissolution or legal separation may proceed by way of default or stipulation. The judgment is obtained by testimony at a default prove-up or uncontested hearing, or by stipulation and/or affidavit pursuant to Family Code §2336.

B. To obtain entry of default, the Petitioner must complete and file a Proof of Service of Preliminary Declaration of Disclosure, a Request to Enter Default, and provide the clerk with a stamped envelope bearing sufficient postage addressed to the spouse who has defaulted, with the address of the family court clerk's office as the return address. After default is entered, the Petitioner may apply to the court for the relief sought in the Petition by submitting an original and two copies of a judgment packet. A judgment packet must contain the following documents:

1. Declaration of Default or Uncontested Dissolution or Legal Separation, Judgment (Family Law) with or without a Marital Settlement Agreement, Notice of Entry of Judgment and envelopes, with the court's address as the return address, stamped and addressed to each party.
2. If a default judgment is submitted with a Marital Settlement Agreement, the judgment package must also include a Declaration Regarding Service of Final Declaration of Disclosure from each party unless waived consistent with state law (Family Code §2105). Respondent's signature on the Marital Settlement Agreement must be notarized.
3. If the proposed uncontested judgment is not a stipulated judgment and includes a division of property, a fully completed property declaration, including values, must be filed. The court cannot divide assets or debts that are not listed on the Petition or property declarations served on Respondent.
4. If the proposed uncontested judgment is not a stipulated judgment and includes provisions for child support, spousal support or a waiver thereof, attorney's fees or costs, the moving party must also file a current income and expense declaration. Neither child nor spousal support will be granted unless the moving party sets forth an estimate of the other party's income in the income and expense declaration. If the moving party does not know the other party's present income, this requirement may be met by evidence of the other party's ability to earn, work history or other relevant facts.
5. Requests for default in a nullity action must be accompanied by a declaration setting forth the factual basis for the request.

C. Stipulated judgments in cases which are not proceeding by default, must contain the following waivers:



1. The matter may proceed on the default or uncontested calendar before a judge pro tem; and,
2. The parties waive their right to notice of trial, a statement of decision, to move for a new trial, and to appeal.

( Adopted, effective January 1, 2000) (Renumbered *(formerly Rule 5.13)*, and Amended, effective January 1, 2004)

#### Rule 5.10 Family Support Division Matters

( Adopted, effective January 1, 2000)( Renumbered as Rule 5.12 and Amended, effective January 1, 2004)

#### Rule 5.10 Preparation of Orders After Hearing and Judgments

A. Unless otherwise ordered by the court, counsel for the moving party shall prepare a formal order or judgment. The order or judgment shall be prepared within ten (10) calendar days of the hearing, unless a transcript has been ordered within five (5) days of the hearing and paid for in a timely manner, in which case the order shall be prepared within seven (7) calendar days of receipt of the transcript. The order or judgment shall be prepared so that at least two lines of text appear on the page upon which the judge's signature is affixed. No text may appear after the judge's signature.

B. The party preparing the order or judgment shall send it to the opposing side for approval as to form and content unless the court authorizes the preparer to submit it directly to the court. The recipient shall have ten (10) calendar days from the date of mailing to review the order and, either sign it as prepared, or notify the proponent in writing of objections to its content. If the parties cannot agree on the language of the order, then, within 45 days, of the hearing or trial either party may submit the proposed order with a copy of the transcript of the recited order and any written objections by the other party to the judicial officer who made the ruling.

C. If the responding party fails to timely approve or object to the order or the judgment, the party who prepared the order shall send a second letter stating that he or she will submit the order or judgment drafted to the court for signature, if no written response to the order is received with five (5) calendar days of the date of the letter. If there is no written response to the second letter, the party preparing the order may transmit the proposed order to the Court for signature by the assigned judicial officer with a declaration explaining the circumstances and with copies of both communications attached.

( Adopted, effective January 1, 2000) (Renumbered (formerly Rule 5.14) and amended, effective January 1, 2004)

#### Rule 5.11 Family Court Services

(Adopted, effective January 1, 2000) (Renumbered as Rule 5.13, effective January 1, 2004)

#### Rule 5.11 Declarations of Disclosure and Financial Information to be Provided

A. Declarations of Disclosure: All preliminary declarations of disclosure ("DOD") shall be prepared and served in compliance with Family Code §§ 2103 and 2104.

All final DOD's shall be prepared and served in compliance with Family Code §2105, unless mutually waived in compliance with Family Code §2105(d).

Pursuant to Family Code § 2106, absent good cause, no judgment regarding the parties' property rights shall be entered without each party executing and serving their respective DOD and filing their respective

proof of service of the DOD. “Good cause” may be established by a declaration signed under penalty of perjury, stating sufficient supporting facts or at a court hearing.

B. Financial Information: The following rules apply to all Family Law proceedings where any financial matter is at issue, including any request for child support, spousal support, family support, or attorneys fees and/or costs. The parties must completely disclose all relevant financial information to each other and the court whenever a financial matter is at issue.

1. Completed Income and Expense Declaration: A case may not be heard unless current Income and Expense Declarations have been completed by each side, filed with the court, and served on the opposing party. An Income and Expense Declaration is current if it is executed within 60 days of the hearing. If a previously filed Income and Expense Declaration is claimed to be current, a copy must be attached to the moving or responding papers. However, in no event will an Income and Expense Declaration executed more than 6 months prior to the hearing be sufficient. All applicable blanks on the form must be completed (notations such as “not applicable,” “none,” “estimated,” or “unknown” should be used where appropriate. Supplemental, updated, or responsive Income and Expense Declarations shall be served at least five court days before the hearing. The court may impose sanctions as permitted by law, or dismiss the matter, if delay results from the failure of either party to comply with these requirements.

2. The Income and Expense Declarations shall be deemed to be received in evidence at the hearing, subject to amendment and cross-examination. Examinations on matters covered by the Income and Expense Declaration will be heard only under exceptional circumstances within the court’s discretion and normally will be limited to testimony regarding unusual items not adequately explained in the Declaration itself.

3. Required Supplemental Information:

- a. Wage earners must attach three most recent pay stubs for all jobs and their most recent W-2 and/or 1099 forms to all Income and Expense Declarations.
- b. If self employed, a party must provide a profit and loss statement, financial statement or other schedule reflecting all compensation received by that party for the year to date and for the prior year. All gross self-employment income and all business expenses must clearly be identified and itemized.
- c. Rental income received by a party (including from roommates) must be disclosed in a summary document reflecting all rental receipts, deposits, reimbursements, and expenses for the current year to date and for the prior year.
- d. If a party is unemployed, a declaration must describe previous employment, gross and net income derived there from, reasons for termination of employment and the current efforts undertaken by the party to seek work.
- e. If there are other income producing household members, a declaration must specify: their income(s), the household member(s) relationship to the party, their contribution(s) to household expenses, and any financial arrangement between the party and that household member(s).
- f. If the other party’s income is unknown, a declaration must include the following information if known: prior employment history including employer’s name, position(s) held, duration of employment, earnings, and reason for termination of employment; educational background and degrees; licenses held; age; health; and any other supported children.
- g. If a party is disabled, that party should submit documentation of and a declaration including the following information: nature of the disability and how long it is expected to continue; type of disability benefits received; monthly amount of benefits

received; duration of benefits received; whether or not the disabled party has applied for benefits for a child.

- h. If a party is receiving retirement benefits, that party must submit documentation of and a declaration that specifies the type of retirement benefit(s) received and the amount being received from each benefit.
- i. If a party is incarcerated this fact must be disclosed on a declaration including the place of incarceration and the expected date of release, if known.
- j. The section on attorney's fees and costs must be full completed including the hourly rate, even if attorney's fees have not been requested, along with the amount of fees and costs paid to date and fees and costs outstanding.
- k. If a party has or will receive bonuses, a schedule of bonuses, setting forth the amount and date of the most recent bonus, the date on which the next bonus is expected to be received, and the amount of the next bonus (if known) must be provided.
- l. If a party receives overtime, a declaration must include a statement of overtime and a description of the frequency of overtime if the receipt varies.
- m. When requesting add-ons to child support, the moving party must specify the actual amount of each add-on expense that is being requested (if known) and documentary proof that the expense is being incurred.
- n. A party receiving public assistance benefits shall disclose that fact, including the appropriate aid and/or Department of Child Support Services identification or file number, in the appropriate section of the Income and Expense Declaration.

4. Tax returns and forms: When child, spousal, or family support has been requested a party may require the opposing party to provide income tax return forms and schedules pursuant to Family Code §3552. The request should be made no later than 5 court days prior to the hearing and the documents produced no later than 2 court days prior to the hearing. The type of income and documents that may be requested are:

- a. Salaried or hourly employees: a copy of the party's W-2 form for the prior year.
- b. Self-employment or independent contractor income: a copy of the Schedule C and all depreciation schedules of that party's IRS 1040 or 1040A forms from the most recent federal income tax return filed.
- c. An owner or owner/employee of a corporation: copies of the Schedule 1120 and 1125 and all depreciation schedule of that party's IRS 1040 or 1040A forms from the most recent federal income tax return filed.
- d. An individual with income derived from a partnership: the K-1 most recent statement(s) and IRS form 1065 for each partnership from the most recent federal income tax return filed.
- e. The recipient of rental income: copies of the Schedule E form attached to that party's IRS 1040 or 1040A form and all depreciation schedules from the most recent federal income tax return filed.
- f. The recipient of dividend or interest income: copies of all 1099 forms for the prior year and a copy of Schedule B of that party's IRS 1040 or 1040A form from the most recent federal income tax return filed.

C. Child Support Proceedings: all stipulations regarding child support shall include a support calculation such as DissoMaster or SupportTax printout.

- 1. If the stipulated amount falls below guideline as set forth in the attached calculation the following language must be included, except where either of the parties or children is receiving public assistance:
  - a. The parties are fully informed of their rights concerning child support;
  - b. The order is being agreed to without coercion or duress;
  - c. The agreement is in the best interest of the child(ren);

- d. The needs of the child(ren) will be adequately met by the stipulated amount; and
  - e. The right to support has not been assigned to any county pursuant to Welfare and Institutions Code §11477 and no public assistance application is pending.
2. If the stipulated amount is above guideline, language must be included that the parties understand that a change of circumstances is required to modify the amount downward, unless the stipulated amount indicates a change of circumstance is not required.

( Adopted January 1, 2000) (Renumbered (formerly Rule 5.7, and Amended, effective January 1, 2004)

Rule 5.12 Appointment of Counsel for Child

(Adopted, effective January 1,2000) (Renumbered as Rule 5.14, amended, effective January 1, 2004)

Rule 5.12 Department of Child Support Services

- A. All matters involving the Department of Child Support Services shall be heard and set on the Child Support Services (DCSS) calendar. All domestic relations matters involving the Department of Child Support Services shall be heard at the Hall of Justice, 400 County Center, Redwood City unless the Department has provided a written waiver.
- B. The DCSS calendars are set at either 8:30 a.m. or 1:30 p.m. as parties are expected to meet and confer with the representative(s) of the Department of Child Support Services office prior to the calendar call.
- C. When the County of San Mateo is providing public assistance benefits to a custodial parent pursuant to Welfare and Institutions Code §11477, the San Mateo County Department of Child Support Services is an indispensable party to any action involving child support. The party seeking establishment, modification or enforcement of a child support order shall give the Child Support Agency written notice as required by case law. [See *In re Marriage of Mena* (1989) 212 Cal. App. Ed 12 and *In re Marriage of Lugo* (1985) 170 Cal. App. 3d 427.] Upon a showing that adequate notice was given to the Child Support Agency, the action may be heard despite the absence of a representative from the Child Support Agency's office.
- D. All orders involving the Department of Child Support Services shall include the following provisions:
1. All payments shall be made by wage assignment payable to the Department of Child Support Services;
  2. The Payor must provide the Department of Child Support Services with their date of birth, social security number, income information, employer's name, employer's address, and residential address.
  3. The Payor must notify the Department of Child Support Services in writing with 48 hours of any change of address, income or employment.
  4. The Payor shall provide health insurance for the child/children in the action, if available at no or reasonable cost through their employment.
  5. The Payor shall provide documentation showing proof of health insurance coverage to the Department of Child Support Services within 48 hours.
- E. The parties may use the Department of Child Support Services case number to litigate issues of child custody and visitation.

(Adopted, effective January 1,2 000) (Renumbered (formerly Rule 5.10) and amended, effective January 1, 2004)

Rule 5.13 Judgment by Default or Uncontested Hearing

(Adopted, effective January 1, 2000) (Renumbered as Rule 5.9 and Amended, effective January 1, 2004)

Rule 5.13 Family Court Services

A. Mediation Required: Whenever custody or visitation are in dispute, the parties are required by Family Code §3170 to participate in court ordered mandatory mediation either with a counselor at Family Court Services (FCS) or a private mediator retained by the parties. Upon a showing of good cause, investigations pursuant to Family Code §3110 will be ordered. Investigation is a separate function from that of mediation and may not be ordered unless an attempt is first made to settle a case through mediation.

B. Mediation at Family Court Services

1. Location of Family Court Services: Family Court Services is located on the 6th floor of the Hall of Justice and Records, 400 County Center, Redwood City, California. Phone number: 650 363-4561; Fax 650 363-4966. FCS maintains limited hours in the Northern District Branch for day of court mediation and appointments.

2. Initiating Family Court Services mediation: If an OSC or motion requests a court order concerning custody or visitation and FCS mediation appears necessary, the moving party, or their attorney, must call FCS when the moving papers are filed to schedule a mediation appointment. If the responding party determines that a custody or visitation dispute exists, which is not set forth in the moving papers, the responding party is responsible for scheduling the earliest possible FCS mediation date and promptly notify the moving party of the time and date for the meeting. (Providing the requested relief is available pursuant to Family Code section 213).

3. Parent Orientation Workshop: All parties filing an OSC or motion related to custody and visitation of minor children are required to complete a parent orientation workshop prior to mediation. Parties can meet this requirement by:

a) Viewing the presentation and parent Handbook online at [www.sanmateocourt.org/fcs](http://www.sanmateocourt.org/fcs). Parties are required to bring their certificate of completion to their mediation appointment.

b) Parties may attend the Family Court Services Parent Orientation at the Court by calling FCS at 650 363-4561 or register on-line at [www.sanmateocourt.org/fcs/signup/](http://www.sanmateocourt.org/fcs/signup/)

4. Failure to Appear at Mediation: The Court will impose a fine of \$100 on a party who receives reasonable notice of the mediation at FCS and fails to appear without good cause or who cancels within 48 hours of the appointment.

5. Submitting Mediation Data Sheet and Declarations: At or before the mediation session, each party must submit a completed Family Court Services Mediation Information Sheet. Blank mediation data sheets may be obtained from Family Court Services. If day of court mediation is going to be requested, the parties are expected to have completed the day of court Family Court Services Mediation Information Sheet prior to having their matters called in court. The parties should indicate to the courtroom clerk that they plan to request a referral to Family Court Services.

Prior to the mediation conference, the parties, or their attorneys, may provide FCS with filed-endorsed moving papers, responsive papers, and/or declarations signed under penalty of perjury.

Absent a court order to the contrary, FCS will not accept these documents unless they have been served on the opposing party or their attorney. FCS may review further documents submitted by either party if the counselor, at the counselor's sole discretion, determines that the documents are relevant to the mediation process.

6. Telephone Conferences: If a personal meeting with a counselor at FCS is not feasible, such as when one party resides outside of the nine Bay Area counties, a conference may be conducted by telephone. The parties or counsel for the parties shall advise the FCS office of the need for telephonic mediation and provide appropriate telephone numbers. The party residing at a distance shall be responsible for calling FCS at the time of the appointment (i.e., FCS does not call the parties).

7. Initial Meeting: Other than a statutorily authorized support person, only parents shall attend the initial mediation conference, unless requested by the court or FCS counselor. The parties' attorneys do not participate in FCS mediation. If the counselor wants to interview the child(ren), new spouses or other parties, the counselor will arrange for such interviews after the initial meeting. Parents should not bring children to mediation appointments unless specifically requested by the mediator or Court.

8. Subsequent Mediation Appointments: Unless a review mediation is requested by the Court or the mediator, parties may not set an appointment with Family Court Services within six months of their last mediation unless authorized by the Court. In general, it is the policy of Family Court Services to assign the parties the same mediator in order to provide for continuity of services and to prevent minor children from needing to be interviewed again.

9. Request for Change of Counselor (Pursuant to F.C. 3163):

A. A peremptory challenge of a counselor is not allowed.

B. A party may request a change of counselor as follows:

1. Requesting a Client Comment Form or sending a written request to the Manager of Family Court Services outlining the reasons for the request.

2. No change of counselor requests will be granted unless there is substantial showing that the counselor is biased or prejudiced against one of the parties or is unable to render a fair and impartial recommendation.

3. The Manager shall review the request and shall advise the parties of the decision in writing. The Manager's decision is final.

10. Separate Mediation: If there is a restraining order, the parties will be seen separately. A party who alleges under penalty of perjury that they have been a victim of domestic violence may request separate mediation even though there is no current restraining order. Protected parties or parties who allege domestic violence may have a support person in the mediation session. The support person must be at least 18 years of age and cannot be the attorney of record for either party. The support person must sign a FCS form agreeing to keep the mediation confidential. The support person is present for emotional support and cannot speak or offer comments to the mediator or advice to the parent. If the support person is disruptive to the mediation, the counselor will exclude the support person.

11. Involvement of a Child in the Process: In general, children are interviewed by the mediator without the parents present. Family Court Services does not provide the type of parent-child interaction/attachment assessment that is included in a private child custody evaluation. However, a child seen with one parent shall also be seen with the other parent unless there is a court order

stating otherwise, or, in an unusual case, the evaluator determines that such observation is unnecessary or not in the best interests of the child. The mediator has the discretion to determine the number of interviews and amount of time spent with each parent-child combination and whether siblings should be interviewed separately or jointly.

12. Recommendation by Mediator or Evaluator: If the parties are unable to resolve issues of custody or visitation by mediation, the FCS counselor will submit a written recommendation and the reasons for the recommendation to the parties, their attorneys and the court. The court will consider the recommendation at the time of the hearing. A party has the right to cross-examine the counselor during the hearing. A subpoena is required to ensure attendance of the counselor.

If both parents did not participate in the evaluation, or there is a court order in this regard, the mediator or evaluator shall not make recommendations regarding custody and/or visitation. Any recommendations made without both parents' participation or court order shall be given little (or no) weight by the court and FCS.

13. Extended Family Court Services Mediation, Investigation: If the court orders FCS to perform an extended mediation evaluation, the parties shall bear the cost of such services at the prevailing hourly rate. The court will require one or both parties to pay an initial nonrefundable deposit set by the court. The parties shall provide a copy of this order to FCS when they report to intake. Failure to complete the intake process will delay completion of the investigation. An extended mediation evaluation is more limited in scope than a private custody evaluation (i.e., FCS does not conduct psychological testing or attachment assessments between parents and young children).

14. Sealing reports and Filing Recommendations Reports submitted by FCS or other mental health professionals shall always be sealed in the civil file.

15. Confidentiality of Reports: A mediator's Memo to the Court shall be confidential and unavailable to any person except the court, the parties, their attorneys and any person to whom the court expressly grants access by written order made with prior notice to all parties. Except for the section of the Memo labeled "Recommendations" or "Agreements" the memo should never be attached to any pleadings made part of the Court file. Minors should not have access to the Memo to the Court.

Anyone receiving the mediator's report shall not give copies of, or parts of the Memo to anyone who is not assisting in the preparation of the case. These reports usually contain sensitive information and shall not be used to cause unnecessary embarrassment or harm to the parties but shall be handled in a responsible, confidential manner for purposes limited to the litigation. The court reserves the right to impose appropriate sanctions upon any person who violates this rule.

Family court mediation proceedings shall be held in private and shall be confidential. All communications, verbal or written, from the parties to the mediator made in the proceeding are official information, and mediators must protect the confidentiality of the parties and the child and must not release information about the case to any individual except as authorized by the court or statute.

If any person subpoenas or otherwise attempts to obtain confidential mediation information, the mediator will be deemed to have asserted the privilege for official information, and said information will not be provided without an order of the court.

#### C. Court Ordered Private Child Custody Evaluations:

1. Court appointed evaluators shall abide by the requirements of Rule 1257.3 Uniform Standards of Practice for the Court Ordered Child custody evaluation in the California Rules of Court.
2. No peremptory challenge to a Court appointed evaluator is allowed.
3. Evaluators may petition to withdraw from a case by submitting a request in writing to the court and mailing copies to the counsel for the parties. The request shall include the reason for the request and a status report on any action taken by the evaluator appointed to the case.
4. Grievance Procedure: Complaints regarding the evaluator's performance shall be submitted to the Court for review. All submitted written complaints will receive a response from the Court.
5. The evaluator may initiate an ex parte communication with the court to define the scope, process and methods of the evaluation when authorized by the order appointing the evaluator.
6. All child custody and visitation evaluations shall be ordered by the court and evaluators will be appointed under Evidence Code Section 730. The court may elect not to consider evaluations which have not been approved and ordered by the court.
7. A copy of the appointment of the evaluator under Evidence Code Section 730 will be made available to the court assigned evaluator. A court ordered evaluation may be limited in scope to the issues identified by the court.
8. Information from Children: The court relies on the judgment of its experts in making decision about when, how often, and under what circumstances children are interviewed. The expert shall be able to justify the strategy used in any particular case. Except in extraordinary circumstances, including the potential for danger to the child, children shall be informed that the information provided by the child will not be confidential.
9. Any evaluation based on interviews with only one parent shall not include a recommendation regarding custody.
10. Payment of the Evaluation: The court will order payment of the evaluation at the time of the appointment.
11. Any court ordered child custody evaluation shall be submitted to the court and counselor for the parties not less than ten (10) days before the hearing or trial.
12. A list of names of local child custody evaluators in can be obtained by contacting Family Court Services at 650 363-4561.

(Adopted, effective January 1, 2000)(Renumbered (formerly 5.11)and Amended, effective January 1, 2004) (Amended, effective January 1, 2005)(Amended, effective January 1, 2006)

#### Rule 5.14 Preparation of Orders After Hearing and Judgments

(Adopted, effective January 1, 2000)(Renumbered as Rule 5.10 and Amended, effective January 1, 2004)

#### Rule 5.14 Appointment of Counsel for Child



- A. The court may appoint counsel for a child at any time the court determines that the appointment is justified by the specific facts of that case and may do so over the objection of the parties.
- B. Once the decision to appoint counsel for a minor has been made, the court shall determine which of the following methods will be used for the selection of counsel:
1. By the judge's selection of a member from the San Mateo County Private Defender Program; or,
  2. By the parties' stipulation to a member from the San Mateo County Private Defender Program.
  3. By stipulation to a private attorney as approved by the court and for which the parties shall bear full financial responsibility.
- C. Upon appointment of counsel for a child, the judge shall designate who shall contact the attorney and determine his or her availability. Once the attorney has agreed to accept the appointment, an order of appointment of counsel for minor shall be prepared, filed and served upon the appointed counsel, counsel for the parties or unrepresented parties. Should the appointed counsel be unavailable for any reason, this information shall be reported to the clerk of the judge making that appointment and another appointment shall be made.
- D. No judicial officer shall appoint counsel for a minor through the Private Defender panel and authorize the payment for services of said counsel to be made without the prior approval of the supervising judge of the Family Law Department.
- E. All requests for payment for services of said counsel to be made by the Private Defender Program shall be submitted to the supervising judge for his or her approval.

( Adopted, effective January 1, 2000) (Renumbered (formerly Rule 5.12) and amended, effective January 1, 2004)

**Rule 5.15 Family Law Facilitator's Duties**

- A. Pursuant to Family Code Section 10000 et seq., the San Mateo County Superior Court shall maintain an office of the Family Law Facilitator. Services provided by the Family Law Facilitator shall include, but are not limited to:
1. Providing educational materials to parents concerning the process of establishing parentage and establishing, modifying, and enforcing child support and spousal support in the courts;
  2. Distributing necessary court forms and voluntary declarations of paternity;
  3. Providing assistance in completing forms;
  4. Preparing support schedules based upon statutory guidelines; and
  5. Providing referrals to the local child support agency, family court services, and other community agencies and resources that provide services for parents and children.
- B. Provided that they have adequate staffing, time, funding and available resources, the Family Law Facilitator may:
1. Meet with parties to assist in resolution of issues of child support, spousal support, and maintenance of health insurance, subject to Family Code §10012
  2. Draft stipulations on any issues agreed to by the parties.
  3. Prior to or at the hearing, and at the request of the court, review the paperwork, examine documents, prepare support schedules, and advise the judge whether the matter is ready to proceed;
  4. Assist the clerk in maintaining records;
  5. Prepare formal orders after hearing where both parties are self-represented.
- C. Self-represented parties (pro pers) in family law cases are encouraged to meet with the Family Law

Facilitator located at the Hall of Justice and Records, 400 County Center, Redwood City, California prior to filing any documents or pleadings with the Court. If the matter to be addressed is child and/or spousal support, parties shall bring with them the following documents to their meeting with the Family Law Facilitator:

1. Three (3) recent wage stubs
2. The last IRS Form 1040, 1040A or 1040EZ
3. Filed, completed Income and Expense Declarations, and
4. Receipts for childcare and medical expenses.

If a party is self-employed, that party shall bring:

1. His/her most recent tax return,
2. Quarterly profit and loss statements,
3. Financial statements for the past 12 months; and
4. Proof of reasonable and necessary expenses of the business for the past 12 months.

D. Pursuant to Family Code Section 10013, the Family Law Facilitator shall not represent any party. No attorney-client relationship is created between a party and the family law facilitator as a result of any information or services provided to the party by the family law facilitator. The absence of an attorney-client relationship means that communications between the party and the family law facilitator are not privileged and that the family law facilitator may provide services to the other party.

(Adopted, effective January 1, 2000)(Amended, effective January 1, 2004)

**APPENDIX "1"**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number and Address):   <div style="display: flex; justify-content: space-between;"> <div>TELEPHONE NO: E-MAIL ADDRESS (OPTIONAL) ATTORNEY FOR:</div> <div>FAX NO: (OPTIONAL)</div> </div>	
SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN MATEO COUNTY 400 COUNTY CENTER REDWOOD CITY, CA 94063	
PETITIONER/PLAINTIFF:   RESPONDENT/DEFENDANT:	
<div align="center"><b>STATUS CONFERENCE STATEMENT</b></div> Date: _____ Time: _____ Dept.: _____	<b>CASE NO:</b>

1. Attorney for Petitioner is: \_\_\_\_\_

☐ Petitioner is self-represented

Attorney for Respondent is: \_\_\_\_\_

☐ Respondent is self-represented

2. This case involves the following disputed issues:

☐ Child Custody/Visitation

☐ Reimbursement

☐ Child Support

☐ Attorneys Fees

☐ Spousal Support

☐ Other: \_\_\_\_\_

☐ Arrears

☐ Additional Issue Information is Attached

☐ Date of Separation

☐ Characterization/Valuation/Division of Community Property

3. Discovery Remaining:

a. Have Preliminary Declaration of Disclosure been exchanged? ☐ Yes ☐ No

If no, need deadline? ☐ Yes ☐ No

b. Has a preliminary discovery plan been prepared and exchanged? ☐ Yes ☐ No

c. What discovery remains to be done? ☐ Interrogatories ☐ Depositions ☐ Document Production

d. State time estimates for the completion of discovery by both sides: \_\_\_\_\_

4. Have the parties and/or counsel met to discuss settlement? ☐ Yes ☐ No

5. Trial Readiness:

a. Are you requesting the case be set for MSC/trial? ☐ Yes ☐ No

b. This case is expected to take: \_\_\_\_\_ ☐ days / ☐ hours of trial to complete

The following pretrial motions are ☐ anticipated ☐ pending and shall be heard on or about:

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This case will be ready for trial on: \_\_\_\_\_

6. Do you Request:

☐ ADR (mediation, arbitration, etc.)

☐ Bifurcate issues of: \_\_\_\_\_

☐ Continue Status Conference until \_\_\_\_\_(date) for the following reasons:

☐ Additional Discovery

☐ Joinder of: \_\_\_\_\_

☐ Discovery Referee (CCP 638)

☐ Custody Evaluation (FC 3111)

☐ Expert Appointed (EC 730)

☐ Psychological Evaluation (EC 730)

☐ Counsel Appointed for Minor (FC 3150)

☐ Collaborative Law

☐ Other: \_\_\_\_\_

7. Statement Prepared By: ☐ Petitioner ☐ Respondent

Submitted ☐ Jointly or ☐ Individually

This statement accurately reflects the present status of the case.

Respectfully submitted,

Dated: \_\_\_\_\_

☐ Attorney for ☐ self-represented  
☐ Petitioner ☐ Respondent

Dated: \_\_\_\_\_

☐ Attorney for ☐ self-represented  
☐ Petitioner ☐ Respondent

If no appearance is required you may notify me by telephone at: \_\_\_\_\_

**FORMER APPENDIX 2**

**(FORMER) JOINT CASE MANAGEMENT CONFERENCE QUESTIONNAIRE - FAMILY LAW**

**(REPEALED, EFFECTIVE JANUARY 1, 2004)**

## APPENDIX 2

### Mandatory Settlement Conference Statement format

I. Background: The Mandatory Settlement Conference Statement shall include the following:

A. A brief statement of facts: If the parties are married, include the date of marriage, date of separation, whether marital status has been terminated, the age and employment status of each party. If the parties have minor children, specify the name and age of each minor child and where they reside.

B. History of the Proceedings: Summarize prior court proceedings and any temporary orders or stipulations that are in effect;

C. Discovery: Provide the date that the Preliminary Declarations of Disclosure were exchanged; the date that the Final Declaration of Disclosure was provided or whether there was a stipulation to waive; and detail any discovery that remains outstanding.

II. Issues for Trial:

The Mandatory Settlement Conference Statement should include a discussion of the issue(s) remaining for trial. When applicable, a concise statement for each issue known to be in dispute containing all material facts and relevant law should be provided in the order listed below. If not applicable, counsel shall so designate or use "N/A."

(A) Separate Property: List of each item of separate property, and include the following information: i) the date it was acquired; ii) the basis upon which it is claimed as separate rather than community property; iii) the current market value; iv) the nature, extent and terms of payment of any encumbrance against the property; and, v) the manner in which title thereto is presently vested.

(B) Community Property: List of each item of community property, and include the following information: i) the date it was acquired; ii) the basis upon which it is claimed as community property; iii) the current market value; iv) the nature, extent and terms of payment of any encumbrance against the property; and, v) the manner in which title thereto is presently vested.

(C) Funds Held by Others: To the extent that either separate property or community property consists of funds held by others, such as insurance policies, pensions, profit sharing, or other trust or retirement funds the statement shall fully identify the policy or fund, and include the following information: i) policy, serial or account number; ii) the present values and basis for calculations; iii) all terms or conditions imposed upon withdrawal of such funds. If any loans exist against any of these funds, the details regarding those loans should be set forth.

(D) Tracing: If a segregation of community property and separate property interests in a single asset is to be an issue in the case, the statement shall set forth in detail, the dates, values and dollar amounts, the transactions relevant to the tracing issues as well as the basis for computation or proration.

(E) Current Obligations: Separately list all debts and obligations of the spouses that are liabilities of the community and, so far as known, debts and obligations that are alleged to be the separate liabilities of the respective spouses. Specify: i) the identity of the creditor; ii) the purpose for which the debt was incurred; iii) the date on which the debt was incurred; iv) the balance currently due; v) terms of payment; and, vi) the security, if any, held by creditor.

(F) Reimbursement: A summary of each party's claims for reimbursement or other charges (e.g. claims under In re Marriage of Epstein, In re Marriage of Watts, or In re Marriage of Jeffries) listing each claimed item by dates, payment amount, and payee.

(G) Current Income and Expenses: Specify and set forth current income and expenses by completing and filing or attaching a financial declaration in the form prescribed by Rule 1285.50 of the California Rules of Court. A previously filed income and expense declaration will not satisfy this rule, unless there has been no change from the most recently filed statement, in which case it shall be attached. Include any relevant attachments as set forth in Rule 5.11.

(H) Proposal for Property Division: Set forth a proposed equal division of community property of the parties. In columnar or accounting form, listing the following: i) fair market value of each asset; ii) Secured obligation(s) against each asset, if any; iii) Net value of each asset; iv) Proposed distribution to husband; v) Proposed distribution to wife; vi) Balance due on each unsecured obligation, vii) Proposed distribution of each unsecured obligation; and viii) Proposed method of equalizing the division of community property.

(I) Conditions about Custody, Visitation and Support: Specify each party's contention as to child custody and visitation and as to the amount and duration of child and spousal support.

(J) Attorney's Fees: If there is a request for attorney's fees, include: i) the compensation agreement with the client; ii) a summary of all fees and costs incurred to date, including the number of hours spent by the attorney, paralegal, and other personnel; iii) the amount already paid; iv) the source of funds for payments; v) counsel's estimate of additional fees and costs to be incurred through trial; and vi) the amount sought to be paid by the adverse party.

**APPENDIX 3**  
**INFORMATION SHEET-MEDIATION AND EVALUATION SERVICE**

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO</b> <b>400 Government Center</b> <b>Redwood City, CA 94063</b>	FOR COURT USE ONLY
In re the Marriage of PETITIONER(S)	
RESPONDENT(S)	
<b>INFORMATION SHEET MEDIATION AND EVALUATION SERVICE</b>	CASE NUMBER

**FAILURE TO COMPLETE THIS FORM WILL DELAY YOUR APPOINTMENT  
BRING COMPLETED FORM WITH YOU TO FAMILY COURT SERVICES**

**Your name:** \_\_\_\_\_

Other names you have used: \_\_\_\_\_  
birth date: \_\_\_\_\_ birth place: \_\_\_\_\_ age: \_\_\_\_\_  
Home address: \_\_\_\_\_

Telephone # home: \_\_\_\_\_ Work or message: \_\_\_\_\_  
Mailing address: \_\_\_\_\_

Driver's license #: \_\_\_\_\_

Social security number: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_  
Your attorney: \_\_\_\_\_ Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Address: \_\_\_\_\_

**CHILDREN INVOLVED IN THIS MATTER:**

1. Name: _____	DOB: _____	age: _____
2. Name: _____	DOB: _____	age: _____
3. Name: _____	DOB: _____	age: _____
4. Name: _____	DOB: _____	age: _____

**ALL OTHERS RESIDING IN YOUR CURRENT RESIDENCE:**

Their relationship to you (including any additional children)

\_\_\_\_\_  
Your employment information:

Employer: \_\_\_\_\_ date employed: \_\_\_\_\_  
Address: \_\_\_\_\_ days/hours of work: \_\_\_\_\_  
Job title: \_\_\_\_\_

Monthly income before taxes: \_\_\_\_\_

**STATUS OF THE RELATIONSHIP:**

Date began living together: \_\_\_\_\_  
Date of last separation: \_\_\_\_\_  
Date of marriage: \_\_\_\_\_  
If divorced...date divorce was final: \_\_\_\_\_



**OTHER MARRIAGES:**

1. Name: \_\_\_\_\_ date: \_\_\_\_\_  
2. Name: \_\_\_\_\_ date: \_\_\_\_\_

Children from those marriages: \_\_\_\_\_

**RESIDENCE:**

How long in your present residence? \_\_\_\_\_ rent/buy? \_\_\_\_\_

Number of persons in home: \_\_\_\_\_ number of bedrooms: \_\_\_\_\_

Are you moving? \_\_\_\_\_

**HEALTH:**

Are you presently receiving any medical treatment? Yes \_\_\_\_\_ no \_\_\_\_\_

If yes, briefly describe: \_\_\_\_\_

**DOMESTIC VIOLENCE:**

Where there is a history of domestic violence or a domestic violence restraining order, the protected person may request separate mediation under family code 3181 and/or bring a support person under family code 6303.

\_\_\_\_\_ I request separate mediation under code section 3181

\_\_\_\_\_ I wish to bring a support person under code section 6303

If there is a history of violence against you or the children please describe: how long ago, were police called, were weapons involved, charges filed, restraining ORDERS ISSUED?

\_\_\_\_\_

\_\_\_\_\_

**CURRENT SITUATION:**

Are there any problems of drug or alcohol abuse? \_\_\_\_\_

Are there any other problems of child sexual abuse or neglect? \_\_\_\_\_

What custody/visitation problems currently exist?

\_\_\_\_\_

Please list some reasonable solutions to those problems:

\_\_\_\_\_

I certify that all information provided to Family Court Services is true and correct. I understand that falsification or omission of any information may affect the disposition of my case.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

**APPENDIX 4**  
**MANDATORY SHORT CAUSE TRIAL STATEMENT**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number and address).  ATTORNEY FOR (Name):	TELEPHONE AND FAX NOS.	FOR COURT USE ONLY
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO</b> <b>400 Government Center</b> <b>Redwood City, CA 94063</b>		
In re the Marriage of PETITIONER(S)		
RESPONDENT(S)		
<b>HUSBAND'S WIFE'S MANDATORY SHORT CAUSE TRIAL STATEMENT</b>		CASE NUMBER

**I. MEET AND CONFER STATEMENT:**

- A. Date of Conference:
- B. In Person/By Phone:
- C. Issues Settled Are: *(Be Specific)*
  - 1.
  - 2.
  - 3.
- D. Issues to be Litigated Are: *(Be Specific)*
  - 1.
  - 2.
  - 3.
- E. If Counsel Failed to Meet and Confer, Explain reasons in detail.

DATE:  
TIME:  
DEPT:

**II. STATISTICAL DATA:**

- A. Date of Marriage:
- B. Date of Separation
- C. Length of Marriage:
- D. Marital Status Terminated?                      If so, date:
- E. Husband's Age (       ) and Employment:
- F. Husband's Gross Monthly Income: \_\_\_\_\_ Net: \_\_\_\_\_
- G. Husband's Paydays: \_\_\_\_\_
- H. Cohabitee or New Spouse's Monthly Income: \_\_\_\_\_ Net: \_\_\_\_\_
- I. Wife's Age (       ) and Employment:
- J. Wife's Gross Monthly Income: \_\_\_\_\_ Net: \_\_\_\_\_
- K. Wife's Paydays: \_\_\_\_\_
- L. Minor Children:

Name	Date of Birth	Age	Sex	Residing with

**III. HISTORY OF PROCEEDINGS:** (Briefly Summarize all prior court proceedings)

**IV. HUSBAND'S/WIFE'S PROPOSALS RE ISSUES:** (In same order as issues are listed in Part I-D above)

1. Issue: (e.g., Spousal Support):
2. Issue: (e.g., Child Support):
3. Issue: (e.g., Attorney's Fees):

**V. ATTACHMENTS AND EXHIBITS:**

- a. Where issues include the division of assets and debts, counsel shall attach relevant schedules of the proposed division (See Attachment 1)

SIGNED: \_\_\_\_\_ DATED: \_\_\_\_\_  
Attorney for:

**APPENDIX 5**  
**LONG CAUSE TRIAL RULES CHECKLIST**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number and address).  ATTORNEY FOR (Name):	TELEPHONE AND FAX NOS.	FOR COURT USE ONLY
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO</b> <b>400 Government Center</b> <b>Redwood City, CA 94063</b>		CASE NUMBER
In re the Marriage of PETITIONER(S)		
RESPONDENT(S)		
<b>LONG CAUSE TRIAL RULES CHECKLIST</b>		

**A. SEVEN COURT DAYS OR MORE BEFORE TRIAL**

1. Personally meet and confer with opposing counsel.
2. Exchange trial briefs
3. Where support or fees are at issue, exchange Income & Expense Declarations with required attachments.
4. Exchange list of exhibits and copies of exhibits.
5. Exchange list designating non-party witnesses (including name, address and telephone number) and the subject matter each will testify to.

**B. FOUR COURT DAYS BEFORE TRIAL**

1. Confer with opposing counsel telephonically to discuss objections to the exhibits and in limine motions.
2. If objections to exhibits unresolved, or motion in limine to be filed, schedule appointment for pre-trial conference.
3. File with the court and serve in limine motions
4. Arrange with clerk to pre-mark exhibits and file original exhibits.
5. File trial brief, Income & Expense Declaration and court's copy of the exhibits in trial department.

**C. THREE COURT DAYS BEFORE TRIAL**

1. File with clerk of trial department and opposing counsel a written list of objections to the exhibits.

**D. TWO COURT DAYS BEFORE TRIAL**

1. If there are unresolved objections to exhibits or if motions in limine were filed, confer personally with the court through the clerk.

**E. DAY OF TRIAL**

1. All objections to exhibits and motions in limine will be heard and a ruling will be issued.
2. Each counsel must pay the mandated statutory court reporter fee for each half day of trial.
3. At the conclusion of each day of trial, the court and counsel shall review the next days' witnesses, examination time and other calendaring issues.

## APPENDIX 5 - ATTACHMENT A

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number and address).	TELEPHONE AND FAX NOS.	FOR COURT USE ONLY
ATTORNEY FOR (Name):		
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO</b> <b>400 Government Center</b> <b>Redwood City, CA 94063</b>		
In re the Marriage of PETITIONER(S)		
RESPONDENT(S)		
<b>LIST OF PROPOSED EXHIBITS</b>		CASE NUMBER

Petitioner/Respondent submits the following proposed exhibits:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.
- 11.
- 12.
- 13.
- 14.
- 15.
- 16.
- 17.
- 18.
- 19.
- 20.

\_\_\_\_\_  
Attorney for:

Dated: \_\_\_\_\_

**APPENDIX 5 - ATTACHMENT B**  
**LIST OF WITNESSES**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number and address).  ATTORNEY FOR (Name):	TELEPHONE AND FAX NOS.	FOR COURT USE ONLY
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO</b> <b>400 Government Center</b> <b>Redwood City, CA 94063</b>		
In re the Marriage of PETITIONER(S)		
RESPONDENT(S)		
<b>LIST OF WITNESSES</b>		CASE NUMBER

Petitioner      Respondent intends to call the following witnesses at the time of trial to testify on the subjects stated:

<u>Name</u>	<u>Address and Telephone Number</u>	<u>Subjects</u>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____

\_\_\_\_\_  
 Attorney for:

Dated: \_\_\_\_\_

**APPENDIX 5 - ATTACHMENT C**  
**NOTICE OF MOTIONS IN LIMINE**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number and address).	TELEPHONE AND FAX NOS.	FOR COURT USE ONLY
ATTORNEY FOR (Name):		
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO</b> <b>400 Government Center</b> <b>Redwood City, CA 94063</b>		
In re the Marriage of PETITIONER(S)		
RESPONDENT(S)		
<b>NOTICE OF MOTIONS IN LIMINE</b>		CASE NUMBER

Petitioner      Respondent requests the Court to enter the following in limine orders for the reasons stated:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

This motion is based upon the records, files and pleadings in this action, the memorandum of points and authorities submitted with this notice of motion, and any and all other matters which may be timely presented before the time of the hearing on this motion.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Attorney for:

**APPENDIX 5 - ATTACHMENT D**  
**OBJECTIONS TO EXHIBITS OF PETITIONER/RESPONDENT**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number and address).  ATTORNEY FOR (Name):	TELEPHONE AND FAX NOS.	FOR COURT USE ONLY
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO</b> <b>400 Government Center</b> <b>Redwood City, CA 94063</b>		
In re the Marriage of PETITIONER(S)		
RESPONDENT(S)		
<b>OBJECTIONS TO EXHIBITS OF          PETITIONER/RESPONDENT</b>		CASE NUMBER

Petitioner      Respondent objects to the following exhibits for the reasons stated:

EXHIBIT

OBJECTION

- |          |       |
|----------|-------|
| 1. _____ | _____ |
| 2. _____ | _____ |
| 3. _____ | _____ |
| 4. _____ | _____ |
| 5. _____ | _____ |

Dated: \_\_\_\_\_

\_\_\_\_\_  
 Attorney for:



**APPENDIX 6**  
**NOTICE OF ADR OPTIONS**

<b>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address)</b>	<b>TELEPHONE NO.:</b>	<b>FOR COURT USE ONLY</b>
<b>ATTORNEY FOR (Name):</b> <b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO</b>  <b>STREET ADDRESS:</b> <b>MAILING ADDRESS:</b> <b>CITY AND ZIP CODE:</b> <b>BRANCH NAME:</b>		
<b>PLAINTIFF/PETITIONER:</b>  <b>DEFENDANT/RESPONDENT:</b>		<b>CASE NUMBER:</b>

**The San Mateo County Superior Court recommends ADR options**

“Alternative” or “Appropriate Dispute Resolution” (ADR) is a general term for methods of resolving a dispute without going through the formal court process. ADR can save you time, money, and increase your overall satisfaction with the outcome of your case.

ADR can be used at any point in your case to resolve disputes regarding property division, child support, spousal support, paternity, child custody, parenting plans, and many other family law issues.

Did you know that the vast majority of cases filed in court (95-98%) do not go to trial? Most cases are settled or decided in some other way. But in many cases, the settlement comes only after considerable resources have been expended. This is why the San Mateo County Superior Court supports the use of dispute resolution alternatives at the earliest possible time. Local Rule 5.5(A) states:

California Rules of Court and the Family Law Act strongly encourage alternative dispute resolution (ADR) of family matters. The Family Law Department recognizes that formal litigation of legal claims and disputes is expensive and time consuming. The goals of this Court are: to reduce hostilities between the parties; facilitate the early resolution of issues; and provide parties with an opportunity to maximize their satisfaction with the resolution of their case. It is therefore the policy of this Court to promote and encourage the parties to settle their disputes by the use of appropriate dispute resolution options which include mediation, arbitration, collaborative law, court supervised settlement conferences and/or judicial case management.

The court strongly encourages the use of ADR but does not favor any particular form of ADR, endorse any particular attorney, nor guarantee the outcome in any particular case.

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

## **DESCRIPTION OF SERVICES AND COST:**

The Court manages a panel of attorneys with special training in mediation and arbitration and a commitment to finding alternatives to formal litigation. The attorneys who serve on the ADR panel have agreed to offer participants a 90-minute session for \$100 (\$50 per party). Additional sessions are available at the attorney's market rate. For more information call the ADR office at: (650)599-1238, or visit the website at: [www.sanmateocourt.org/adr/familylaw](http://www.sanmateocourt.org/adr/familylaw)

### **• Mediation**

Mediation through the ADR program is voluntary. A neutral attorney called a "mediator" meets with parties and/or their attorneys to assist them in reaching an agreement. The mediator facilitates communication between the participants, clarifies issues, explores each party's needs and interests, and helps the participants to consider options for settlement.

The parties may resolve a single issue or the entire case. The agreements reached in mediation are not limited by the results available under the law so mediated solutions can more easily accommodate the circumstances of individual cases. An agreement reached in mediation is binding once it is turned into a court order and signed by the Judge. You cannot be forced to accept a decision in mediation and participating in mediation does not impact your right to a court hearing. If an agreement is not reached you may continue through the court system.

Mediation is private and confidential. The sessions are conducted in the mediator's office. Anything spoken or written during mediation by any of the participants is confidential and may not be disclosed to the Court or any other person without the consent of the participants.

### **• Arbitration**

Arbitration is private and less formal than a court trial. In arbitration a neutral attorney called the "arbitrator" makes a decision based on the information presented by both sides. The arbitrator then prepares a written decision and sends it to both parties and the Court. You decide ahead of time whether the arbitrator's decision will be "binding" or "non-binding". Binding means there is no right to trial and you will accept the arbitrator's decision as final. Non binding means you can accept or reject the decision.

### **• Collaborative Law**

In the collaborative law process, you and the other party each have a private attorney and make a commitment to resolve your disputes without going to court. Similar to mediation, collaborative law operates in the spirit of honesty and cooperation but unlike mediation, there is no neutral third party who facilitates the process. Instead, the four of you have a series of private meetings to create solutions that meet the unique needs of your family. The Peninsula Collaborative Family Law Group is a private organization of local attorneys, specially trained in Collaborative Law, who are available to serve you. For more information, fees, or for a list of their attorneys, please see their web site at: [www.collaborative-law.com](http://www.collaborative-law.com) or call (650)590-2288. Collaborative law attorneys have agreed to conduct some cases at a reduced fee. Please contact the ADR coordinator at (650)599-1238 for more information.

<b>PLAINTIFF/PETITIONER:</b>	<b>CASE NUMBER:</b>
<b>DEFENDANT/RESPONDENT:</b>	

### **FAMILY COURT SERVICES MEDIATION:**

The Court encourages the use of the ADR options described above to resolve custody and parenting plan disputes. However, if you do not reach an agreement on these issues, California law requires you to meet with Family Court Services (FCS) before submitting these issues to a Judge. FCS will first attempt to settle the issues through mediation, however, if no agreement is reached then the FCS counselor will prepare a written recommendation to the Court based upon the best interests of the child(ren). FCS mediation is not confidential and does not address your property or financial disputes. There is no fee for mediation with FCS.

### **DOMESTIC VIOLENCE AND ADR:**

ADR is most effective when parties are able to communicate and solve problems without fear or intimidation. For this reason when there is a history of domestic violence in a relationship, ADR may not be appropriate.

**The undersigned certifies that s/he has read this Notice in compliance with San Mateo County Local Rule 5.5.**

Date:

Date:

\_\_\_\_\_  
Signature of Petitioner

\_\_\_\_\_  
Signature of Respondent

**Attorney certification of compliance with San Mateo County Local Rule 5.5:**

Date:

Date:

\_\_\_\_\_  
Signature of Attorney for Petitioner

\_\_\_\_\_  
Signature of Attorney for Respondent