TUOLUMNE COUNTY SUPERIOR COURT

LOCAL RULES OF COURT

EFFECTIVE JULY 1, 2016

Superior Court of California, County of Tuolumne

Judges of the Superior Court

Hon. Donald Segerstrom
Hon. James A. Boscoe
Hon. Kate Powell Segerstrom
Hon. Kevin M. Seibert

Philip A. Pimentel, Commissioner

Jeanine D. Tucker, Executive Officer

SUPERIOR COURT OF CALIFORNIA

COUNTY OF TUOLUMNE

RULES OF COURT

Effective July 1, 2016

IMPORTANT INSTRUCTIONS FOR USING THESE RULES

1. The California Rules of Court are not printed as part of these local rules but are considered incorporated within them. Proceedings in the Superior Court of California, County of Tuolumne, are governed by the California Rules of Court as supplemented by these local rules. EACH LOCAL RULE MUST BE READ IN CONJUNCTION WITH THE CALIFORNIA RULES OF COURT.

2. Effective July 1, 2000, the Judicial Council preempts local court rules relating to pleadings, demurrers, ex parte applications, motions, discovery, provisional remedies, and form and format of papers. No trial court or any division or branch of a trial court shall enact or enforce any local rule concerning these fields. (Cal. Rules of Court, rule 3.20.)

3. All references to statutes are to the California Codes, unless otherwise stated.

4. The rules of the Superior Court of California, County of Tuolumne, have been restated, amended, and adopted effective July 1, 2016.

5. Copies of the local rules and local forms may be obtained free of cost online at www.tuolumne.courts.ca.gov or purchased from the Court clerk's office or the Court's Self Help Center.

Courthouse Locations and Telephone Numbers

Historic Courthouse
41 West Yaney Avenue
Sonora, California 95370
Civil/Small Claims: (209) 533-5555
Family Law: (209) 533-6936
Juvenile: (209) 533-6650
Self Help Center: (209) 533-6565

Branch Courthouse
60 North Washington Street
Sonora, California 95370
Criminal: (209) 533-5563
Traffic: (209) 533-5671
Jury: (209) 533-5568

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF TUOLUMNE

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RULES OF COURT - JULY 1, 2016

1.00.0 DIVISION OF BUSINESS AND GENERAL RULES

1.01.0 California Rules of Court: These local rules are intended to supplement and in no way reduce any requirements of the California Rules of Court. In the event these rules conflict with the California Rules of Court, the California rules take precedence. *(Effective 7/01/98; amended 1/01/01)*

1.02.0 Division of Business: The Superior Court of California, County of Tuolumne, has five departments. *(Effective 7/01/98; amended 1/01/01 and 7/01/10)*

1.03.0 Filing and Checks Returned for Non-Payment: This Court follows the procedures set forth in Code of Civil Procedure sections 411.20 and 411.21. *(Effective 7/01/98; amended 1/01/01, 7/01/10 and 7/01/16)*

1.04.0 Copies:

a. When an original document is filed, the Court will conform copies at no charge. If conformed copies are to be returned by mail, a self-addressed stamped envelope must be submitted.

b. All requests for copies of documents submitted by mail must be accompanied by the appropriate fee and a self-addressed stamped envelope. When the fee and envelope are not provided, the request will not be processed.

c. Litigants with a fee waiver are entitled to one copy of any documents in the case wherein the fee waiver is filed. *(Effective 7/01/98; amended 7/01/10 and 1/01/14)*

1.05.0 Duplicate Judgment *(Revoked 7/01/10)*

1.06.0 Order for Disbursement of Funds: All orders for disbursements of funds from Court trust accounts shall contain the statement of authority for release of funds, the date the funds were deposited, the amount of the warrant to be issued, and the current name and address of payee as known. *(Effective 1/01/01)*

1.07.0 Court Reporters

a. Court Reporter Availability:

The Court schedules court reporting services for the following proceedings:

1. Criminal: preliminary hearings and all other felony proceedings;
2. All juvenile matters;
3. In-chambers meetings with minor children; and
4. Any other proceedings that the Court, in its discretion, orders to be reported.

Dept. 1: A court reporter is normally assigned to report all felony and juvenile matters.

Dept. 2: A court reporter is normally assigned Monday through Friday if a felony jury trial is being held; on Tuesday afternoons for preliminary hearings and other felony criminal proceedings; and on Friday afternoons for the drug court calendar.

Dept. 3: A court reporter is not normally assigned, unless requested specifically by the sitting judge. A party, at his or her own expense, may obtain the services of a court reporter.

Dept. 4: A court reporter is normally assigned on Wednesday afternoons and Fridays for preliminary hearings.

Dept. 5: A court reporter is not normally assigned. A court reporter shall be assigned for all in-chambers meetings with minor children.

b. Civil Court Reporter Services: When a party requires court reporter services in a civil matter, the Court may provide those services if the reporters are not required for duties listed above. The party requesting court reporter services from the Court shall notify the clerk, in writing, of the request pursuant to California Rules of Court, rule 2.956.

If the Court's reporters are not available for the date requested, the clerk shall notify the parties of that fact so that other reporting services may be obtained and paid for by the requesting parties.

A fee shall be charged for the reasonable cost of the court reporting services provided at the expense of the Court by an official court reporter pursuant to Code of Civil Procedure section 269. The fee shall be calculated as set forth in Government Code section 68086.

If a party arranges and pays for the attendance of a certified shorthand reporter at a hearing in a civil case because of the unavailability of the services of an official court reporter, none of the parties shall be charged the reporter's attendance fee provided for in Government Code section 68086(a)(1) or (a)(2).

Fees for court reporter services are due each day prior to commencement of proceedings.

c. Transcripts: Transcripts of proceedings that have been reported at the direction of the Court shall not be made available to any party unless that party pays to the Court, at the time the request for transcripts is made, the reporter's fees for reporting services in addition to the cost of the transcription. *(Effective 1/01/01; amended 1/01/07, 7/01/10, 7/01/15 and 7/01/16)*

1.08.0 Electronic Sound Recording: Whenever an audio recording is offered as evidence, an accurate written transcript must accompany it. *(Effective 1/01/01; amended 7/01/16)*

1.09.0 Return of Exhibits *(Revoked 7/01/10)*

1.10.0 Dangerous Evidence *(Revoked 7/01/10)*

1.11.0 Continuances:

a. Requests for continuances of criminal trials shall comply with the requirements set forth in Penal Code section 1050.

b. Requests for continuances of civil trials and specially set hearings are subject to the following guidelines and requirements:

1. Requests and/or motions for continuance of a trial are discouraged and will be granted only upon good cause shown.

2. Requests for stipulated continuances of jury trials, bench trials, and short-cause trials, *other than in Delay Reduction Cases*, shall be made in writing to the Court. The request shall include a proposed order for the Court's signature. A motion to continue shall be filed in Delay Reduction Cases.

3. Continuances of trials *in Delay Reduction Cases* shall occur only upon noticed motions, supported by a declaration demonstrating the necessity for the continuance, unless the requirement of a noticed motion is waived by the Court.

4. Motions for continuance of a trial or specially set hearing will not be entertained on the date set for trial or hearing except under the most extraordinary circumstances. In that event, all such motions shall be made in person before the judge in the department where the trial has been set. *(Effective 7/01/98; amended 1/01/07, 7/01/10 and 7/01/16)*

1.12.0 Sanctions *(Revoked 7/01/10)*

1.13.0 Requests for Ex Parte Hearing: An applicant for an ex parte hearing is required to complete local form TUO-CS-100 (Application for Ex Parte Hearing and Order). Compliance with the California Rules of Court governing ex parte applications,

commencing with rule 3.1200, is mandatory. Upon an application's being granted, the Court will set the date, time, and place of the ex parte hearing. The applicant must submit moving papers in advance of the hearing. *(Effective 1/01/07; amended 7/01/16)*

1.14.0 Judicial Vacation Day Defined: A day of vacation for a judge of the Superior Court of California, County of Tuolumne, is an approved absence from the Court for one full business day. Absence from the Court for a purpose enumerated in California Rules of Court, rule 10.603(c)(2)(H) is not considered to be a vacation day. *(Effective 7/01/10)*

1.15.0 Local Forms: This Court has adopted local forms for both mandatory and optional use. The forms are listed in the appendix of these rules and are also available on the Court's website: www.tuolumne.courts.ca.gov. *(Effective 7/01/10)*

1.16.0 Photographic, Recording, Broadcasting, and Other Electronic Devices: The use of photographic, video or audio recording, or transmission equipment in the courthouse is prohibited without advance permission by a judge. This includes the use of laptop computers and/or electronic devices by counsel or any member of the public. The use of laptop computers or other electronic devices in the courtroom will be regulated by each individual judicial officer. Violators are subject to being cited for contempt of Court pursuant to California Rules of Court, rule 1.150 and/or having the device(s) confiscated.

Television cameras, video cameras, camera operators, still photographers, media reporters, or any combination thereof shall not block corridors, stairwells, access to any courtroom or hearing room, or ingress to or egress from the courthouse.

Any and all video recording or photography, by means of any device, through courthouse windows or into the courtroom from the hallway is subject to the same restrictions that apply to the use of cameras in the courtroom and requires prior approval from the judge of the affected courtroom. (See California Rules of Court, rule 1.150.)

The use of cell phone cameras, personal digital or film cameras, and similar portable devices will not be permitted for photographing or copying court documents in the clerk's offices. This rule is not intended to restrict individual and attorney services from using photocopiers or scanners to copy court documents in the clerk's offices. *(Effective 7/01/15; amended 7/01/16)*

1.17.0 Guide, Signal, and Service Dogs: Every individual with a disability, as well as any licensed or authorized trainer, has the right to be accompanied by a guide dog, signal dog, or service dog, especially trained or in training for that purpose, while lawfully on court premises or using court facilities, pursuant to the rights, definitions, and responsibilities (including liability for any damages done to the premises or facilities by the dog) set forth at Civil Code section 54.1 et seq. *(Effective 7/01/15; amended 7/01/16)*

2.00.0 CIVIL RULES

2.01.0 Definition of General Civil Cases: As used in these rules, "general civil case" means all civil cases except probate, guardianship, conservatorship, family law (including proceedings under the Family Law Act, proceedings under the Uniform Child Custody Jurisdiction and Enforcement Act, freedom-from-parental-custody-and-control proceedings, and adoption proceedings), and juvenile court proceedings; small claims appeals; and other civil petitions, including petitions for writ of mandate, writ of prohibition, writ of habeas corpus, temporary restraining order, civil harassment restraining order, domestic violence restraining order, writ of possession, appointment of a receiver, release of property from lien, and name change. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

2.02.0 Delay Reduction Program Information and Setting:

a. At the time a case is filed, the clerk shall append to the initial pleading a document entitled "DELAY REDUCTION PROGRAM INFORMATION AND SETTING" which states the date, time, and place of the first case management conference (CMC). The first CMC shall be set approximately 120 days from the date the initial pleading is filed. It is the responsibility of the filing party to serve all other parties with notice of the CMC.

b. Cross-complainants shall serve all cross-defendants with a copy of the initial "DELAY REDUCTION PROGRAM INFORMATION AND SETTING" document and shall serve notice of any other pending CMC date. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

2.03.0 Cross-Complaints *(Effective 7/01/98; amended 1/01/01; revoked 7/01/16 [moved to subd. (b) of rule 2.02.0])*

2.04.0 Case Management Conference:

a. **Statement:** No later than fifteen (15) calendar days before a scheduled case management conference, each party shall file with the Court and serve on all other parties a completed case management statement, using the mandatory Judicial Council form.

b. **Attendance at Case Management Conference:** The trial attorney or an attorney familiar with the case for each party, and each self-represented party, must appear at the conference.

c. **Subject matter:** The Court will consider those subjects outlined in California Rules of Court, rule 3.727 before entering its case management order. The content of the case management order shall be as set forth in California Rules of Court, rule 3.728.

d. Procedures:

1. Any party seeking a change of hearing date set under this section must file a written application showing good cause for the change, together with a proposed order, no later than five (5) court days in advance of the hearing.

2. A hearing on an order to show cause for violation of these rules shall be held by the assigned judge approximately thirty (30) days after issuance of the order to show cause to allow time for mailing.

3. Written response to order to show cause must be filed no later than ten (10) court days in advance of the hearing on the order to show cause.

4. Stipulations to continue any proceeding shall be signed by the attorneys for all represented parties in the case.

e. Complaints and Service of Summons: Within sixty (60) days of filing the complaint, the plaintiff shall file proof of service of the summons and complaint and notice of status conference as to all named defendants. In the event that the plaintiff or the plaintiff's attorney fails to file proof of service of the summons and complaint within sixty (60) days as required herein, an order to show cause shall issue directed to the plaintiff and the plaintiff's attorney requiring them to show cause why sanctions should not be imposed for their failure to serve the summons and complaint in a timely manner. *(Effective 7/01/98; amended 1/01/07 and 7/01/16)*

2.05.0 Mandatory Settlement Conference: A mandatory settlement conference is scheduled with each trial setting, except for matters on the short-cause trial calendar. An attempt is made to set the conference three (3) to four (4) weeks prior to the trial. All persons whose consent is required to effect a binding settlement shall be personally present at the mandatory settlement conference. Any request to the Court to excuse attendance of any such person should be made in writing, no later than five (5) calendar days before the mandatory settlement conference, with copies to all other parties. A person excused from personal attendance by the Court shall be available for telephone communication with counsel at the time set for the mandatory settlement conference.

Included among such persons who must attend the mandatory settlement conference are:

a. The attorneys who will handle the trial if the case is not settled; or an attorney in their place who is appraised of the facts and the law and otherwise prepared for the settlement conference.

b. The litigants (unless consent of the particular litigant is not required for the settlement).

c. A representative of any insurance company that has coverage involved in the case who has authority to settle the case.

d. A representative of a corporation or other business or government entity that is a litigant who has authority to settle the case. *(Effective 7/01/98; amended 1/01/01,1/01/14 and 7/01/16)*

2.06.0 Differentiation of Cases to Achieve Goals

a. To comply with the trial court case disposition time goals at standard 2.2 of the Judicial Council's Standards of Judicial Administration, the Court has adopted the following case management plans, with disposition goals calculated from the date of filing:

12-month plan: Disposition within 12 months
18-month plan: Disposition within 18 months
24-month Plan: Disposition within 24 months

b. Cases in the Delay Reduction Program shall be assigned to the appropriate case management plan at the case management conference, based on case evaluation factors outlined in California Rules of Court, rule 3.715.

c. Upon finding of good cause, the Court may reassign a case to a different case management plan or, in the interest of justice, exempt a case from the case-disposition time goals. If the Court exempts the case from the case-disposition time goals, the Court shall establish a case-progression plan and monitor the case, with a goal of disposition within three (3) years. *(Effective 7/01/98; amended 1/01/07 and 7/01/16)*

2.07.0 Demand for Jury Trial: All cases set for trial in which there is an entitlement to a jury will be deemed to have a jury demand made by plaintiff absent a waiver in writing or in open court. If no waiver is made, plaintiff shall be responsible for the jury deposit. If plaintiff waives a jury, any other party may demand a jury and be responsible for the jury deposit consistent with the procedures for jury trial set forth in Code of Civil Procedure section 631, subdivision (b). Also, consistent with Code of Civil Procedure section 631, subdivision (f)(5), failure to timely deposit jury fees constitutes a waiver of a jury trial, and no jury will be impaneled. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

2.08.0 Settlement of Civil Jury Trials: The Court strongly urges that cases set for jury trial be settled, if at all possible, no later than 1:00 p.m. of the court day preceding the trial date. If a case is settled and the department which has been assigned the case is <u>not</u> notified by 4:00 p.m. of the court day preceding the date set for trial, the parties will be assessed the cost of the entire jury panel summoned in such proportion as the Court deems just unless good cause is shown. Attorneys shall, during the week preceding the date fixed for trial of any of their cases, keep the Court advised as to the likelihood of settlement and any other factors, which affect the readiness of the case. *(Effective 7/01/98; amended 1/01/01)*

2.09.0 Civil Long-Cause Trial Calendar Call: All long-cause trials will be called on the date set for trial in the courtroom of the department to which it has been assigned. Two calendar days preceding the date set for trial, trial counsel and pro per litigants shall call the department to which the case has been assigned for trial and inform the Court of the status of matter in regard to trial and settlement. *(Effective 1/01/01; amended 7/01/10)*

2.10.0 Trial Briefs in Civil Cases: Trial briefs are required for all civil court cases. Briefs shall be submitted to the Court and opposing counsel no later than one court day preceding the date set for trial, unless the Court orders submission at an earlier date. Trial briefs shall set forth the issues to be tried and any significant evidentiary problems that are likely to be presented. Trial briefs shall list all witnesses the counsel preparing the brief intends to call at the trial. *(Effective 7/01/98; amended 1/01/01 and 7/01/10)*

2.11.0 Jury Trials:

a. Jury trials are set by the assigned department, except for unlawful detainer actions, which are set by the filing of an at-issue memorandum.

b. **Jury Deposit:** In civil cases, other than unlawful detainer actions, the first days jury fee deposit of $150 must be received by the clerk's office no later than twenty-five (25) days prior to trial. In unlawful detainer actions, the first day's jury fee deposit of $150 must be received by the clerk's office no later than five (5) days prior to trial. *(Effective 7/01/98; amended 1/01/01, 7/01/05, 7/01/10 and 7/01/16)*

2.12.0 Civil Non-Jury Trials: If the parties case management statement indicates a preference for trial by the Court of three (3) hours of less, it will be set on the short-cause trial calendar. The following procedure shall apply to the short-cause trial calendar:

a. No matter on the short-cause trial calendar shall be set for a settlement conference unless all parties so request, in writing, or unless so ordered by the Court.

b. Matters set in the short-cause trial calendar will be called on the trial date in the department to which the trial has been assigned, and all counsel and parties must be present. *(Effective 7/01/98; amended 1/01/01 and 7/01/10)*

2.13.0 Jury Instructions, Witness Lists, and Requested Voir Dire: Not less than one (1) court day before trial, two copies of proposed jury instructions, witness lists and requested voir dire questions proposed shall be submitted to the trial judge by each party.

a. The Court will consider proposed instructions submitted by the attorneys for the parties, in addition to those contained in CACI.

b. Counsel may make their requests by CACI number; however, those instructions shall be submitted fully prepared as set forth in California Rules of Court, rule 2.1055. *(Effective 7/01/98; amended 1/01/07 and 7/01/10)*

2.14.0 Unlawful Detainer Proceedings: Notwithstanding that unlawful detainer proceedings are not subject to delay reduction rules, the plaintiff shall file proof of service on the summons and complaint within sixty (60) days of the issuance of the complaint. In the event that plaintiff or plaintiff's attorney fail to file proof of service of summons and complaint within sixty (60) days as required herein, an order to show cause shall issue directed to plaintiff and plaintiff's attorney requiring them to show cause why sanctions should not be imposed for their failure to serve the Summons and Complaint in a timely manner. *(Effective 7/01/03)*

2.15.0 Unlawful Detainer and Small Claims Time Standards: Pursuant to section 2.2 of the Judicial Council's Standards of Judicial Administration, this Court adopts the following standards for timely disposition:

a. **Unlawful detainer** cases shall be:

1. 90 percent disposed of within 30 days after filing.
2. 100 percent disposed of within 45 days after filing.

b. **Small claims** cases shall be:

1. 90 percent disposed of within 75 days after filing**.**
2. 100 percent disposed of within 95 days after filing.

c. To achieve the delay reduction goals in this rule, the Court may set an order to show cause as to why the plaintiff or counsel shall not be sanctioned by dismissal of the action or otherwise for failure to comply with the time standards of this rule. *(Effective 7/01/05; amended 1/07/07 and 7/01/16)*

2.16.0 Confidential Information in Civil Filings:

a. When filing any documents with the Court in a civil action, all parties shall exclude Social Security numbers and financial account numbers from the documents to be filed. If a party intends to file any document which would otherwise include an individual's Social Security number or financial account number(s), the party shall exclude or redact all numbers except for the last four digits of the Social Security number or financial account number(s) prior to filing the document with the Court.

b. A party wishing to file a document containing the un-redacted Social Security or financial account number (s) may submit a motion or ex parte application to file an unredacted document under seal. Such documents may only be filed with the Court upon order of the Court.

c. The responsibility for redacting these personal identifiers rest solely with the filing party.

d. Original financial account statements and records filed with accountings pursuant to Probate Code section 2620, subdivision (c) shall be exempt from this rule. Those original confidential financial account statements are to be filed by the parties with a separate caption page and filed as a separate document from the accounting; when filed in that manner, they will be placed in a confidential envelope.

e. Unless clearly required to be confidential, court files are public records and are open to inspection to any member of the public. **Court clerks are not authorized to redact any such confidential information**. It is the responsibility of counsel, or a party in propria persona, to redact any such information from any document presented for filing. *(Effective 7/01/15)*

3.00.0 CIVIL LAW AND MOTION AND DEFAULTS

3.01.0 Motions: In General and Setting Hearings:

a. All civil law and motion calendar dates will be assigned by the court clerk, upon the filing of the appropriate papers. Civil law and motion matters will be heard at a time set by the Court.

b. The responsive papers in opposition to a calendared motion must be filed with the clerk by 3:00 p.m., no later than nine (9) court days prior to the date of hearing (not counting the day of the hearing). Any reply papers to the opposition must be filed by the moving party no later than five (5) court days prior to the designated hearing date (not counting the day of the hearing). These requirements do not apply to requests for orders shortening time or ex parte applications, and they do not affect the timing requirements of the summary judgment and adjudication statute, Code of Civil Procedure section 437c.

c. If opposition papers are not timely filed, the Court, in its discretion, may deem it a waiver of any objections and treat it as an admission that the motion or other application is meritorious. The Court, in its discretion, may grant the motion. In that case, a party desiring to further oppose the motion will be required to bring a properly noticed motion for reconsideration, motion for new trial, or other appropriate motion, and comply with any specific requirements of the motion so brought. *(Effective 7/01/98; amended 1/01/01, 7/01/10, 7/01/15 and 7/01/16)*

3.02.0 Requests for Continuances:

a. Requests for continuances based on stipulation by the parties must be made by the moving party by calling the Court. No matter will be continued to a date earlier than the next regularly scheduled law and motion calendar without prior Court approval.

b. Only one (1) continuance per side will be granted. Thereafter, if the matter does not proceed, it may be dropped from calendar at the discretion of the Court. *(Effective 7/01/98; amended 1/01/01 and 7/01/10)*

3.02.1 Request that Matter Be Dropped from Calendar: A moving party may drop a noticed motion from calendar by written request to the Court, with notice to all parties. Matters that have been set by the Court, such as an order to show cause, will not be dropped from calendar. *(Effective 7/01/10)*

3.03.0 Timely Filing of Papers: Because the Court studies calendared matters beforehand, if opposition papers arrive late, the matter will be heard and decided on the bases set forth in the papers timely filed, unless the Court, in its discretion and for good cause shown, decides to continue the matter. *(Effective 7/01/98; amended 1/01/01)*

3.04.0 Orders Shortening Time: Orders shortening time are strongly disfavored Requests for such orders must be supported by a very substantial showing of a need. A request for an order shortening time shall comply with the California Rules of Court governing ex parte applications, commencing with rule 3.1200. A stipulation by the parties to shorten time is without effect.

Unless otherwise ordered, if a motion is filed pursuant to an order shortening time, all papers opposing the motion shall be served and filed by noon two (2) court days before the time appointed for the hearing. If the notice of the hearing has been shortened to two (2) days or less, papers opposing the motion may be presented in court on the day of the hearing. *(Effective 7/01/98; amended 1/01/07 and 7/01/16)*

3.05.0 Argument and Oral Testimony at Law and Motion Calendar:

a. Argument in excess of an aggregate of fifteen (15) minutes per case ordinarily may not be adduced in the law and motion calendar. If it is anticipated that lengthier argument will be necessary, advance permission must be obtained from the judicial officer hearing the matter. When such a request is made, the judicial officer will decide whether to grant the request for lengthier argument to be heard on the law and motion calendar or to set the matter for special hearing.

b. Oral testimony ordinarily is not allowed on the law and motion calendar. If oral testimony is desired, a request must be made to the judicial officer hearing the matter pursuant to California Rules of Court, rule 3.1306. The judicial officer will 1) grant the request and leave the matter on the law and motion calendar, 2) grant the request and direct that the matter be specially set with the calendar coordinator, or 3) deny the request and insist that the matter be heard in declarations. *(Effective 7/01/98; amended 1/01/07)*

3.06.0 Appearance at Hearing: If counsel or a pro per party does not appear at the hearing of a law and motion matter, the matter may be dropped from the calendar or ruled upon, and sanctions may be imposed at the discretion of the Court. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

3.07.0 Telephone Appearances: Telephone appearances for civil law and motion and probate matters shall be made pursuant to California Rules of Court, rule 3.670, as follows:

a. Telephone appearances may be made in civil actions and special proceedings of a civil nature, such as unlawful detainer.

b. Counsel shall have the option of appearing by telephone for non-evidentiary civil law and motion matters, case management conferences, and non-evidentiary probate hearings. Appearing by telephone is not permitted for the following:

1. Settlement conferences or hearings combined with settlement conferences.

2. Occasions for which a party notices intent to present oral testimony at the hearing.

3. When the Court has ordered the personal appearance of counsel.

4. Any hearing or conference for which the Court, in its discretion, determines that a personal appearance would materially assist in a determination of the proceeding or in a resolution of the case. The Court shall make this determination on a case-by-case basis. *(Effective 7/01/98; amended 1/01/07 and 1/01/15)*

3.08.0 Substitution of Counsel:

a. **Substitution:** A document which substitutes one attorney for another of substitutes a party in pro per for an attorney must contain the name, mailing address, and telephone number of the new attorney or party in pro per and be served on all parties. It is insufficient to name a law firm as the new attorney of record; the document must contain the name of a specific attorney.

b. **Additional Duty:** If a trial date has been set in the action or proceeding, it shall be the duty of counsel who has substituted out or withdrawn to advise the Court in writing as to whether the client has been notified of the trial date and the manner of said notification. *(Effective 7/01/98; amended 1/01/01)*

3.09.0 Defaults:

a. No defaults or uncontested matters shall be set for hearing by the clerk unless and until the judgment, and all pleadings and documents necessary for hearing and disposition of the matter, are on file in the clerk's office.

b. 1. In all cases of a request for entry of judgment, whether the request is for a clerk's judgment or a court judgment or the matter is set for prove-up, it is the Court's policy to require evidence in support thereof in written form, unless prohibited by law. (Code Civ. Proc., § 585, subd. (c).) It is the policy

of this Court to require an evidentiary declaration from the plaintiff or plaintiff's agent in all cases of default.

2. Affidavits and declarations presented in support of a prove-up application shall comply with the requirements of Code of Civil Procedure sections 585 and 585.5.

3. At a default prove-up, allegations in the complaint or cross-complaint, if applicable, are not deemed proved because of the failure of the adverse party to answer. In all cases, proof must be presented by competent evidence and all essential elements of the causes of action sought to be proved; conclusions, whether legal or factual, are insufficient. Affidavits and declarations must affirmatively show that the affiant or declarant is competent to testify to the statements made thereon. In general, the Court will use the same standards for assessing the quality and sufficiency of the evidence as would be applied in a contested proceeding.

c. The Court will reject any claim for punitive damages, unless evidence is provided of the defaulting defendant's net worth, including liabilities. *(Effective 7/01/98; amended 1/01/01, 1/1/16, and 7/01/16)*

3.09.1 Attorney's Fees: In actions on promissory notes and contracts providing for the payment of attorney's fees, whenever a prevailing party is entitled to recovery of reasonable attorney's fees, the following schedule shall be considered by the Court, in its discretion, in awarding such fees:

25% of the first $1,000;
20% of the next $4,000;
15% of the next $5,000;
10% of the next $10,000'
5% of the next $30,000; and
2% of the amount over $50,000.

(Effective 7/01/16 [moved from subd. (c) of rule 3.09.0])

3.10.0 Amicus Briefs: Amicus briefs may be filed only pursuant to court order upon a finding of good cause shown. *(Effective 7/01/98; amended 1/01/01)*

3.11.0 Tentative Rulings: The Court follows the tentative ruling procedure set forth in California Rules of Court, rule 3.1308(a)(1). Tentative rulings on civil law and motion matters will be available on the Court's website at www.tuolumne.courts.ca.gov and by telephone at (209) 533-6633 by 3:00 p.m. on the court day preceding the hearing. Tentative rulings are available only for unlimited-jurisdiction civil law and motion matters. *(Effective 1/01/07; amended 7/01/10, 7/01/15, and 7/1/16)*

3.12.0 Tentative Rulings for Orders to Show Cause re: Dismissal/Sanctions
(Effective 7/01/15; revoked 1/01/16)

4.00.0 FAMILY LAW RULES

4.01.0 Local Civil Rules Applicable to Family Law: Except as otherwise provided in these rules, all provisions in the local civil rules apply to family law proceedings. Prior to matters being heard on the family law calendar, counsel shall meet and confer in good faith to resolve all issues with their respective clients physically present or immediately available. *(Effective 7/01/98; amended 1/01/01)*

4.02.0 Financial Issues: A waiver of spousal support ordinarily will not be approved if the party waiving spousal support is receiving cash public assistance, such as Temporary Assistance for Needy Families (TANF). *(Effective 7/01/98; amended 1/01/01)*

4.03.0 Custody Issues: It is the policy of the Court not to change the children's living situation during the pendency of custody and visitation disputes. Only under extraordinary circumstances will the Court deny access of one parent to the children or change any child's principal place of residence. Any application to change the child's living situation prior to a full hearing shall include the following:

a. The current court order, if any;

b. The current child-sharing schedule or agreement, if any;

c. Changes in the child's place of residence in the past 180 days and the circumstances surrounding these changes;

d. Proposed time-sharing program;

e. The reasons for any proposed change in the child's living situation, setting forth facts establishing that the child would be physically or emotionally harmed if custody were not changed prior to a hearing on the merits; and

f. Other relevant information. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

4.04.0 Mandatory Mediation: All contested custody and visitation matters must be scheduled for mediation. Mediation proceedings shall be held in private and shall be confidential. All communications, verbal or written, from the parties to the mediator shall be deemed official information within the meaning of Evidence Code section 1040 unless otherwise stipulated by the parties. Absent such stipulation, the mediator will not be called upon to testify. The mediator shall report any allegations of child abuse to the proper authorities pursuant to Penal Code section 11166. If no agreement is reached in mediation, the matter shall be referred back to the Court. If an agreement or stipulation can be reached by the parties through the mediator, the agreement or stipulation immediately shall be reduced to writing, executed by the parties and their respective counsel, if represented by counsel, and submitted to the judge for signature.

a. In the event of failure of the mediation process, request for a custody evaluation and report may be made upon motion of either party or upon the Court's own motion. The evaluation and report shall be made by the agency or professional designated by the Court or stipulated by the parties. The clerk of the Court shall notify each party of the filings of the report. Either party by noticed motion of not less than fifteen (15) days or upon the Court's own motion the matter will be set for further hearing on the report.

b. Evaluations will be referred to Child Welfare Services. Challenges will be permitted, withdrawal of complaints will be made to the referring judge for evaluation. Ex parte communications shall be disclosed to the parties and their attorneys.

c. The parties may stipulate to have a private mediator/custody counselor attempt to resolve their disputes regarding custody and visitation.

d. Failure of the parties to participate in the mediation process in good faith may subject such party or parties to sanctions. *(Effective 1/01/01; amended 7/01/16)*

4.05.0 Cooperative Parenting Workshop and Pre-Mediation Workshop: In any case in which child custody or child visitation is at issue and either party requests a court hearing on one or both of these issues, both parties are required to schedule and attend the Court's pre-mediation workshop and the Court's Cooperative Parenting Workshop pursuant to Family Code section 3160 et seq. The parties may attend prior to any scheduled hearing, or, if they have not yet attended, the Court will order them to attend as part of the court process to address and resolve the child custody and/or child visitation issues. *(Effective 7/01/98; amended 1/01/01, 1/01/15, 7/01/15 and 7/01/16)*

4.06.0 Approval or Incorporation of Marital Settlement Agreement: No marital settlement agreement shall be approved by the Court or incorporated by reference in a judgment unless:

a. The petition refers to the property settlement agreement; or the agreement, or a separate stipulation signed and filed by the parties and their respective attorneys provides that the agreement may be presented for Court approval and incorporation; or both parties and their attorneys have endorsed approval of the agreement on the Judicial Council form of the stipulation for judgment.

b. 1. If both parties are represented by counsel, the agreement is signed by both attorneys; or

2. If only one party is represented by counsel, the attorney for that party signs the agreement and the other party signs a statement in the agreement, or a declaration, or affidavit, that that party has been advised to consult an attorney regarding the agreement, but declined to do so. *(Effective 7/01/98; amended 1/01/01, 7/01/10 and 1/01/15)*

4.07.0 Family Law Trial Requirements:

a. Parties to a contested dissolution action that has been assigned a date for trial shall each file with the court and serve on the other party, no later than fifteen (15) calendar days before the trial, a completed current income and expense declaration and current property declaration on the forms prescribed by the Judicial Council. No later than five (5) calendar days before the trial, the parties shall file with the court and serve on the other party a trial brief of issues, contentions and proposed disposition of the case in the form required by subdivision (b) hereafter.

b. The trial brief shall include a full and complete statement of the following information to the extent known or contended:

1. **Community and Separate Property:** For each item of property, listed under the same item numbers and in the same order as on the Property Declaration, with community property listed first, the following:
   (i) The date of acquisition;
   (ii) The facts upon which it is claimed that the property is community or separate;
   (iii) The nature, extent and terms of payment of any encumbrance against the property;
   (iv) The manner in which title is presently vested;
   (v) The record title data; and
   (vi) Current market value.

2. **Funds Held by Others:** To the extent that either community or separate property consists of funds held by others, such as insurance policies, pensions, profit sharing or other trust or retirement funds, the statement shall, to the extent not identified on the property declaration, state serial or account numbers and shall state the basis for calculation of the present value and all terms or conditions imposed upon withdrawal of such funds. If any loans exist against any of these funds, the details regarding those loans shall be set forth;

3. **Tracing:** If it is contended that a single asset is part community and part separate property in nature, the statement shall describe the asset, its date of acquisition, its value, the dates and amount of payments upon the purchase of the asset or nature and extent of the transaction which resulted in its acquisition, and a statement of the contended segregation of the total value of the asset as to its community and separate property values;

4. **Current Obligations:** With respect to the current obligations of the parties the statement shall include the date the debt was incurred, the terms of payment and security, if any held by the creditor, and if it is contended that the debt is a separate obligation and the debt was incurred during the marriage a statement as to the basis of that contention;

5. **Support, Custody and Visitation:** The statement shall specify that party's contentions as to child custody, visitation and the amount and duration of child and spousal support;

6. **Appraisals:** Each party may attach to the statement a copy of an appraisal by a qualified appraiser of any real or personal property. *(Effective 7/01/98; amended 1/01/07 and 7/01/10)*

4.07.1 Family Law Settlement Conferences: Settlement conferences in family law matters are set at the discretion of the bench officer hearing the matter. *(Effective 7/01/10)*

4.08.0 Family Law Facilitator: The Court may designate duties to the family law facilitator, including those set forth at Family Code section 10005. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

4.09.0 Family Law Required Attachments *(Revoked 7/01/10)*

4.10.0 Appointment of Investigator: When filing a petition to free a minor from parental custody and control (see Family Code section 7800 et seq.), the petitioner shall submit a proposed order appointing county Child Welfare Services to conduct the investigation required by Family Code section 7850. *(Effective 7/01/05; amended 7/01/16)*

4.11.0 Re-issuance of Request for Order:

a. No filing fee is required for re-issuance of a request for order that includes a temporary emergency court order.

b. The filing fee for the re-issuance of a request for order that does not include a temporary emergency court order is the same as for the original request for order. *(Effective 1/01/14)*

4.12.0 Telephone Appearances: Telephone appearances for family law matters (except for actions for child support involving a local child support agency, which are governed by California Rules of Court, rule 5.324) must comply with California Rules of Court, rule 5.9. Any request for telephone appearance pursuant to rule 5.9 must be submitted to the Court in writing at least three (3) court days prior to the hearing, conference, or proceeding at which telephone appearance is requested. *(Effective 1/01/15; amended 7/01/16)*

4.13.0 Requests for Temporary Emergency Court Orders (TECO): All requests for orders that include a request for TECO must include the mandatory local form TUO-FL-200, which has been completed, dated, and signed. The Court will not process any request for order that includes a request for TECO unless a completed TUO-FL-200 form is submitted at the same time. *(Effective 7/01/15; amended 7/01/16)*

5.00.0 PROBATE RULES

5.01.0 Local General and Civil Court Rules Applicable to Probate Matters: Except as otherwise provided in these rules, all provisions in the local general and civil law and motion rules apply to probate proceedings. *(Effective 7/01/98; amended 1/01/01)*

5.02.0 Appearances:

a. Appearances are required on all petitions for confirmation of sale of real or personal property and any petition to which objections have been filed.

b. If counsel does not appear on any calendared matter, cases that are incomplete or questionable will be continued one (1) to two (2) weeks or may be dropped off calendar, at the discretion of the Court. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

5.03.0 Correction of an Order: If an order has been filed it can be amended only by court order. Such an order may be obtained by submitting an ex parte application for an order, with notice to all parties, setting forth the basis for the correction and requesting the judge to sign the amended order. *(Effective 7/01/98; amended 1/01/01 and 7/01/10)*

5.04.0 Time for Filing Petitions: All petitions must be filed with the clerk's office at least fifteen (15) calendar days prior to the hearing, except as follows:

a. Matters filed under Probate Code section 17200 et seq. shall be filed at least thirty (30) calendar days prior to the hearing.

b. Petitions for compromise of a minor's claim under Probate Code section 3500 and Code of Civil Procedure section 372 shall be filed with the Court at least seven (7) days prior to the hearing. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

5.05.0 Mailing and Publication of Notices:

a. Petitioner's Responsibility: The clerk does not handle the mailing and publication of notices. Notices must be prepared and submitted at the time of filing the petition.

b. Defects:

1. Publication correct but mailing defective: The hearing normally will be continued to allow enough time for the mailing of the required amended notice. Republication is not required.

2. Mailing correct but publication defective: The matter must be taken off calendar and new notice must be given by both publication and mailing. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

5.06.0 Orders:

a. **Proposed Orders:** Except in the case of confirmation of sales, contested matters, and orders requiring information from a governmental agency, counsel shall submit the order no later than the third (3rd) court day prior to the hearing date.

b. **Form of Orders:** All orders in probate matters must be complete. The order shall be drawn so that its substance may be determined without having to refer to the petition on which it is based. *(Effective 7/01/98; amended 1/01/01)*

5.07.0 Blocked Accounts: A petition and order to place assets in a blocked account shall state that "no withdrawal or withdrawals shall be made without prior court order." A receipt acknowledged by the financial institution indicating that (1) the cash and/or securities have been deposited in a blocked account and (2) the financial institution agrees that no withdrawal or withdrawals shall be made without prior court order must be filed with the clerk's office within ten (10) days after the date of deposit. Upon a showing of good cause, a petition for withdrawal of funds or securities may be submitted ex parte. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

5.08.0 Letters of Special Administration: Petitions for letters of special administration ordinarily will not be granted on fewer than 24 hours' notice to the surviving spouse, the person nominated as executor, and any other person the Court determines to be entitled to notice. In making the appointment, preference is given to the person entitled to letters, but, if it appears that a contest exists, the Court may appoint a neutral person or corporation as special administrator. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

5.09.0 Declination of Executor: If a nominated executor declines to act, a signed declination must be filed prior to the hearing date. *(Effective 7/01/98, amended 1/01/01)*

5.10.0 Consent of Representative(s): Where a petition seeks the appointment as personal representative of one or more persons other than the petitioner, a consent to serve as personal representative must be filed for each proposed personal representative. *(Effective 7/01/98; amended 1/01/01)*

5.11.0 Removal of Personal Representative: After a petition for removal has been filed, the petitioner shall present to the Court an order directing the clerk to issue a citation. The petitioner must prepare a citation requiring the representative to appear personally and to show cause why the petition for removal should not be granted and the letters of appointment revoked. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

5.12.0 Lodging Original Will or Codicil: When a petition for probate of a will or codicil is filed, the original of the document being offered for probate shall be lodged with the Court prior to or concurrently with the filing of the petition. *(Effective 7/01/98; amended 1/01/01, 7/01/10 and 7/01/16)*

5.12.1 Translation of Will: If a will that is the subject of a petition for probate is in a foreign language, a translation by an expert shall be submitted at the time of filing the petition for probate. A declaration as to the expertise and accuracy of the translator shall accompany the translation. *(Effective 7/01/16 [moved from rule 5.12.0])*

5.13.0 Notices:

a. In a petition for probate of a will, all persons and organizations named in the will or codicil(s) shall be listed in attachment 8 and noticed.

b. The trustee(s) of a living trust who is/are a beneficiary of a will shall be listed as a devisee and noticed.

c. If a named devisee predeceased the decedent, that fact must be stated. In cases where the devisee died after the decedent, the date of death must be stated and notice mailed in care of his or her personal representative if one has been appointed or, alternatively, to an appropriate representative.

d. A declaration specifying efforts to identify and locate heirs or beneficiaries is required where the petitioner cannot determine the name or address of an heir or beneficiary to whom notice is required, pursuant to California Rules of Court, rule 7.52.

e. If the decedent has no known heirs or has heirs of a predeceased spouse pursuant to Probate Code section 6402.5, a declaration to that effect shall be filed setting forth the basis for the declaration and the efforts made to locate any heirs.

f. A petition for an appointment of a successor personal representative does not require a notice of petition to administer estate. Notice shall be given in the manner provided in Probate Code section 8100 et seq. Publication is not required.

g. Notice to a minor whose name and address are known to the petitioner shall be addressed individually to the minor and mailed to the minor's residence. A copy of the notice shall be sent to the minor's parent(s) or guardian(s). *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

5.14.0 Inventory and Appraisal *(Effective 7/01/98; amended 1/01/01, 7/01/01, and 7/01/15; revoked 7/01/16)*

5.15.0 Creditor's Claims: Creditors shall file their claims with the clerk's office and mail a copy to the personal representative. The disposition of all such claims must be reported to the Court on the Judicial Council form DE-174 (Allowance or Rejection of Creditor's Claim) prior to any distribution. This rule also applies to fiduciaries acting under independent administration powers. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

5.16.0 Sale of Real Property:

a. Notice must be given to the proposed purchaser or his agent of the time and place of hearing. Appearance is required.

b. A copy of the contract of sale shall be attached to the petition for confirmation of sale.

c. Petitions for confirmation of sales of real property shall set forth the amount of bond in force at the time of the sale and the amount of property in the estate that should be covered by a bond. If no additional bond is required or if bond is waived, that fact should be alleged in the petition.

d. Where the estate owns only a fractional interest in the real property, the petition must state whether the sale is conditional upon closing of a sale of the unowned fraction. The other fractional owner(s) shall be given notice of the hearing. If the whole parcel is being sold, only the fractional interest and its value shall be listed on the petition and used to calculate the overbid.

e. Overbids: All overbids made in open court must be in writing before the judge will accept the offer and grant the sale. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

5.17.0 Petition for Instructions: A petition for instructions is appropriate only when no other procedure is provided by statute. The petition shall set forth the requested instructions and the reasons the instructions are necessary, or it shall set forth alternatives and the anticipated results of taking action under each listed alternative. All interested parties shall be noticed. A proposed order shall be submitted at least ten (10) calendar days prior to the hearing. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

5.18.0 Petition for Distributions:

a. **Ex Parte Preliminary Distribution Petitions:** Except upon the written consent of all beneficiaries or all heirs, ex parte petitions for distribution must set forth the justification for such urgent action.

b. **Description of Assets:** Property to be distributed shall be listed and described in detail; description by reference to the will or inventory is not acceptable. This rule applies to preliminary and final distributions with or without an accounting.

c. **Specifically Bequeathed Property:** If specifically bequeathed personal property is not in existence at the time of final distribution, the petition shall set forth a full explanation concerning that fact.

d. **Description of Distribution:** When the inventory value of the estate exceeds four hundred thousand dollars ($400,000), the names and present addresses of all persons entitled to receive property of the estate must appear in the petition for final distribution.

e. **Compliance with Probate Code Sections 9202 and 215:** The first report of administration of a decedent's estate shall contain allegations either that notice of the decedent's death has been provided to the Director of Health Care Services pursuant to Probate Code sections 9202 and 215 or that no such notice is required.

f. **Specifically Devised Real Property:** Unless waived, a separate accounting for specially devised real property is required. Such accounting shall set forth the income and expense allocable to such real property (e.g., rents, taxes maintenance, repairs, insurance). For apportionment of income and expenses, see Probate Code section 12002.

g. **Distribution to Intestate Heirs:** The relationship of heirs who take by intestacy should be sufficiently described in the petition for distribution to permit the Court to determine whether the laws of intestate succession have been properly applied. If an heir takes by right of representation, the petition must indicate parentage and the approximate date of the parent's death.

h. **Distribution to Fiduciary:** Where assets are to be distributed to a trustee, conservator, guardian, or other personal representative, an account shall be filed, unless waived. If distribution is to a trustee, there shall be filed with the petition for distribution either an acknowledged statement by the trustee accepting the property under the terms of the trust or a petition by the personal representative for the appointment and designation of a substitute trustee.

i. **Distribution by Agreement or Assignment:** Where assets are to be distributed unequally in kind by agreement of heirs or beneficiaries, an executed and acknowledged copy of the agreement shall be attached to and incorporated into the petition for distribution and the terms of the agreement set out in the order of distribution to be made pursuant to Assignment of Interest of Heir or Beneficiary. The assignment shall set forth the details of consideration and shall be executed, acknowledged, and filed with the petition for distribution.

j. **Terms of Testamentary Trust:** The terms of any testamentary trust must be set forth in full in the petition and order and not merely incorporated by reference.

k. **Distribution to Minor or Incompetent:** On distribution to a minor or incompetent, either (1) the petition for distribution shall set forth facts showing compliance with Probate Code section 3400 et seq. or (2) there shall be filed with the petition certified copies of letters of conservatorship or guardianship.

l. **Interest on General Pecuniary Legacies:** The Court will strictly enforce Probate Code section 12003 and will order payment of interest at the statutory rate on all general pecuniary legacies not paid within one (1) year from the date of the decedent's death unless payment of interest is waived in the will. Attorneys are responsible for determining the correct rate and computing the amount of interest.

m. **Payment of Taxes:** The petition for final distribution must address the question of the source of the payment of the federal estate tax, if any. If the tax is prorated, the final report must show the computation, and the order for final distribution must include the proration.

n. **Actions Under Independent Administration of Estates Act:** If a personal representative has proceeded under the Independent Administration of Estates Act, the final report, whether or not accompanied by an accounting, shall contain a list of all independent acts performed and an allegation that all required notices of proposed action were duly served and that no objections were made.

o. **Allegation on Creditor's Claim:** It is not sufficient simply to allege that all creditor's claims have been paid. Rather, the claims presented must be listed showing the claimant, the amount claimed, and the disposition of each claim. If any claim has been rejected, the date of service of notice of rejection of the claim shall be stated. The required allegation must appear in the final report, even though it may have appeared in whole or in part in prior reports.

p. **Allegations re: Character of Assets:** In all cases in which the character of the property may affect distribution, regardless of whether the decedent died testate or intestate, the petition for distribution must contain an allegation as to the separate or community character of the property and the identity thereof.

q. **Waiver of Accounting on Final Distribution:** The waiver makes a listing of the details of receipts and disbursements unnecessary. All other matters (e.g., the reporting of creditor's claims, sales and purchases, changes in the form of assets or other transactions) must be presented in the report.

r. **Closing Expenses:** When closing expenses are requested, the petition and order must set forth the distribution of any unused portion thereof. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

5.19.0 Final Discharge: The "order" portion of the declaration and proposed order for final discharge shall be completed in full except for the date and name of the judge. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

5.20.0 Statutory Commissions and Fees in Probate Estates:

a. Court authorization is required for advance payment of any compensation to a fiduciary or attorney for any such fiduciary.

b. Unless statutory compensation is waived, calculation of the statutory compensation and any prior payments of statutory compensation shall be set forth in the petition for compensation.

c. Where the accounting is waived, the basis of the statutory compensation shall be the inventory values of the estate plus receipts plus or minus gains or losses on sales. Such gains or losses shall be reflected in the report of the personal

representative. If receipts are to be included in the computation, they must be set forth in detail.

d. The Court may deduct from the personal representative's statutory commissions any sums paid from estate funds for the performance of the representative's ordinary duties.

e. Where an attorney is the personal representative and a member of a law firm, attorney's fees will not be allowed unless a declaration is executed and filed stating that the representative will not share in the attorney's fees to be received by the firm. *(Effective 7/01/98; amended 1/01/01)*

5.21.0 Extraordinary Services: In evaluating the alleged justification for an award of fees for extraordinary services, the Court will take into consideration the statutory fee and determine whether it constitutes adequate compensation for all of the services rendered by the attorney or representative.

a. Ordinarily, compensation for extraordinary services will not be allowed or paid before the final accounting has been approved by the Court.

b. Extraordinary services will not be considered unless the caption, prayer of the petition, and notice to distributees all contain a reference to the application for extraordinary compensation.

c. Except as stated below for routine real property sales and federal estate tax work, applications for fees or commissions for extraordinary services shall include a detailed explanation of the extraordinary services. The explanation shall be separately stated in a declaration under penalty of perjury executed by the person rendering the services. Such application shall specify the amount requested for each item of service, not merely a "reasonable amount." Time sheets shall not be submitted.

d. In determining the compensation of an attorney for extraordinary services rendered with respect to real property sales, the Court will consider the amount of time involved, whether or not a real estate broker was employed, the involvement of the attorney in negotiations, the nature of the other services rendered (e.g., drafting of the sales agreement and its complexity, preparation of deeds and other documents), and other similar information. The personal representative also may request compensation for extraordinary services in regard to sales of real property.

e. **Preparation of Federal Estate Tax Return:** In determining the compensation of a personal representative or an attorney for the preparation of a federal estate tax return, the Court ordinarily will consider the hours spent, the intricacy or peculiar nature of any of the issues or computations involved, the extent of any audit, the value of the gross estate, the amount of the tax, and other similar information. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

5.22.0 Costs: Where reimbursement for costs incurred is requested by the personal representative or attorney, the cost items advanced by such party must be separately stated and described. *(Effective 1/01/01)*

5.23.0 Filing Fee Refund *(Revoked 7/01/10)*

5.24.0 Probate Note Procedures: Matters appearing on the probate calendar will be reviewed by the research attorney in advance and may be recommended for approval unless written objections have been filed prior to the time the matter is reviewed or there are procedural defects or other circumstances that need to be resolved before a requested order can be granted.

a. To qualify for recommended-for-approval status, all supporting documents and a proposed order must be submitted to the clerk's office at least ten (10) court days before the calendared hearing.

b. Notes indicating the status of matters on the Court's probate calendar generally are available several days prior to the hearing. This information is posted on the Court's website at www.tuolumne.courts.ca.gov as "Probate Notes." *(Effective 1/01/07; amended 7/01/10 and 7/01/16)*

5.25.0 Matters Removed from Recommended-for-Approval Status: If an objector or counsel for an objector to a matter recommended for approval pursuant to rule 5.24.0 appears at the hearing, the Court ordinarily will continue the matter. The Court may direct that written objections or an opposing petition be filed prior to the continued hearing date. If the attorney of record on the matter is not present at the hearing, the courtroom clerk ordinarily will advise the attorney of record of the continuance and the reason therefor. *(Effective 1/01/07; amended 7/01/10 and 7/01/16)*

6.00.0 CONSERVATORSHIP AND GUARDIANSHIP RULES

6.01.0 Temporary Conservatorships and Guardianships:

a. The petition for appointment of a temporary conservator or guardian must be filed with or after the filing of a petition for a permanent conservator or guardian. The petition must state facts establishing the urgency requiring the appointment of the fiduciary (e.g., situation requiring immediate action to protect the health, welfare, or estate of the proposed conservatee or minor). Notice shall be given as set forth in Probate Code section 2250, subdivision (e) unless the Court for good cause otherwise orders. A temporary conservator/guardian shall not be appointed without a hearing and may be appointed without notice only in emergency situations.

b. If the petitioner is informed that the petition for appointment of a permanent conservator will be contested, all known potential objectors must be given at least twenty-four (24) hours' notice of the time and place the petition for appointment of the temporary conservator will be presented.

c. Ordinarily, the Court will require a bond or a blocked account for temporary conservators or guardians of the estate.

d. Good cause must be shown for special powers to be granted without a hearing. If special powers are sought, they must be specified in the petition and supported by factual allegations. In any case involving a special medically related power, a physician's declaration shall be presented with the petition. *(Effective 7/01/98; amended 1/01/01, 7/01/10 and 7/01/16)*

6.02.0 Investigations: On all petitions for appointment of a conservator or guardian, an investigation shall be conducted pursuant to Probate Code section 1826 or 1513. Notice of at least twenty-five (25) calendar days is required in order for the court investigation to be completed. The petitioner shall provide the form of order for appointment of the court investigator at the time the petition is filed and shall promptly notify the investigator of the appointment. The petitioner is required to provide an additional copy of the petition and any other required documents to the clerk for use by the court-appointed investigator. *(Effective 7/01/98; amended 1/01/01, 7/01/03 and 7/01/16)*

6.02.1 Appearances: Appearances are required at the hearing on all petitions for appointment of conservators or guardians. *(Effective 7/01/16 [moved from rule 5.02.0])*

6.03.0 Independent Powers: If independent powers under Probate Code sections 2590 and 2591 are requested, an attachment to the petition shall specify the powers requested and the reasons such powers are needed. Only those powers determined by the Court to be necessary and proper shall be granted. *(Effective 7/01/98; amended 7/01/01, 1/01/01 and 7/01/16)*

6.04.0 Limited Conservatorships:

a. If the proposed conservatee is a person with a developmental disability, as defined at Probate Code section 1420, a petition for limited conservatorship is mandatory. However, pursuant to Probate Code section 1828.5, subdivision (d), the Court may find, based on the results of the investigation, that a general conservatorship (as opposed to a limited conservatorship) is appropriate.

b. Appointment of counsel for a proposed limited conservatee is mandatory. An ex parte application and order for appointment of counsel may be submitted prior to the hearing to avoid continuance or delay. If a public defender is requested, the application must set forth facts establishing the proposed conservatee's financial inability to obtain private representation. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

6.05.0 Notice of Residence: In every conservatorship and guardianship case, a notice of the conservatee's or ward's residence must be filed with the initial petition for appointment, with all accountings (including the final accounting), and at any time there is a change in residence. *(Effective 7/01/98; amended 1/01/01, 7/01/10 and 7/01/16)*

6.06.0 Conservatee's Mental Capacity: A proposed conservatee who has made a nomination and/or waived the requirement of a bond must prove to the Court that he or she has or had the capacity to understand the nature and significance of such action(s) at the time of making the nomination and/or waiving the bond. This showing may be made by oral representation at the hearing on the appointment. A statement by counsel that the conservatee is present and does not object is not sufficient. This rule also applies in all such cases, including those in which the proposed conservatee is the petitioner. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

6.07.0 Declaration Under UCCJEA: In any guardianship of the person of a minor, a declaration under the Uniform Child Custody Jurisdiction and Enforcement Act shall be filed with petition for appointment and at any time there is a change in the minor's address. A duplicate copy shall be provided to the clerk's office for the court-appointed investigator. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

6.08.0 Guardianship Funds for Support of Minor: In all cases in which guardianship funds are intended to be used for the ordinary expenses of supporting a minor and there is a parent living who has an obligation to support the minor, the guardian shall obtain court approval prior to expending funds for that purpose. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

6.09.0 Inventory and Appraisal: An inventory and appraisal shall be filed in all cases involving a conservatorship or guardianship of the estate, even where relief from the requirements of filing accountings may be sought under Probate Code section 2628. When there are no assets in the hands of the fiduciary, the inventory shall so indicate. *(Effective 7/01/98; amended 1/01/01, 7/01/10 and 7/01/16)*

6.10.0 Review Hearing for Inventory and Appraisal: The inventory and appraisal are due ninety (90) days from the date of appointment of the conservator or guardian, pursuant to Probate Code section 2610. A review hearing will be set at the time of the appointment to confirm that the Inventory and Appraisal form (Judicial Council form DE-160/GC-040) has been timely filed. No appearance at the hearing is required if the form has been filed prior to the review hearing unless the Court notifies the conservator or guardian of a need to appear. A conservator or guardian or his or her counsel may contact the Court to verify the receipt of these documents prior to the review date. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

6.11.0 Separate Accounting for Several Minors: When a guardianship of the estate has been established for more than one minor, the interests of each minor must be separately stated in the inventory, and separate accounting schedules must be presented so that the receipts, disbursements, and assets pertaining to each minor's estate are readily ascertainable. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

6.12.0 Successor Conservator or Guardian:

a. A petition for a successor conservator or guardian shall be submitted on the same form approved by the Judicial Council for initial petitions.

b. A successor conservator or guardian of the estate shall file an accounting one (1) year after the successor's appointment date and thereafter at least biennially. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

6.13.0 Sale of Conservatee's Personal Residence: To notify the Court of an intention to sell a conservatee's personal residence pursuant to Probate Code section 2540, subdivision (b), the conservator shall file an ex parte petition and order that fully complies with all requirements of that section. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

6.14.0 Reports and Accounts: The report and account required by Probate Code section 2620, subdivision (a) to be presented to the Court at the expiration of one (1) year from the time of appointment of a guardian or conservator shall be filed and noticed for a hearing to be held within sixty (60) days after the anniversary date of the appointment. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

6.15.0 Waiving of Accounts:

a. Pursuant to Probate Code section 2628, the Court may waive the requirement of an accounting. A petition for waiver of accounting may be heard ex parte, subject to the Court's review of the most recent court investigator's report. The petition must assert that the conservatee or minor over the age of 14 was informed in person or in writing of the conservator's or guardian's request for the waiver and that the conservatee or minor either agreed to the requested waiver or did not respond.

b. If the conditions of Probate Code section 2628 are satisfied and the Court approves the petition to dispense with the accounting, no further filings of accounts will be necessary until such time as the provisions of Probate Code section 2628, subdivision (a) are no longer applicable. This condition must be set forth explicitly in the order. The petitioner must, nevertheless, continue to keep accurate records in order to prepare any accounts that may be required pursuant to Probate Code section 2628, subdivision (b) or (c). *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

6.16.0 Removal of Conservator or Guardian: For removal of a conservator or guardian, petitioners should use the procedures set forth in rule 5.11.0. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

6.17.0 Termination of Conservatorship or Guardianship:

a. **Investigation:** When a conservatorship or guardianship is being terminated for reasons other than the conservatee's or ward's death or the ward's attaining the age of majority, a hearing must set at least thirty (30) days in advance of the proposed date of termination in order to allow time for an investigation.

b. **Notice:** Notice must be given to a former conservatee or ward on the settlement of the final account. Notice also must be given to the representative of a deceased conservatee or ward. If the representative of the estate is the same person as the conservator or guardian or if there is no such representative, notice also must be given to the heirs or devisees of the deceased conservatee or ward.

c. **Discharge of a Guardian:** Discharge of a guardian will not be made in the order settling the final account. A separate declaration for final discharge must be submitted together with the receipt executed by the former minor. The declaration must show the date on which the minor reached the age of majority. A guardian is not entitled to discharge until one (1) year after the former minor has reached the age of majority unless the former minor has given the guardian a valid release. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

6.18.0 Fees and Commissions:

a. All fees and compensation for attorneys and fiduciaries shall be set by the Court.

b. Court authorization is required for advance payment of any compensation to a guardian, conservator, or attorney for any such fiduciary.

c. Attorney's and conservator's fees are not payable under a temporary conservatorship unless Probate Code section 2640 is satisfied.

d. The Court will evaluate the services as a whole rather than designate part of the services as "ordinary" and part of the services as "extraordinary."

e. The caption of a petition including an application for the payment of fees and commissions, as well as the notice of hearing of such a petition, shall include a reference to the request.

f. Attorney's fees and fiduciary's fees may be reduced when the services in question have been rendered for less than a full year.

g. In the event the attorney has performed bookkeeping and other services for an individual fiduciary, the Court may award the fiduciary's attorney a larger compensation and the individual fiduciary a lesser compensation.

h. Only legal fees for counsel appointed by the Court to represent the conservatee may be awarded and included in the order appointing a conservator.

i. Where an attorney is the fiduciary and is a member of a law firm, attorney's fees will not be allowed unless a declaration is executed and filed by the fiduciary agreeing that the fiduciary will not share in the attorney's fees to be received by the firm.

j. The fiduciary may employ tax counsel, accountants, and/or other tax experts for the preparation of tax returns and for other tax-related services. The Court may deduct from the fiduciary's commissions any sum paid from estate funds for performance of the fiduciary's duties, such as ordinary accounting and bookkeeping services. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

7.00.0 CRIMINAL RULES

7.01.0 Calendaring: Upon the entry of a not-guilty plea by a defendant, the Court shall set:

a. A firm trial date or pretrial conference and

b. In the event a trial date was set, a trial readiness conference date one (1) to fourteen (14) days prior to the trial date. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

7.02.0 Trial Readiness or Pretrial Conference:

a. Attendance at the trial readiness conference and/or pretrial conference is mandatory for the defendant (except as provided by Penal Code section 977), counsel for defendant, and a prosecuting attorney with full authority to dispose of the case.

b. Prior to the trial readiness conference and/or pretrial conference, both the district attorney (or a deputy district attorney who will try the case and who has full authority to dispose of the case) and the defense counsel who will try the case must meet and confer and attempt in good faith to reach a disposition without need for a trial.

c. It is the policy of this Courts to facilitate early disposition of cases. Counsel shall calendar with the department of the Court to which the case has been assigned any change of plea as soon as practicable.

d. Except in unusual circumstances, after the trial readiness conference(s) or such other date as the Court may prescribe, the defendant may not be permitted to plead guilty to less than the principal charges.

e. If a prison term is alleged, the prosecuting attorney shall provide a certified copy of the commitment at the time of the conference. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

7.03.0 Bail—Real Property Bonds: Before a property bond may be accepted by the Court, a hearing must be held pursuant to Penal Code section 1298. In order to set the matter for hearing, a noticed motion with proof of service to the district attorney must be filed at least ten (10) calendar days before the date set for hearing. The following documents must be submitted with the motion:

a. Application for real property equity bond and declaration of property owner

b. Signed promissory note

c. Certified copy of the recorded deed of trust

d. Current lot book guarantee (preliminary title report) concerning the property, prepared by a recognized California title company

e. Appraisal of the property by a certified appraiser

f. Statements from any and all mortgage companies having liens against the property, showing the amount of present obligations owed on the property

The Court may require additional evidence in the order to ascertain the true equity in the property held by the applicants. All costs incurred to process the property bond must be borne by the applicant. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

7.04.0 Personal Surety Bonds: Personal surety bonds (see Pen. Code, § 1278) are not recommended and normally will not be allowed by the Court. *(Effective 7/01/98; amended 1/01/01 and 7/01/16)*

7.05.0 Motions in Limine: All motions in limine shall be in writing. Each motion is limited to a single subject. Motions shall be consecutively numbered. Responses shall address the subject of the motion and shall be numbered to correspond to the motions. *(Effective 1/01/01; amended 7/01/16)*

7.06.0 Oral Testimony at Sentencing and Law and Motion Hearings: Notwithstanding any other provisions of law, no oral testimony shall be allowed at sentencing hearings or at law and motion hearings unless the party offering the oral testimony notices the Court and the opposing party two (2) court days prior to the hearing. *(Effective 1/01/01; amended 7/01/16)*

7.07.0 Police Reports; Availability and Confidentiality: Reports containing confidential personal information about any victim or witness, including but not limited to police reports, arrest reports, and investigative reports, that are submitted to the Court by a prosecutor in support of a criminal complaint, indictment, or information or by a prosecutor or law enforcement officer in support of a search warrant or arrest warrant shall be maintained in the court file as confidential reports.

a. Any request to review a report described above as a confidential report shall be made in writing to the Court.

b. Within five (5) court days of receiving the written request, the report shall be reviewed, and any confidential personal information as defined by Penal Code section 964, subdivision (b) shall be redacted by the Court.

c. If the request is approved, the redacted report shall be provided to the person who made the written request. *(Effective 7/01/05; amended 7/01/16)*

7.08.0 Motions:

a. All motions shall be accompanied by a memorandum of supporting points and authorities that includes a description of the facts, a specification of the charged offenses, and the authorities relied upon. References to the record shall be supported by specific citations.

b. The memorandum of points and authorities shall not exceed fifteen (15) pages. Opposition to the motion shall not exceed ten (10) pages. The page limit does not include exhibits, declarations, attachments, a table of contents, a table of authorities, or the proof of service.

c. A party may apply to the Court ex parte, but with written notice of the application to the other parties, at least twenty-four (24) hours before the memorandum of points and authorities is due, for permission to file a longer memorandum. The application shall state reasons why the argument cannot be made within the stated limit.

d. A memorandum that exceeds ten (10) pages must include a table of contents and a table of authorities. A memorandum that exceeds fifteen (15) pages must also include an opening summary of the argument.

e. To the extent practicable, multiple motions relating to the same case should be filed and heard at the same time. *(Effective 1/01/14; amended 7/01/16)*

8.00.0 JUVENILE RULES

8.01.0 Juvenile Hearings: Juvenile matters may be assigned to any of the five departments of the Superior Court of California, County of Tuolumne. *(Effective 1/01/01; amended 7/01/10)*

8.02.0 Prehearing Discovery:

a. Prehearing discovery shall be reciprocal and shall be conducted on an informal basis, pursuant to California Rules of Court, rule 5.546. In the case of contested hearings, the parties shall exchange lists of all witnesses to be called, if not included in the social study report prepared by Child Welfare Services (CWS), at least five (5) days prior to the hearing. Except as protected by privilege, all relevant material shall be disclosed in a timely fashion to all parties to the litigation.

b. **Formal Discovery:** Only after all informal means have been exhausted may a party petition the Court for discovery. A noticed motion shall state the relevance and materiality of the information sought and the reasons why informal discovery was not adequate to secure that information. The motion shall be served upon all parties at least five (5) court days prior to the hearing. The hearing date shall be obtained from the calendar coordinator. Any responsive papers shall be served two (2) court days prior to the hearing.

c. The names of any experts to be called by any party and copies of any reports, if not part of the social study report prepared by CWS, shall be provided to all parties at least five (5) calendar days prior to the hearing. *(Effective 1/01/01, amended 1/01/07, and 7/01/16)*

8.03.0 Settlements: The Court recognizes that agreement among the parties with regard to the matters before the Court is not only beneficial to the children but also often contributes to the satisfactory reunification of the family. The Court encourages settlement discussion among the parties at any time prior to the hearing. The Court shall be promptly advised of any proposed settlements, admissions, or submissions of the entire hearing on reports. *(Effective 1/01/01; amended 7/01/16)*

8.04.0 Standards of Representation: All counsel appearing in a juvenile dependency proceeding shall meet the minimum standards of representation set forth at California Rules of Court, rule 5.660. All counsel shall comply with their professional duties as required by statute, regulation, and state and local rules. All court-appointed counsel for parties in juvenile dependency proceedings must meet minimum standards of competence as set forth in these rules. *(Effective 1/01/01; amended 1/01/07 and 7/01/16)*

8.05.0 Minimum Standards of Education and Training of Appointed Counsel: Each appointed counsel appearing in a dependency matter before the juvenile court shall have completed the minimum training and education requirements set forth at California Rules of Court, rule 5.660(d). *(Effective 1/01/01; amended 1/01/07 and 7/01/16)*

8.06.0 Procedures for Reviewing and Resolving Complaints:

a. Any party to a juvenile court proceeding may lodge a written complaint with the Court concerning the performance of his or her appointed counsel in a juvenile court proceeding, pursuant to California Rules of Court, rule 5.660(e). In the case of a complaint concerning the performance of counsel appointed to represent a minor, the complaint may be lodged on the child's behalf by a social worker, caretaker, relative, or foster parent. Any complaint shall be lodged separately in the juvenile court file in a sealed envelope.

b. Counsel shall be provided with a copy of the complaint. The Court shall review any complaint within ten (10) days of receipt and may determine, based upon that complaint, that a prima facie case does not exist to believe that counsel has failed to act competently or has violated these rules. In that event, no further action is required by the Court; however, the Court shall lodge its decision in the file. This decision shall constitute a final decision on the matter.

c. If the Court determines that the complaint presents a prima facie case that counsel may have failed to act competently or has violated the applicable laws or rules, the Court shall either request an informal response from counsel or conduct a hearing in order to make a determination on the issue. If ordered, the hearing shall be held as soon as is practical. The complainant and counsel shall each be given at least five (5) days' notice of the hearing. The hearing shall not be open to the public or the parties to the juvenile court proceeding. The presiding judge of the juvenile court may designate a commissioner, referee, judge pro tem, or any qualified member of the Bar to act as a hearing officer, to review and comment on the complaint, and to report his or her findings and recommendations to the presiding judge of the juvenile court. Based on the findings of any such hearing, the presiding judge of the juvenile court may take appropriate action as determined by the Court to be necessary.

d. Any complaints, written responses to the complaints or written notification of the Court's determination, and any comments or findings pursuant to a review hearing, as set forth in this rule, shall be subject to the confidentiality requirements established under Welfare & Institutions Code section 827. *(Effective 1/01/01; amended 1/01/07 and 7/01/16)*

8.07.0 Procedures for Informing the Court of Other Forum Interest of a Dependent Child: At any time during a juvenile dependency proceeding, counsel for the minor or any interested person may notify the Court that the minor may have an interest or right that needs to be protected or pursued in another judicial or administrative forum as soon as it is reasonably possible for counsel to do so. Notice to the Court shall be by filing of a declaration. The person giving notice shall set forth the nature of the interest or right that needs to be protected or pursued, the name and address, if known, of the administrative agency or judicial forum in which the right or interest may be affected, and the nature of the proceedings being contemplated or conducted there. The Court will respond as appropriate, pursuant to California Rules of Court, rule 5.660(g). *(Effective 1/01/01; amended 1/01/07 and 7/01/16)*

9.00.0 ADOPTION RULES

9.01.0 General: Upon the filing of any adoption petition or adoption-related matter (including a petition for termination of parental rights and freedom from parental custody and control), the clerk of the Court will send notice of pendency of the action to the appropriate investigating agencies. However, petitioners are responsible for submitting all moving papers, fees, and other required information to the investigating agency or agencies. *(Effective 1/01/01; amended 7/01/16)*

9.02.0 Finalization: Adoptions may not be set for finalization hearing until all of the following steps have been completed:

a. The written consent of both birth parents, if living, have been filed with the Court by the petitioner or by the adoption agency, or all birth parents' rights have been terminated and the period for appeal of the order terminating parental rights has expired. Termination of parental rights is required prior to adoption

finalization in every case in which a living parent does not consent to the adoption, even if the identity or location of the non-consenting parent is unknown.

b. The adoption agency or investigating agency has filed with the Court its written report that recommends granting or denying the petition, and a completed and signed Court Report of Adoption form (California Department of Public Health, Office of Vital Records form VS 44) has been lodged in the file.

c. Petitioners have submitted to the clerk an unsigned adoption agreement and the proposed adoption order. *(Effective 1/01/01; amended 7/01/05 and 7/01/16)*

9.03.0 Independent Adoptions: Within thirty (30) days of filing, the petitioner shall forward a file-stamped copy of the adoption petition to the appropriate district office of the State Department of Social Services. *(Effective 1/01/01; amended 7/01/16)*

9.04.0 Agency Adoptions: Within thirty (30) days of filing, the petitioner shall forward a file-stamped copy of the adoption petition to the adoption agency that placed the child in the petitioner's custody. *(Effective 1/01/01; amended 7/01/16)*

9.05.0 Step-Parent Adoptions: Within thirty (30) days of filing, the petitioner shall forward a file-stamped copy of the petition to the agency designated by the County of Tuolumne to perform step-parent adoption investigations. The petitioner also must forward to the agency all documentation required by the agency and must pay the agency fee within one (1) year of filing the petition. The Court may, on its own motion or on the motion of the investigating agency, dismiss any petition that the petitioner has failed to finalize within eighteen (18) months of the original filing date, unless the petitioner can demonstrate good cause for the delay. *(Effective 1/01/01; amended 7/01/16)*

9.06.0 Timing of Petition: It is the policy of this Court that a petition for adoption should not be filed until a child is free to be adopted. *(Effective 7/01/10; amended 7/01/16)*

10.00.0 COURT COMMUNICATION REGARDING RESTRAINING ORDERS

10.01.0 Court Communications: Until the Court has a case management system capable of automatically coordinating domestic violence-related orders, the Court's criminal, family, and juvenile departments shall, to the best of their abilities, communicate with one another to identify families with existing orders. *(Effective 7/01/10; amended 7/01/16)*

10.02.0 Avoiding Conflicting Orders: No department of the family or juvenile court shall issue a protective order or custody order in conflict with an order of the criminal court. In the event such an order is issued inadvertently, the orders of the criminal court shall control. *(Effective 7/01/10; amended 7/01/16)*

10.03.0 Modification of Criminal Protective Order:

a. Upon receiving notice of an existing criminal protective order, the family or juvenile court shall refer the parties requesting custody and visitation orders to the criminal court. There, the person restrained or protected by a criminal protective order may request a hearing to modify the criminal protective order to expand or restrict contact between the person restrained by the order and his or her children.

b. The Court may make a custody and visitation order in a family law case after a criminal protective order has issued. The Court shall explain to the parties that the family law order cannot be enforced by law enforcement unless the criminal protective order is modified to include the terms of the custody and visitation order. *(Effective 7/01/10; amended 7/01/16)*

10.04.0 Coexisting Criminal and Family or Juvenile Court Orders: A family or juvenile court order may coexist with a criminal protective order, subject to the following conditions:

a. Any order the permits contact between the restrained person and his or her children shall provide for the safe exchange of the children and shall not contain language, either printed or handwritten, that violates a no-contact order issued by a criminal court.

b. After having knowledge of existing child custody and visitation orders, a criminal court issuing a protective order shall indicate on the order that contact and visitation between the restrained person and his or her children is pursuant to orders previously made by the family or juvenile court.

c. Safety of all parties shall be the Court's paramount concern. The family or juvenile court shall specify the time(s), day(s), place(s), and manner of transfer of the child(ren) as provided in Family Code section 3100. *(Effective 7/01/10; amended 7/01/16)*

11.00.0 TRAFFIC RULES

11.01.0 Written Not-Guilty Plea: Any defendant who has received a written notice to appear for an infraction may, prior to the time at which he or she is required to appear, plead not guilty in writing in lieu of appearing in person. Local form TUO-TRF-100, found in the appendix to these rules, shall be used when making the written not-guilty plea. In delivering the written plea to the Court, the defendant shall comply with Vehicle Code section 40519. *(Effective 7/01/05; amended 7/01/16)*

11.02.0 Traffic Tickets/Infractions Amnesty Program (10/1/2015 - 3/31/2017)

Individuals who desire to participate in the Traffic Tickets/Infractions Amnesty Program will be required to complete and submit local form TUO-TRF-200. *(Effective 1/1/16)*

12.00.0 WRITS AND APPEALS

12.01.0 Writs of Habeas Corpus shall be filed in the criminal division of this Court. *(Effective 1/01/14; amended 7/01/16)*

12.02.0 Criminal Writs Other Than Habeas Corpus: Petitions for writs in criminal proceedings, other than writs of habeas corpus, shall be filed as follows:

a. Petitions for writs of mandate or prohibition in misdemeanor or infraction cases shall be filed in the appellate division of this Court.

b. Petitions for writs of mandate or prohibition in felony cases shall be filed in the California Court of Appeal for the Fifth District.

c. Petitions for writs of error coram nobis shall be filed in the criminal division of this Court. *(Effective 1/01/14; amended 7/01/16)*

12.03.0 Civil Writs:

a. Writs seeking judicial review of administrative proceedings shall be filed in the civil division of this Court.

b. Petitions for writs of mandate or prohibition in limited jurisdiction civil cases shall be filed in the appellate division of this Court. *(Effective 1/01/14; amended 7/01/16)*

12.04.0 Appeals:

a. Appeals in misdemeanor, infraction, traffic, and limited jurisdiction civil matters shall be filed in the appellate division of this Court.

b. Appeals in felony, family law, probate, and unlimited jurisdiction civil matters shall be filed in the appellate division of this Court.

c. Appeals in small claims cases shall be filed in the civil division of this Court.

d. Appellants shall comply with California Rules of Court, rule 8.50 et seq. *(Effective 1/01/14; amended 7/01/16)*

APPENDIX

TUO-TRF-100

SUPERIOR COURT OF CALIFORNIA COUNTY OF TUOLUMNE 60 North Washington Street Sonora, CA 95370 Phone: (209) 533-5671	Space below for use of Court Clerk only
The People of the State of California, Plaintiff, vs. Defendant.	Case Number: Citation Number:

PLEA AND REQUEST FOR COURT TRIAL (CVC § 40519)

I hereby enter a plea of "NOT GUILTY" to violation(s) _____ _____, which are infraction(s) charged against me, and I request a court trial.

I waive my right to be tried within the statutory period, and give my promise to appear at the court trial. Failure to appear may result in a finding of guilty in absentia and the imposition of judgment.

Notice of court trial will be mailed to the address listed below:

Name of Defendant:	
Mailing Address:	
City, State, Zip Code:	
Phone Number(s):	( ) ( )

I understand that this Plea and Request for Court Trial form must be filed with the court by the **DUE DATE** indicated on my courtesy notice.

Date: _____

Signature: _____

PLEA AND REQUEST FOR COURT TRIAL (CVC § 40519)

Form Adopted for Mandatory Use - Local Rules of the Superior Court of California (CRC § 4.105)
TUO-TRF-100 (Revised June 9, 2015)

LOCAL FORMS BY NUMBER				
1.	TUO-CR-100	Acknowledgment of Terms and Conditions of Drug Court Participation and Waiver of Due Process Rights	Revised Oct. 1, 2009	Mandatory
2.	TUO-CR-125	Advisement of Rights, Waiver of Plea Form for Felonies and/or Misdemanors/Proposition 36 [Penal Code § 1210, et seq.]	Revised Oct. 1, 2009	Mandatory
3.	TUO-CR-150	Advisement and Waiver of Rights (Felony)	Revised Oct. 1, 2009	Mandatory
4.	TUO-CR-200	Misdemeanor Advisement of Rights, Waiver of Plea Form	Revised Oct. 1, 2009	Mandatory
5.	TUO-CR-225	Waiver of Personal Appearance; Consent to Entry of Plea of Guilty by Counsel; Waiver of Rights and Plea of Guilty/Not Guilty	Revised Oct. 1, 2009	Mandatory
6.	TUO-CR-250	Affidavit re Ignition Interlock	Revised Oct. 1, 2009	Mandatory
7.	TUO-CR-275	Addendum to Advisement, Waiver and Plea Form/Defendant Under 21 Years of Age (Vehicle Code § 13202.5)	Revised Oct. 1, 2009	Mandatory
8.	TUO-CR-300	Petition for Restricted License and Order Thereon	Revised May 23, 2011	Mandatory
9.	TUO-CR-325	Petition to Proceed in Propria Persona	Revised Oct. 1, 2009	Mandatory
10.	TUO-CR-350	Agreement to Appear on Release of Defendant on Own Recogniance	Revised Oct. 1, 2009	Mandatory
11.	TUO-CR-375	Waiver of Time	Revised Oct. 1, 2009	Mandatory
12.	TUO-CR-400	Probationer's Request for Probation Modifcation	Revised Feb., 2015	Mandatory
13.	TUO-CR-425	Conditions on Release on Own Recognizance	Revised Oct. 1, 2009	Mandatory
14.	TUO-CR-450	Summary Judgment and Notice Thereof	New Jan. 21, 2011	Mandatory
15	TUO-CR-475	Acknowledgment of Terms and Conditions of Post Sentence Release and Waiver of Due Process Rights	New Oct. 1, 2011	Mandatory
16.	TUO-CR-500	Advisement and Waiver of Rights (Felony) P.C. § 1170(h)	New Oct. 1, 2011	Mandatory
17.	TUO-CR-525	Advisement and Waiver of Rights (Felony) NON P.C. § 1170(h)	New Oct. 1, 2011	Mandatory
18.	TUO-CR-550	Clerk's Modification of Sentence or Probation Conditions	New June, 2014	Mandatory
19.	TUO-CR-575	Order for Ex-Parte Appointment of Expert or Investigator	New August, 2012	Mandatory
20.	TUO-CR-600	Book and Release	Revised April, 2013	Mandatory
21.	TUO-CR-625	Petition for Resentencing or Reduction to Misdemanor (P.C. § 1170.18)	Revised Jan. 12, 2015	Mandatory
22.	TUO-CR-650	Response for Resentencing or Reduction to Misdemeanor (P.C. § 1170.18)	Revised Jan. 12, 2015	Mandatory
23.	TUO-CR-675	Order on Petition for Resentencing (PC § 1170.18)	Revised Jan. 12, 2015	Mandatory
24.	TUO-CR-700	Notification of Military Status	New Dec., 2014	Mandatory
25.	TUO-CS-CRF25b	Certificate of Court Executive Officer for Extension of Time [Rules of Court 35(a)] (Court Use)	Revised Oct. 1,2009	Mandatory
26.	TUO-CS-100	Application for Ex-Parte Hearing and Order	Revised Nov. 1, 2014	Mandatory
27.	TUO-CS-125	Request for Preparation of Transcript	Revised Oct. 1, 2009	Mandatory
28.	TUO-CS-150	Request for Court Reporter	Revised Oct. 1, 2009	Mandatory
29.	TUO-CV-100	Delay Reduction Program Information and Setting	Revised July, 2012	Mandatory
30.	TUO-CV-125	Request to Set Default or Uncontested Matter for Hearing	Revised Oct. 1, 2009	Mandatory
31.	TUO-CV-150	At Issue Memorandum – Civil	New Oct. 1, 2009	Mandatory
32.	TUO-CV-150(a)	Notice of Termination of Protective Order in Civil/Family (CLETS) (Court Use)	Revised Sept. 1, 2009	Mandatory
33.	TUO-CV-175	Trial Management Orders	New May 28, 2014	Mandatory
34.	TUO-FL-100	At Issue Memorandum - Family Law	Revised July, 2010	Mandatory
35.	TUO-FL-125	Petitioner or Respondent's Pre-Trial Statement	New Oct. 1, 2009	Optional
36.	TUO-FL-150	Report on Mediation	Revised June 23, 2014	Mandatory
37.	TUO-FL-175	Certificate of Attendance of Cooperative Parenting Workshop	Revised April, 2015	Mandatory
38.	TUO-FL-200	Declaration Re: Notice of of Request for Temporary Emergency Court Orders	Revised April, 2015	Mandatory
39.	TUO-FSC-100	Claim and Order for Compensation of Court-Apointed Professional Services	Revised Oct. 1, 2009	Mandatory
40.	TUO-JV-100	Waiver of Constitutional Rights and Plea of Guilty to Contempt [C.C.P. § 1209 (a)(5)] (First Plea)	Revised Oct. 1, 2009	Mandatory
41.	TUO-JV-125	Waiver of Constitutional Rights and Plea of Guilty to Contempt [C.C.P. § 1209 (a)(5)] (Subsequent Plea)	Revised Oct. 1, 2009	Mandatory
42.	TUO-JV-150	Waiver of Due Process Rights and Right to Segregated Housing After Contested Hearing	Revised Oct. 1, 2009	Mandatory
43.	TUO-JV-175(a)	Notification of Violation Pursuant to W & I Code § 827(b)(2) (Court Use)	Revised Oct. 1, 2009	Mandatory
44.	TUO-PR-100	Order Appointing Counsel [Probate Code § 1471, 2356.5]	New February, 2014	Mandatory
45.	TUO-TRF-100	Plea and Request for Court Trial (CVC § 40519)	Revised June 9, 2015	Mandatory
46.	TUO-TRF-200	Traffic Tickets/Infractions Amnesty Program Participation Form	New October 1, 2015	Mandatory

LOCAL FORMS BY NAME				
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2.	Acknowledgment of Terms and Conditions of Post Sentence Release and Waiver of Due Process Rights	TUO-CR-475	New Oct. 1, 2011	Mandatory
3.	Addendum to Advisement, Waiver and Plea Form/Defendant Under 21 Years of Age (Vehicle Code § 13202.5)	TUO-CR-275	Revised Oct. 1, 2009	Mandatory
4.	Advisement of Rights, Waiver of Plea Form for Felonies and/or Misdemanors/Proposition 36 [Penal Code § 1210, et seq.]	TUO-CR-125	Revised Oct. 1, 2009	Mandatory
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7.	Advisement and Waiver of Rights (Felony) NON P.C. § 1170(h)	TUO-CR-525	New Oct. 1, 2011	Mandatory
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10.	Application for Ex-Parte Hearing and Order	TUO-CS-100	Revised Nov. 1, 2014	Mandatory
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26.	Order for Ex-Parte Appointment of Expert or Investigator	TUO-CR-575	New August, 2012	Mandatory
27.	Order on Petition for Resentencing (PC § 1170.18)	TUO-CR-675	Revised Jan. 12, 2015	Mandatory
28.	Petition for Resentencing [PC§1170.18(a)] or Reduction [PC§1170.18(f)]	TUO-CR-625	Revised Jan. 12, 2015	Mandatory
29.	Petition for Restricted License and Order Thereon	TUO-CR-300	Revised May 23, 2011	Mandatory
30.	Petition to Proceed in Propria Persona	TUO-CR-325	Revised Oct. 1, 2009	Mandatory
31.	Petitioner or Respondent's Pre-Trial Statement	TUO-FL-125	New Oct. 1, 2009	Optional
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46.	Waiver of Time	TUO-CR-375	Revised Oct. 1, 2009	Mandatory

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