

Butte County Superior Court Local Rules
Proposed Rule Changes
Effective July 1, 2015

16.5 RESTRAINING ORDERS, EX PARTE REQUEST FOR RESTRAINING ORDERS,
ORDER SHORTENING TIME FOR SERVICE/HEARING *(Effective date 7-1-90, as amended 01-01-04, as amended 7-1-04, as amended 7-1-09, as amended 7-1-11, as amended 1-1-12, as amended 7-1-15)*

- (a) Requests for ex parte temporary restraining orders in domestic violence, civil harassment, workplace violence, elder abuse, and dependent adult abuse actions:
1. NOTICE: Requests for ex parte restraining orders in the actions referenced in (a) above may be made without notice to the opposing party. Upon the requisite showing being made by way of affidavit or declaration a temporary restraining order may be issued without notice.
 - a. The required showing in a domestic violence, elder abuse and dependent adult abuse action is reasonable proof of a past act or acts of abuse by the defendant against the plaintiff. FC §6300, W & I. C, §15657.03(c).
 - b. The required showing in a civil harassment action is reasonable proof of harassment of the plaintiff by the defendant and that great or irreparable harm would result to the plaintiff. CCP §527.6(c).
 - c. The required showing in a workplace violence action is reasonable proof that the employee suffered unlawful violence or a credible threat of violence by the defendant and that great or irreparable harm would result to an employee. CCP §527.8(e).
 2. The court has discretion to require notice to an opposing party/defendant of any request for an ex parte temporary restraining order in any of the actions listed in 16.5(a) above.
- (b) Requests for ex parte temporary restraining orders in:
- Marital litigation (i.e., dissolution, nullity and legal separation actions)
 - domestic partnership litigation (i.e., where custody/visitation is an issue in domestic partnership dissolution, nullity or legal separation actions)
 - an action under the uniform parentage act to determine custody or visitation
 - a proceeding to determine custody or visitation in an action brought by the Department of Child Support Services pursuant to FC§17404
 - a grandparent visitation action by joinder, or
 - an independent action for visitation by a former legal guardian:
 1. NOTICE: Unless it appears from the facts presented in the applicant's declaration that reasons exist for the applicant to be excused from the notice requirements of CRC 3.1203(a) [see CRC 3.1204(b)(3)], notice of an intent to seek an ex parte restraining order in any actions referenced in (b) above must be given pursuant to California Rules of Court 3.1203, 3.1204 and 3.1206.
- (c) Ex parte hearings are held each court day at 3 pm at ~~Butte County Courthouse, One Court Street in Oroville.~~ **the North Butte County Courthouse, 1775 Concord Avenue in**

Chico. The party requesting the ex parte temporary order(s) must file the moving papers (Request for Order) at or before 2:30 pm on the day of the hearing.

- (d) All requests for temporary orders in the actions referenced in (b) above must include a declaration containing the information as set forth in *Declaration Re: Notice of Ex Parte Application for Order and/or Orders Shortening Time* (form LM.010) and the reasons why an order shortening time for service and hearing will not suffice in lieu of an ex parte order pending hearing.
- (e) Ex parte requests for modification of existing custody and visitation orders or for custody and visitation orders will not issue absent a clear showing of risk of immediate harm to the child(ren), or immediate risk the child(ren) will be removed from the State of California. The showing must be made by affidavit or declaration and shall include a full, detailed description of the most recent incident(s) of physical harm, threats of harm or threats to remove the child(ren) from the state and must specify the date of each incident. There is an absolute duty to advise the Court what the existing custody and visitation arrangement is and how it will be changed by the requested ex parte order. Further, if there is an existing Court order relative to child custody and visitation, the date and provisions of that order must be set forth as part of the supporting declaration. *(Effective date 7-1-90, as amended 01-01-04, as amended 7-1-04, as amended 7-1-09, as amended 7-1-11, as amended 1-1-12, as amended 7-1-12, as amended 7-1-15)*