

Circulated Changes January 2021

LOCAL RULE 9 CUSTODY/VISITATION MEDIATION *(Effective 7-1-90, as amended 1-1-04, as amended 7-1-04, as amended 1-1-07, as amended 7-1-08, as amended 1-1-09, as amended 1-1-11, as amended 1-1-12, as amended 7-1-12, as amended 1-1-13, as amended 7-1-14, as amended 1-1-15, as amended 1-1-17, as amended 1-1-18, as amended 7-1-19, as amended 1-1-21)*

9.11 MISCELLANEOUS *(Effective 7-1-90, as amended 1-1-04, as amended 7-1-04, as amended 7-1-08, as amended 7-1-14, as amended and retitled 1-1-15, as amended 7-1-19, as amended 1-1-21)*

(a) UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT CASES.

1. Cases involving the UCCJEA (FC §3400 et seq.) generally appear initially on the Family Law Request for Order calendar.

2. Counsel should provide written points and authorities and declarations or affidavits in support of their jurisdictional contentions at the time of hearing. These declarations or affidavits shall contain a history of any other state's involvement with the case. The parties shall provide to the Court properly certified copies of any foreign decrees. Each party shall file a Declaration under the Uniform Child Custody and Jurisdiction Act, Judicial Council Form FL105/GC120.

(b) HEARINGS.

1. The parties shall keep Butte County Family Court Services staff informed as to dates of any contested hearing that may require the child custody recommending counselor to testify so that they may plan their schedules accordingly. A confirming letter is required for notice; **counsel are required to submit the letter via eFile**. Child Custody Recommending Counselors should not be subpoenaed, but will be available to testify upon the request of the parties, counsel or the court.

2. A child's wish to address the Court regarding custody and/or visitation shall be approached pursuant to Family Code §3042 and California Rule of Court 5.250.

(c) APPOINTMENT OF COUNSEL FOR CHILD(REN).

1. In any proceeding covered by these rules, the Court, if it would be in the best interests of the minor child(ren), may appoint private counsel to represent the interests of the child(ren) pursuant to FC §3150 et seq.

2. Nothing shall prohibit the child custody recommending counselor from recommending that minor's counsel be appointed for the child(ren).

(d) PARTIAL AGREEMENTS.

The child custody recommending counselor is authorized to make a full or partial recommendation if a full agreement is not reached during the mediation conference.

(e) CHILD CUSTODY RECOMMENDING COUNSELOR'S DISCRETION

The child custody recommending counselor may, at his or her sole discretion, and without either consent of the parties or order of the Court, recommend that an investigation be ordered pursuant to FC §3111, or that other action be taken to assist the parties to effect a resolution of the controversy prior to any hearing on the issues. The child custody recommending counselor may, in appropriate cases, recommend that restraining orders be issued and/or that counsel be appointed to represent the involved child(ren). *(Effective 7-1-90, as amended 1-1-04, as amended 7-1-04, as amended 7-1-08, as amended 7-1-14, as amended and retitled 1-1-15, as amended 7-1-19, as amended 1-1-21)*

LOCAL RULE 12 PROBATE RULES (Effective 7-1-98, as amended 7-1-02, as amended 1-1-05, as amended 7-1-09, as amended 1-1-11, as amended 7-1-12, as amended 7-1-13, as amended 1-1-14, as amended 1-1-16, as amended 7-1-17, as amended 7-1-19, **as amended 1-1-21**)

12.1 GENERAL (Effective 7-1-98, as amended 7-1-99, as amended 7-1-12, as amended 1-1-14, **as amended 1-1-21**)

(a) ~~RESERVED-TIMELINESS OF PAPERS PRESENTED FOR FILING~~

1. It is the duty of the attorney (or the party appearing without an attorney) to timely prepare and submit all documents related to an upcoming hearing. All documents in relation to the hearing (e.g., Proof of Publication, Status Reports, etc...) are to be filed no later than seven (7) calendar days prior to the hearing date. Failure to do so may result in the issuance of an Order to Show Cause and subsequent sanctions.

(b) FORM OF PAPERS PRESENTED FOR FILING

1. It is the duty of the attorney (or the party appearing without an attorney) to prepare and submit the supporting documents and proposed orders for all matters. All such documents shall include the time and date of the hearing, typed under the caption of the front page.

2. If a Judicial Council form is available for the particular form of relief sought, that form shall be used. The form is to be used in the same format as prescribed and printed by the Judicial Council. Only current Judicial Council forms are acceptable for filing.

3. A proposed form of order is to be submitted with each petition or motion for relief. Any petition or motion filed without such proposed form of order will not be calendared for hearing until such time as the proposed form of order is submitted.

(c) PROCEDURES FOR EX PARTE MATTERS

1. If the ex parte matter is contested the petition shall so specify. If necessary, the Clerk will contact the attorney of record so the matter can be added to the next available calendar for hearing.

(a) All applications for ex parte orders must contain a list of any and all requests for special notice which have been filed in the proceedings or contain an allegation that no special notice has been requested. If any such notice has been requested, a waiver must accompany the petition.

(b) If it is reasonably likely there will be a dispute or contest as evidenced by documents on file in the proceeding, then all parties must be notified pursuant to California Rule of Court §3.1200-3.1207 of the time and place where the application for the ex parte order will be made. Proof by the attorney's declaration of such notification shall accompany the petition.

2. For good cause, the Court may require a noticed hearing before approval of any matter. (Effective 7-1-98, as amended 7-1-99, as amended 7-1-12, as amended 1-1-14, **as amended 1-1-21**)

LOCAL RULE 16 FAMILY LAW (Effective date 7-1-90, as amended 1-1-04, as amended 7-1-04, as amended 7-1-05, as amended 1-1-07, as amended 7-1-07, as amended 7-1-08, as amended 1-1-09, as amended 7-1-09, as amended 1-1-10, as amended and renumbered 1-1-11, as amended 7-1-11, as amended 1-1-12, as amended 7-1-12, as amended 7-1-14, as amended 1-1-15, as amended 7-1-15, as amended 1-1-17, as amended 7-1-17, as amended 1-1-18, as amended 7-1-18, as amended 1-1-19, as amended 1-1-20, as amended 4-20-20, as amended 6-12-20, as amended 7-1-20, **as amended 1-1-21**)

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, as amended 6-12-20, **as amended 1-1-21**)

(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 3:00 pm at 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 12:00 noon 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, as amended 6-12-20, as amended 1-1-21)*